

AUTUMN STATEMENT: ENERGY TAX UPDATE

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The much-awaited UK Government's Autumn Statement 2022 brought with it the rumoured energy tax changes. The key takeaways for energy companies are:

1. The Energy Profits Levy, which was introduced in May 2022 for oil and gas extraction, has been modified. The rate and duration will increase from the start of 2023 from 25% to 35%, and the levy will remain in place until the end of March 2028.
2. The Electricity Generator Levy will be introduced from January 2023 as a 45% levy on "extraordinary profits" (being profits over £75/MWh) for specified electricity generators:
 1. This is intended to be a temporary measure until the Review of Electricity Market Arrangements (REMA) is finished and relevant reforms made; it is forecast to raise c. £14.2bn over the period to 2028;
 2. It will apply to corporate groups and standalone companies that:
 1. are grid connected – i.e. it does not apply to private wire/ behind the meter generation;
 2. generate electricity from nuclear, renewable and biomass sources; and
 3. generate more than 100GWh per annum from in scope generation assets.
 3. It will not apply to electricity generated under a CfD with the LCCC;
 4. Earnings below £75/MWh will not be subject to the levy, and each group will have an additional allowance of £10m per annum; and
5. The Calculation will be made as follows: Total in scope generation receipts – (Actual generation in MWh x £75) – £10m.

Where companies within a corporate group do not make more than £75/MWh, they should not be liable to pay the levy. For companies which solely develop renewable assets under long term PPAs, we expect the Electricity Generation Levy will not apply, particularly given the £10m/annum allowance which should absorb any spikes in price. Companies within larger corporate groups with more diversified assets, which also include oil and gas production, and gas fired plants are less likely to benefit from that allowance, and may be more likely to be liable to pay the levy. This is particularly true for corporate groups that also include trading desks, where those trading desks trade generated power directly into the wholesale market rather than through bilateral long term PPAs with fixed or capped prices.

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If you think you might be affected by these changes, contact Global Energy Sector Head and Partner Henry Stewart or Senior Associate Marianne Anton in the first instance.

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