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WHITEPAPER

The renewable energy
sector in Spain:
before its great opportunity



When we presented the first editions of our whitepapers focused on the renewable energy sector, the global socio-economic and political contexts were completely different – the Ukrainian conflict and its consequences now dominate the media. However, one constant remains: the role that renewable energies play in Spain. According to Red Eléctrica de España (REE), in 2021, renewables provided 46.6% of the electricity production mix, the best percentage on record.

In this new edition of our whitepaper we analyse the keys to the Spanish renewables sector along with the tax implications

Introduction

The renewable energy sector in Spain continues to be characterised by a strong base and a future of green shoots. According to data presented at the end of 2021 from the Study of the Macroeconomic Impact of Renewable Energies in Spain, the sector already represents 1.05% of GDP.

As to renewable type, also according to REE data, wind is the main source of electricity generation in Spain (with more than 20% of total production), followed by hydro (11.3% of total national production) and solar photovoltaic (8.1%). At the end of 2021, the total installed renewable capacity amounted to more than 112,800 MW, 1.8% higher than 2020. The interesting thing, though, is the trends – while wind and photovoltaic grow, sources such as coal continue to reduce their share of production.

The Government of Spain, through its Ministry for the Ecological Transition, presented its **Development Plan for the Electric Power Transmission Network in the 2026 Horizon** in 2022. The objective of this plan is to prepare the transmission grid so that it'll be able to connect and integrate even more renewable energy in the coming years, aiming to reach 70% in 2026 (currently 46%) and reducing dependence on gas-powered plants. In the words of Minister Teresa Ribera, this plan will be “the backbone of the national electricity system for the coming years” and will provide savings of €1.6 billion euros per year. In 2022, the government also presented its **Biogas Roadmap**, which expects to almost quadruple its production by 2030, looking to exceed 10.4 TWh.

These measures are part of the National Energy and Climate Plan (PNIEC in Spanish, NECP in English), inspired by the *Green Recovery Allianz*. In addition to the target of achieving climate neutrality by 2050, this plan is expected to reach a 28% share of renewable energy in 2030, as well as 3.5% penetration for advanced biofuels by the same year. According to the PNIEC, the Spanish Government estimates the total investment required to achieve the 2030 objectives will reach €241 billion and will generate “an increase in GDP between €16.5–25.7 billion per year (1.8% of GDP in 2030)”. The positive impact comes mainly from

the economic boost generated by new investments in renewables, along with savings and efficiency and networks.” The document marks renewable energy as one of the strategic axes, and an investment objective of €91.1 billion euros in the sector in fields of wind energy, pumping, solar thermoelectric and solar photovoltaic, biomass and hydro. In addition to the support for renewables and investment, the PNIEC includes other measures, such as support for electric vehicles and a firm commitment to sustainability education. This commitment to a greener world is also a commitment to economic development as, according to the PNIEC, between 12 and 14 jobs are generated for every million euros invested in energy transition.

Innovation also plays a prominent role. At the end of 2021, the Spanish Government approved the **Strategic Project for the Recovery and Economic Transformation (PERTE) of Renewable Energies, Renewable Hydrogen and Storage (ERHA)**, to “develop technology, knowledge, industrial capabilities and new business models that reinforce the country’s leadership in the field of clean energy”.

We mustn't discount the existence of outstanding business actors in the field of energy. Spain stands out for the number of multinational companies with a wide global presence active within its borders.

All these opportunities and strengths are also marked by the legislative and fiscal context in which Spain finds itself.

Tax particularities of the renewable energy sector

The energy branch of taxation encompasses those tax rules focused on taxing energy in its different manifestations (consumption, production, distribution ...) to discourage behaviours contrary to the environment, along with implementing rules aimed at encouraging behaviours favourable to the rational consumption of energy and renewable energy consumption.

Taxation is a key element to tackle the problems linked to energy; the environmental (the polluting effects of production and use, and by the depletion of energy sources) and the economic (materialised in the cost they represent both for economic activity and for households).

