

IFA 2026 MELBOURNE CONGRESS

SUBJECT 2: TAX AND THE ENERGY TRANSITION

Directives for branch reports

General Reporters: Prof. Miranda Stewart / Prof. Edoardo Traversa

OUTLINE FOR DISCUSSION AT PSC, CAPETOWN, OCTOBER 2026

This main subject on *Tax and the Energy Transition* encompasses the now fully-linked topics of taxation of energy, environmental and resource taxation, including taxation of fossil fuels and renewables, carbon, vehicle and other environmental taxes and related tax incentives, together with the international implications of all of these tax rules. This subject has a fitting connection with Australia as the location of the Melbourne 2026 Congress on **18-22 October 2026**, harking “back to 1978” when the Sydney Congress addressed the topic of Taxation of Extractive Industries (Subject 1). Today, Australia is a resource-rich country that is one of the world’s largest exporters of coal and gas, but also with bountiful renewable energy resources. It is also proposed for Australia to host the COP31 conference on climate change in November 2026.

The subject *Tax and the Energy Transition* builds on a series of seminars in previous Congresses on related topics, including in Cape Town (2024) Seminar D (Taxation Issues for the Oil & Gas Industry and Taxing the Energy Transition); Cancun (2023) Seminar B on the use of tax systems to execute non-fiscal policy goals; Berlin (2022) Seminar D on carbon climate change taxation; and Copenhagen (2013) Seminar on Climate change and international taxation.

It is proposed that special reports will be obtained from experts in relation to key topics of broad relevance. This includes:

- The European Union carbon emissions trading scheme (ETS) including the Carbon Border Adjustment Mechanism and its tax aspects and effects on trading partners with the EU.
- Potential for UN/COP special report on environmental and energy policy and taxes
- Potential for OECD special report on energy policy and taxes.

Given the scope of this topic across tax and energy/environmental policy, we would recommend that branches consider appointing two National Reporters to coauthor the country report, perhaps including one practitioner and one academic; one tax law expert and one climate/environmental law expert; or one private sector and one government representative. This can help to ensure full coverage of all the relevant issues for that country.

GENERAL INFORMATION

General reporters contact information

The general reporters are Prof. Miranda Stewart and Prof. Edoardo Traversa. Branch reporters who wish to contact the general reporters are invited to do so using the following email address: m.stewart@unimelb.edu.au and edoardo.traversa@uclouvain.be. We are pleased to be assisted by Dr Sébastien Wolff (sebastien.wolff@uclouvain.be) in the report. We also propose to establish a steering committee to support the report including ensuring sufficient representation of country reports from around the world.

DESCRIPTION OF THE SUBJECT

This main subject on *Tax and the Energy Transition* encompasses the now fully-linked topics of taxation of climate and environmental taxation, energy taxation including renewables, and resource taxation, together with the international implications of these tax rules. The subject will discuss direct taxes such as individual and corporate income tax and indirect taxes such as carbon taxes, excises or measures in the Value-Added Tax or Goods and Services Tax consumption base, and land and resource taxes.

It is noted that depending on the legal structure of the country, some taxes or incentives will be levied at federal, State/provincial or local levels and national reporters will be asked to identify these at all levels.

This Directive first sets out an Introduction and Background and will then address the subject in five main Parts.

INTRODUCTION AND BACKGROUND

The detailed Introduction and Background for the Directive will provide the environmental, climate and energy international law and policy context for national reporters, who specialise in taxation and may not have the full background on these issues. This will support national reporters to bridge the gap between national taxation rules e.g. in the corporate income tax or value-added tax, and the relevant international framework for climate change, renewable energy, resources and energy transition, and environmental taxation.

This includes relevant international law including the United Nations Framework Convention on Climate Change (UNFCCC) of 1994, ratified by 198 countries;¹ the Kyoto Protocol of 1997, with 192 parties, which entered into force in 2005;² and subsequent developments including Doha, where the Kyoto Protocol was extended to 2020, and Paris, where 196³ parties have pledged to limit climate change well below 2°C⁴.

It is noteworthy that Australia with Pacific Islands has sought to host the UNFCCC Conference of the Parties (COP31) in October 2026, while another bid is submitted by Turkey. The decision will be made by June 2025.

Important recent developments include the case currently underway at the International Court of Justice (ICJ) in which the United Nations General Assembly has asked the ICJ for an Advisory Opinion on the obligations of states regarding climate change (an initiative led by Vanuatu).⁵ Finally, will summarise some important developments regarding the energy transition or carbon emissions that affect many countries, such as the EU Carbon Border Adjustment Mechanism⁶, which will apply from 2026. It is proposed that the EU approach would be the subject of its own report.

