

The Dutch carbon dioxide emission tax

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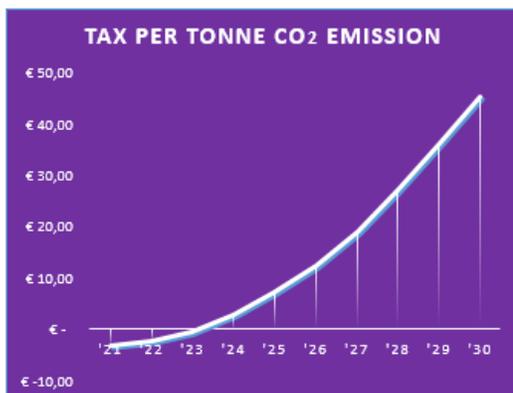
Introduction

In April this year, for a short period it seemed that the government would postpone its national carbon tax plans due to the pandemic and economic downturn. Nevertheless, they followed through. After the public consultation in May, the Dutch government included the legislative proposal in their 2021 Budget plans. The Dutch carbon tax is part of the broader policy package that the Dutch government introduced in 2019 to achieve its climate ambitions. Specifically, the carbon tax should realise the goal of a 14.3 Mt reduction in carbon dioxide or carbon dioxide equivalent emissions (hereafter: CO₂) by 2030. Currently, the bill is pending in the House of Representatives and it is expected to take effect as of January 1, 2021.

The proposed Dutch carbon tax in short

The carbon price to be paid

The national tax on carbon dioxide emissions on top of the EU ETS is needed to fill the gap between the Dutch emission reduction goals and those of the European Union, since the latter ones do not reach far enough –according to the Dutch government. Therefore, the carbon tax is designed such that it sets a minimum price for carbon emissions compared to the EU ETS-price. A price of €30 per ton of CO₂ is being proposed for 2021, ultimately increasing to €125 per ton of CO₂ in 2030. The effective tax price will hence be the difference between the EU ETS price per ton of emitted CO₂ and the statutory carbon rate of that year. It cannot result in a negative effective carbon tax rate though, as this would imply that the government would have to refund in case the EU ETS price exceeds the national statutory price.



This graph demonstrates the exponential increase of the total tax per 1 tonne CO₂ emissions over the period 2021 – 2030. It does not include the EU ETS price. It is based on the current EU ETS production benchmark value applicable

to chalk of 92.5 per production unit assuming the installation emits 100 per production unit. Due to the lower price and high reduction factor in the first years, no tax is due until 2023 but from there the curve shows a steep increase of tax due for CO₂ emissions.

The group of taxpayers

Operators of CO₂ emitting industrial installations are subject to the new taxation. This group is largely similar to the group of companies subject to the EU ETS. In addition to this scope, the carbon tax covers waste incineration plants and nitrous oxide installations. Certain EU ETS installations are exempt, for example installations used for district heating or greenhouse horticulture. Installations generating electricity are also exempt from the Dutch carbon tax because for these players a separate bill is pending that aims to set a minimum CO₂ price on emissions related to electricity generation.

Exempt allowances for efficient emissions

Similar to EU ETS participating companies, the taxpayers will be granted a certain amount of exempt emissions rights: dispensation rights. The effective tax rate will be levied on the amount of emitted ton of CO₂ minus the dispensation rights granted and acquired on the market.

In order to stimulate emission reduction investments in the coming 10 years and beyond, the amount of dispensation rights will decrease annually in accordance with the so-called reduction factor. The amount of dispensation rights that is granted each year is determined as follows:

Dispensation rights = amount of production x amount of CO₂ related to this production based on EU ETS benchmarks x reduction factor

Given the current uncertain economic environment and the criticism of the timing of the new carbon tax, the Dutch government decided to set this factor at 1.2 for 2021. Eventually, the reduction factor will decrease to 0.69 by 2030.

In case a company emits less tonnes of CO₂ than allowed based on its granted dispensation rights, the surplus of dispensation rights can be carried back to the previous five years or it can be sold to other taxpayers. The market for the dispensation rights will be a closed one, only allowing companies who are subject to carbon tax to participate. Moreover, companies can only reduce their taxable base for year X with granted or traded dispensation rights related to year X. It is not possible to sell unused dispensation rights for year X to use for other years.

Compliance aspects

Although the carbon levy is a state tax, it was decided to appoint the Dutch Emissions Authorities (NEa) as the body responsible for the levy and collection of the carbon tax instead of the tax authorities. Within three months of the end of the year, taxpayers have to submit to the NEa (i) an industrial emissions report and (ii) a dispensation right calculation report. Both reports will be assessed by the NEa. Subsequently, NEa will register the granted dispensation rights on the taxpayer's account. Taxpayers will have the chance to trade the granted allowances in the period between May 15 and August 31. The ultimate tax return will have to be submitted prior to October 1.

The national system in relation to the EU ETS

Although the government did indeed align the carbon tax system and principles to a large extent with the EU ETS, in various elements the two systems differ.

First, it is a state tax and therefore governed by a different set of rules than the EU ETS. A tax return will have to be submitted and if this is not done in a timely or correct way, the same set of sanction rules applies as for, for example,

the corporate income tax. This may require amendments of reporting lines and compliance processes within an organization.

For the determination of the dispensation rights, the EU ETS benchmarks for specific productions are the leading ones. However, on some points the systems are different. For example, for 2021 and 2022 the current EU ETS benchmarks will be used instead of the 2021-2025 EU ETS benchmarks that will be published at the end of this year. In addition, for the calculation of the free EU ETS allowances, the production level is determined ex ante. For the Dutch dispensation rights, however, the production level is determined ex post. Hence, the actual production figures are taken into account instead of the estimations.

In addition, there are differences in the scope of emissions covered by the Dutch carbon tax versus the EU ETS. These differences stem from political choices. One is to exclude any emissions related to electricity generation from the carbon taxation – these emissions will be subject to another new instrument: the minimum CO2 electricity price. Another relates to the reduction of CO2 emissions in the atmosphere resulting from CCS methods. The Dutch system will provide deduction rights for more CCS methods than are deductible under the EU ETS system.

Impact on the industry

The Dutch government claims that the new carbon tax should have a limited impact in the first few years, considering the low carbon price and the reduction factor starting at 1.2. It also states that the administrative burden is minimal since most taxpayers are already used to the EU ETS methodology.

In our view this statement downplays the actual consequences of the Dutch carbon tax. In the years after 2024, the price compared to the reduction factor will rise substantially and could add a considerable burden to the industrial installations operators subject to this new system. Compliance wise, the introduction of the carbon tax will require additional time, effort and costs, even for companies already subject to the EU ETS.

We strongly advise assessing how the new rules will apply to you. This includes the calculation of the dispensation rights, the determination of the taxed emissions, and how to optimize the internal systems and processes in order to implement the required amendments as swiftly as possible.

For any questions or guidance, we are at your disposal.

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