The European Union considers the protection of the environment as a basic objective, and has established a harmonised taxation on energy aimed at reducing CO2 emissions as well as the efficient use of energy. It's done this by guiding certain behaviours, increasing the prices of polluting energy sources, and strongly promoting the use of renewable energies. Council Directive 2003/96/EC of 27 October 2003 restructured the European Community system for the taxation of energy products and electricity by requiring Member States to subject those energy products to a minimum level of taxation. Council Directive 2008/118/EC of 16 December 2008 went further and covered the general arrangements for excise duties and repealed Directive 9/1992/EEC – harmonising the rules for the production or import of electricity. On the basis of these Directives, Member States were to lay down effective tax rules for limiting CO2 emissions into the air and achieving energy efficiency, incentivising the use of renewable energies.

In Spain, renewable energy taxation is complex and heterogeneous. When the European Union issued its Directive, Law 38/1992 of 28 December 1992 was already in place in Spain, covering Special Taxes. Successive modifications to Law 38/1992 have regulated special taxes on, among others, hydrocarbons (gas), certain means of transport, electricity and coal – making the consumption of these energy products taxed with a dual purpose. The goal of these taxes is twofold; on the one hand to obtain tax revenue, and on the other, to discourage consumption. A clear example of this was the creation of the Tax on the Value of The Production of Electrical Energy (IVPEE), that came into force in 2013 through Law 15/2012 of 27 December 2012. Since energy consumption is also subject to VAT, there's



an argument that there's over-taxation, but the Law encourages the consumption of organic and renewable energies by establishing exemptions (tax rate 0) for the consumption of the less polluting energies.

Although, the goal of the Law was supposed to be the promotion of the consumption of ecological and renewable energies, the truth is that (of the articles of the Law, in general) its main purpose seems to be merely to collect revenue, since it doesn't insist on regulating a sustainable energy model and leaves a number of assumptions without clarification – like, for example, the Coal Tax.



In September 2021, the Spanish government approved a series of urgent measures to mitigate the rise in energy prices and Royal Decree-Law 17/2021 entered into force. Among other initiatives, it extended the suspension of the IVPEE – the suspension is still in force at the time of writing (Aug 2022).

The legislation of the Autonomous Communities is given the wide margin in the State Law (Law 38/1992), and there hasn't been much impact on the taxation of energy. Some Communities have established taxes on certain activities and

facilities that harm the environment (e.g. Aragon, Catalonia, among others) or the imposition of the so-called “health tax” (which over-recorded the consumption of gasoline, diesel, and other hydrocarbons), aiming to discourage CO2 emissions into the atmosphere. It should be noted, though, that the “health tax” has been declared contrary to Community law by the Judgment of the Court of Justice of the European Union (27 February 2014, Case C-82/12).

Overall, the legislation of the Autonomous Communities has encouraged the use of renewable energies through the exemption of these energy sources, and establishing certain deductions in the Personal Income Tax for the acquisition of facilities for the use of renewable energies.

Finally, state regulations allow Local Entities to establish, through the corresponding Tax Ordinance, certain rules of an environmental nature – opening the door for establishing bonuses in the Taxes on Real Estate, Constructions, Installations and Works, along with the Tax on Vehicles of Mechanical Traction, depending on incorporation of the use of renewable energies or their low pollution levels.

In conclusion, in Spain's tax system, there's a certain regulatory dispersion with very diverse approaches at the regional and local level. Taxable events not covered by state regulations sometimes enter into conflict at regional and local levels, and may even cause double taxation.



What role will Spain and its renewable energy industry play in the future?

The recovery of activity post-Covid, the conflict in Ukraine, the fight against climate change, and the price increases registered in wholesale markets have proven the importance of, and requirement for, renewable energies.

Spain has important advantages that can help it solidify its leadership in the sector, and transform this leadership into real economic development. From the geographic position and climatic characteristics of the country, through to a strong energy industry and determined support from the government, Spain is primed to deliver in renewables.

It's not by chance that Spain occupies ninth place in the list of the most attractive countries to invest in renewable energies, to the point of having been baptised as "the European Texas" – though it's still to be proven whether all the measures put in place help to realise these expectations will prove effective.



How Auxadi can help renewables firms

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We have over 40 years' experience helping companies with their internationalisation and currently work with over 30 leading companies in the renewable energy industry.

Servicing clients in over 50 jurisdictions across Europe, Latin America and the USA, we utilise our leading MySPV technology platform and offer a single point-of-contact delivery model to help make your life easier.

To find out how we can support you with your international expansion, simply contact our team of experts.



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