A useful resource for background for the General Reporters and for national reporters is the long-

¹ <https://unfccc.int/process-and-meetings/what-is-the-united-nations-framework-convention-on-climate-change>

² https://unfccc.int/kyoto_protocol

³ Iran has not ratified the Treaty, resulting in the commitment of 195 countries.

⁴ <https://unfccc.int/process-and-meetings/the-paris-agreement>

⁵ <https://www.icj-cij.org/case/187>; and see <https://www.vanuatuicj.com/>.

⁶ https://taxation-customs.ec.europa.eu/carbon-border-adjustment-mechanism_en

running Series on Critical Issues in Environmental Taxation (Edward Elgar), co-edited by Janet E. Milne, Vermont Law School, US, Mikael Skou Andersen, Professor of Environmental Policy Analysis, Aarhus University, Denmark and Hope Ashiabor, Macquarie University, Australia.⁷ We propose to reference useful volumes or chapters for reference of national reporters and to liaise with editors and authors of that series.

The Introduction will provide a brief tax policy background on the role of energy or pollution taxes (so-called Pigouvian taxes) that aim to correct negative externalities and change behaviour, and not only (or at all) to raise revenue. A summary of the different types of taxes and incentives that may be adopted for this purpose will be provided, and we will also outline the role of resources taxes for taxing immobile (non-renewable) energy resources.

Finally, we note the policy and political uncertainty that prevails in this field. For example, President Trump has withdrawn the United States from the Paris Agreement,⁸ as he did during his first Presidency. He has also promised to repeal the Inflation Reduction Act, enacted during the Biden Administration and has threatened to impose retaliatory tariffs on any country that imposes a tariff on US exports, which could have implications for the Carbon Border Adjustment Mechanism (CBAM) of the European Union. The US Senate has confirmed climate sceptic Mr Lee Zeldin to head the US Environment Protection Agency.⁹ While not as dramatic, growing uncertainty about climate policy and the energy transition is also arising elsewhere. National reporters will be asked to comment on the stability, and viability, of tax rules relating to the energy transition, in relation to specific aspects and the future and potential reform directions for their country.

The Directive will include detailed headings for the proposed Table of Contents for national reports and questions for national reporters, based on the following structure in respect of direct and indirect taxation.

I. DIRECT TAXATION

Part I will address direct taxation including corporate and personal income tax. It will first address domestic rules and then international rules.

I.A. Domestic rules for direct taxation of investment in renewable energy production including renewables and fossil fuels

Part I.A will address the national income taxation rules for investment in energy production and distribution. The focus is taxation of investment in renewable energy production and infrastructure projects (including battery and transmission systems). This will also include taxation rules for so-called critical minerals of relevance to the energy transition.

⁷ See <https://www.e-elgar.com/shop/gbp/book-series/environment/critical-issues-in-environmental-taxation-series.html?srsId=AfmBOorvA7s47E8yZ6M1y6zbpCJtXHfsdZeWn6ninlPhcE9mcl1-IKvp> . Thanks to Hope Ashiabor for providing comments on this draft outline.

⁸ <https://www.whitehouse.gov/presidential-actions/2025/01/putting-america-first-in-international-environmental-agreements/> . This is in addition to other executive orders to pause or reverse energy transition goals, including withdrawing offshore areas from windfarm licensing (<https://www.whitehouse.gov/presidential-actions/2025/01/temporary-withdrawal-of-all-areas-on-the-outer-continental-shelf-from-offshore-wind-leasing-and-review-of-the-federal-governments-leasing-and-permitting-practices-for-wind-projects/>) and declaring a “National Energy Emergency” (<https://www.whitehouse.gov/presidential-actions/2025/01/declaring-a-national-energy-emergency/>).

⁹ <https://www.reuters.com/world/us/majority-us-senate-votes-confirm-zeldin-epa-head-2025-01-29/>

Second, national reporters will be asked about direct taxation of fossil fuels including oil, gas and coal.

It is noted that taxation of fossil fuel and mineral resource extraction is very important for some countries, but not so important for other countries. However, most countries will have income tax rules relevant for investment in energy infrastructure, transmission and renewables including corporate and international income tax rules of relevance to these investments.

Relevant tax rules will include capital allowances, depreciation or incentives for physical investment in these sectors. It will also address the tax treatment of costs in mitigation, abatement, clean-up, rehabilitation or closing down of fossil fuel industries.

I.B. Specific resource or renewable energy taxes

Part I.B will ask national reporters to identify and describe specific resource taxes, such as resource super-profits taxes or royalties, applicable to oil, gas, or coal, and the interaction of these taxes with the corporate income tax. It will identify whether any such taxes are applied (or tax incentives exist) in relation to renewable energy.

It will also identify if there are subsidies or tax reductions for some polluting industries, such as fuel excise reductions to support business, and will address whether the income tax contains any tax incentives for renewable energy investment (such as wind, solar and hydro).

