



HM Treasury

Electricity Generator Levy

Supplementary technical note

December 2022

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Background

Purpose of the note

1.1 This note replaces the technical note published on 17 November 2022. It brings together confirmation of the policy where this remains as previously announced, as well as giving updates where the approach has been further developed or where there have been changes.

1.2 The Chancellor announced at Autumn Statement 2022 the introduction of the Electricity Generator Levy (EGL). The Electricity Generator Levy is an exceptional and time-limited measure that responds to the effect that unique geopolitical events, when combined with structural challenges within in the UK market, are having on the prices being paid for electricity in the UK.

1.3 The EGL will be introduced from 1 January 2023 and will remain in force until April 2028, as announced at Autumn Statement.

1.4 A technical note published upon announcement of the EGL in November 2022 set out the government's view of how the tax would operate. It identified a limited number of areas in which further work was needed to finalise the design of the tax. It also committed to publishing draft legislation in December to confirm the final policy.

1.5 This note accompanies publication of that draft legislation and the associated explanatory note. It reflects updates to the policy following intensive work with stakeholders after Autumn Statement 2022, which are incorporated in that draft legislation.

1.6 It is being published to help generators prepare for the new tax. It does not provide formal guidance, which HMRC will issue in draft early in 2023. The explanatory note published alongside the draft legislation explains the legislation in more detail.

1.7 The EGL replaces the proposal for the Cost Plus Revenue Limit (CPRL) which was announced in October 2022, powers for which were taken in the Energy Prices Act 2022. The CPRL will now not be taken forward.

Changes since previous technical note

1.8 This note confirms the fundamental design of the tax as set out at Autumn Statement, including:

- Its application to exceptional receipts that groups realise from electricity generation in the UK from nuclear and renewable (including biomass) sources and waste
- Its calculation with reference to revenues actually achieved by generators for the electricity they generate
- The calculation of exceptional receipts being undertaken on a group or portfolio basis.

1.9 It also sets out a small number of important changes, including:

- Indexation of the benchmark price
- Reduction of the generation threshold (explained below) to 50GWh

1.10 It also provides further detail on many areas of importance for renewable generators, which were noted in the November note:

- The method and criteria for recognition of a limited set of exceptional costs relating to the acquisition of generation fuel and feedstock, which can be set against exceptional receipts.
- A more exhaustive list of revenue and cost items and how these will be treated
- The definition and treatment of groups
- The definition and treatment of joint ventures

1.11 The government does not intend to revisit the policy decisions set out in this note and in the draft legislation, but will continue to consider the rules for a small number of identified areas such as the treatment of qualifying joint ventures.

1.12 However, observations from affected parties can be sent to the address shown below in paragraph 1.113. Detailed guidance will be provided by HMRC in 2023 with final legislation brought forward as part of the spring Finance Bill.

Structure of the EGL

Generators covered

1.13 The tax will primarily apply to corporate groups, or, where relevant, standalone companies, that operate assets generating electricity in the UK which are connected either to the UK national transmission network or to local distribution networks.

1.14 The EGL will be limited, through a threshold, to those groups, or stand-alone companies, generating more than 50 Gigawatt-hours (GWh) per annum of electricity from in scope generation assets in a qualifying period.

1.15 The threshold is to reduce the administrative burden for the smallest generators. It has been changed from the 100 GWh proposed in the original Technical Note to reduce the risk that generators exceed the £10m allowance on 100 GWh of generation, which could create disincentives to generate around the threshold.

1.16 It will be applied to groups generating electricity from nuclear and renewable (including biomass) sources and energy from waste.

1.17 The EGL will not apply to revenue from the sale of electricity that is generated at an agreed strike price under a Contract for Difference

(CfD) entered into with the Low Carbon Contracts Company Ltd (LCCC). The EGL will apply to generation sold on merchant terms to the market by assets with a CfD (for example, when they have not yet moved onto the agreed CfD strike price, or only part of an asset's generation is covered by the CfD strike price).

1.18 The EGL will apply to revenue from grid-related electricity generated in the UK both sold in the UK and exported. Generation in the UK will be defined as generation in the UK, in its territorial sea, and in Renewable Energy Zones. The EGL will not apply to electricity generated outside the UK and imported.