Where relevant, Part I will address taxation rules for other energy sources such as geothermal or nuclear investment. For example, this will include tax incentives to encourage new energy approaches (such as hydrogen) or for extraction of critical minerals that are necessary for the energy transition. National reporters will be asked to identify if any hydrogen or other incentives are “grey” (based on oil and coal), “blue” (based on natural gas), neither of which category is sustainable; or “green”, based on renewable energy. Where relevant, national reporters will also be asked to provide information on tax policy for nuclear energy, for example, Belgium applies a special levy on nuclear power plants.

I.C Incentives for businesses to shift to renewables or energy efficiency

Part I.C will ask about income tax incentives to encourage businesses to shift to renewable or energy efficient equipment or other investment. For example, accelerated capital allowances or other tax concessions for the use of solar panels or termination of gas to provide energy.

National reporters will be asked to identify if there are contradictions in country tax policy, for example, electricity rebates or cost reductions, where electricity is produced by fossil fuels, as opposed to increases in the price of this kind of energy.

Sample Headings and Questions for the Branch Reports

We present here a sample of headings and questions for the Branch Reports on this part. A similar structure will be provided in the final Directives for all parts.

I.A Domestic Income Taxation

- 1. Describe the domestic income taxation rules for investment in renewable energy production and distribution in your country. Note that if any of these questions are not applicable (e.g. your country does not produce oil, gas or coal), please just indicate “not applicable”.*

- a. *What legal entity structure is usually applied for this kind of investment and briefly outline its tax treatment (e.g. company income tax; investment fund)*
 - b. *What is the income tax treatment of costs incurred for renewable energy production, such as the cost of establishing a wind farm, solar farm, geothermal or hydropower project?*
2. *Does your country tax law explicitly identify the goal of addressing or supporting the energy transition, climate change or other environmental policy goals, in relation to its rules for energy production and distribution?*
3. *Describe the domestic income taxation rules for investment in fossil fuel energy extraction, production and distribution in your country.*
 - a. *What is the income tax treatment of costs incurred for exploration, mining and production of fossil fuels and coal?*
 - b. *What is the income tax treatment of costs of energy infrastructure, such as power transmission lines, batteries or other infrastructure?*
 - c. *Describe the tax treatment of costs in mitigation, abatement, clean-up, rehabilitation or closing down of fossil fuel extraction industries.*
4. *Does your country apply any special tax incentives, entity or other tax rules (for example, treatment of losses, or a special entity structure) for either renewable energy or fossil fuel resource projects?*
5. *Does your country apply any special tax incentives, entity or other tax rules for investment in so-called critical minerals of relevance to the energy transition?*
6. *Does your country apply any special tax incentives, entity or other tax rules for investment in new approaches to energy e.g. hydrogen?*
7. *If your country offers any tax incentives for renewables, critical minerals or new approaches e.g. hydrogen, can it be identified whether these incentives are “grey” (based on oil or coal); “blue” (based on natural gas), neither of which is sustainable, or “green” based on renewable energy?*
8. *Are there any other special corporate income tax rules in your country for investment in renewable energy or fossil fuels that are relevant for investors, e.g the tax treatment of losses; special entity structures or regimes; the treatment of debt or equity investment*
9. *Tax structures for investment in renewable energy: Are you aware of tax structures or planning for domestic renewable energy investment? For example, what entity structure is used (eg a special purpose vehicle, unit trust, or flow-through entity)? What tax rate applies? Is there a difference between public or widely held investment, or private/corporate investment?*

I.B Resource taxation

1. *Describe any specific resource taxes, such as resource rent taxes, resource super-profits taxes, or royalties, applicable to oil, gas, or coal in your country.*
 - a. *Explain the interaction of these taxes with the corporate income tax, e.g. are they deductible for corporate income tax purposes?*
 - b. *Are there any sur-taxes, or alternatively, subsidies or tax reductions for some fossil fuel industries or the use of polluting energy, such as fuel excise reductions to support business?*

2. *Do any resource rent taxes or similar taxes apply in relation to renewable energy production?*
3. *Does your country apply any special tax incentives for carbon capture or other carbon abatement?*

II. INDIRECT TAXATION

II.A Domestic Indirect Taxation: Carbon Taxes, VAT/GST, Other Energy Taxes

Part II.A will ask national reporters to address whether their country has a carbon tax based on the quantity of emissions, carbon emissions trading scheme, such as a Cap-and-Trade mechanism (e.g. the EU Emissions Trading System or The California Global Warming Solutions Act), or a Baseline-and-Credit mechanism (e.g. the China National ETS) or other carbon or climate tax. For purposes of this Part, an energy tax is an indirect tax on energy products (eg a fuel tax).

National reporters will be asked to provide relevant information about the operation and the importance or impact of these taxes from a carbon and revenue perspective. It will ask whether the carbon tax or price is introduced in response to obligations under the Kyoto Protocol and Paris Agreement, and if it is considered to be compatible with the country's trade or investment obligations, or (in the EU) with state aid or other EU rules, or whether there are any tax treaty issues identified with these taxes.

II.B Interaction of carbon tax or other energy taxes with income tax

Part II will then ask about interaction of the carbon tax or energy taxes with the income tax, including any income tax measures relating to the carbon tax or ETS, or other energy taxes, and how the income tax law addresses carbon credits.

II.C Other specific climate or energy taxes

Part II.C will ask about other specific taxes relevant to reducing carbon emissions or with energy transition goals. For example, does a country levy a fuel tax or other taxes to reduce the use of polluting energy, including transport taxes; airline tax; meat or similar food tax?

It will ask about the base and definitions for application of any excise or specific energy taxes; what is the rate and does the rate take account of energy content (for example, is it a science-based framework or based on other criteria?).

This Part will also address rules for the transition from fossil fuels for these specific taxes, e.g. fuel vehicle taxes to electric taxes in the future and ask about any legal or Constitutional issues that may be raised by these types of taxes.

Finally, Part II.C will ask about any other taxes or levies that have energy, environmental or pollution implications, such as plastics taxes or waste disposal charges.

III: INTERNATIONAL TAX ASPECTS OF DIRECT AND INDIRECT TAXES

Part III will address the international tax aspects of both direct and indirect taxes relating to the energy transition, climate tax and resource investment, and of specific carbon or energy taxes, including in the international tax rules of countries and in tax treaties.

III.A International tax rules for inbound and outbound renewable energy investment

Part III.A will address the international tax rules of specific relevance for business structures used by foreign investors in relation to renewable energy or energy infrastructure investment, such as investment through corporate or managed fund structures.

This includes how profits or capital gains are taxed for foreign investors in these investments, such as solar or wind projects or investments in the electricity grid, or other infrastructure, such as terminals hydrogen distribution networks or pipelines.

Part III.A will also ask if there are specific tax rules relating to outbound investment in renewable energy projects by resident investors.

Part III.A will then inquire whether there are any tax treaty issues of relevance to inbound or outbound renewable energy investment or otherwise relevant to the energy transition. For example, international tax issues of relevance to renewable energy projects include the application of withholding tax on returns to these investments, and characterisation issues, such as whether renewable energy assets such as solar panels or wind turbines on land or offshore are treated as immovable or moveable assets for the purpose of Articles 6, 13 of the Model Convention or bilateral tax treaties.

Other relevant questions include source taxation of or renewable energy investment, such as the definition of a permanent establishment for these projects and the attribution of profit rules including the specific application of transfer pricing rules relating to renewable energy.

National reporters will be asked questions in a similar format to above. This includes tax structures for foreign investment in renewable energy. For example, what entity structure is used (eg a special purpose vehicle, unit trust, or flow-through entity)? What tax rate applies? Is there a difference between public or widely held investment, or private/corporate investment?

III.B International aspects of carbon emissions and energy taxes

Part II will address whether a country is a party to an international arrangement such as the EU Emissions Trading System and whether the country applies the Carbon Border Adjustment Mechanism (CBAM), or alternatively is affected by CBAM and what the domestic tax law effect is, if any, in response to the CBAM.

III.C Interactions with investment and trade treaties

National reporters will be asked about the interaction between domestic and international tax rules for the energy transition, climate or renewable energy, with national investment laws, investment treaties or trade treaties, if applicable.

IV. TAXES OR INCENTIVES FOR CONSUMER ENERGY USE OR POLLUTION

Part IV will address the tax treatment of the use or consumption of energy for end-users or ultimate consumers.

This will include the tax treatment of electric vehicles, for example, whether there are any taxes or incentives for the acquisition, road use or other aspects of electric vehicles; the application of road user charges; or taxes for the use of polluting vehicles.

It will also include tax rules that deliver a subsidy for households, for example for upgrading to energy efficient appliances or business equipment, or the use of renewable energy sources. Given the broad range of subsidies or grants available in some countries, it is intended to focus only on tax incentives in this Part.

V. DIRECTION FOR REFORM AND OTHER MATTERS

Part V will provide an opportunity for national reporters to discuss reforms or future directions of tax policy relating to the energy transition, climate or the environment in their country.

It will also inquire whether the country has mandated the implementation of any sustainability reporting obligations for corporations or taxpayers, such as Environmental, Social and Governance (ESG) reporting, or the European Sustainability Reporting Standards (ESRS), or International Financial Reports Standards S1 and S2, and the impact of this on taxation, if any.

Reporters can also contribute other relevant information for the report, for example, does the country propose a new direction or reform for climate taxation or renewable energy in future?

Does the country have a specific climate fund or other budgetary measure relating to climate change or renewable energy?