1.19 The EGL will take effect from 1 January 2023 and will be applied to receipts in respect of generation of electricity after that date by in-scope generation assets. It will be legislated to end on 31 March 2028. If electricity prices fall then the average price a generator receives for its output might fall below the specified benchmark price meaning that no EGL will be due.

1.20 Given the duration of the tax, there is no need to consider the appropriate treatment of arrangements that will only be in place after 2028. This includes assets funded by the Regulated Asset Base funding model for Sizewell C, since these will not be covered by the tax.

Levy calculation

1.21 In scope groups will be subject to a 45 percent tax charge on a measure of their exceptional generation receipts,

1.22 Exceptional generation receipts will be calculated as:

$$\begin{aligned} & \text{Generation receipts} - \text{Electricity generation} \times \text{Benchmark price} \\ & \quad - \text{Allowable costs} - \text{Allowance} \end{aligned}$$

1.23 Where:

- **Generation receipts** are total receipts of a group from in scope UK electricity generation. This measure of receipts will take account of certain items that impact the revenues that a group realises from generation, such as instruments that hedge the price at which output has been sold.
- **Electricity generation** means electricity generated in the UK from in scope generation in megawatt-hours (MWh).
- The **benchmark price** is set at £75 per MWh from 2023 until April 2024. For the purposes of the EGL, this represents the average price above which generator returns are considered to be exceptional. The portion of generators' receipts below this level will not be subject to the EGL. A single benchmark price will apply to all taxpayers and all electricity generation models covered by the EGL.
- **Allowable costs** are a limited set of exceptional costs to be calculated as set out below. Allowable costs are the increased costs of generation fuels, revenue sharing for access to sites such as landfill, and the costs of buying back electricity from the grid

to replace contracted output that is not generated. Allowing a deduction for increased fuel costs will ensure that the tax applies fairly to generators that experience substantial increases in their generation fuel costs and help retain incentives to generate for fuel-based generators.

- An **allowance** which is set at £10m per annum for the group.

1.24 This calculation will be undertaken at an aggregate level across all in scope generation of the group in respect of a qualifying period. The qualifying period will be the group's accounting period for the purposes of Corporation Tax.

1.25 The EGL will not be deductible from profits subject to Corporation Tax.

1.26 To ensure that it continues to represent a measure of exceptional revenues that exceed expectations, the benchmark price will be indexed to the Consumer Price Index. The initial benchmark price of £75 will be adjusted each year from April 2024 in line with the change in the Consumer Prices Index in the preceding calendar year. The benchmark price will be the only feature of the tax subject to indexation.

Attributed generation output

Basic approach

1.27 The tax will apply to electricity generated for export to the transmission network or the local distribution network. It will not apply to electricity generated and used under a private wire arrangement or "behind the meter" generation that is not exported.

1.28 The relevant measure of output will therefore be metered output exported to the grid within the relevant period – with some adjustments needed in order to:

- Represent settlement volume through recognition of transmission losses
- Recognise that not all metered electricity will have been generated from a site (notably, where this is purchased from the grid and stored)
- Reflect balancing market bids appropriately

1.29 More details on these adjustments are set out below in the sub-sections on storage and adjustments.

Storage

1.30 The EGL will apply to electricity generation. Revenues from storage – including battery technologies, pumped hydroelectric storage, and innovative storage technologies such as hydrogen – and grid stabilisation will not be subject to the EGL, with the exception of

hybrid assets where generators will need to identify revenues from generation.

1.31 In cases where generating stations also export power that they have not generated to the grid – for instance a hybrid site using renewable generation and battery storage – there will be a need to:

- Determine the amount of metered output that relates to generation as compared to output that relates to power imported, stored and exported
- Separately determine the amount of receipts of the group that are attributable to that generated output

1.32 Further detail will be provided in HMRC's forthcoming guidance.

Generation receipts

Basic approach

1.33 Generation receipts are the amounts that a group realises for its relevant generation output from wholesale purchases of that output.

1.34 This is a general principle and its detailed application will need to be considered carefully for each individual group depending on how a group is structured and how a group obtains value for its generation output.

1.35 In some cases, the amount that a group realises from wholesale purchases of its relevant generation output might be reflected in the revenue that it makes from selling output to third parties.

1.36 In other cases, the amount that a group realises from wholesale purchases of its relevant generation output might be the arm's length amount paid for an intra-group sale of generation output to a downstream electricity supply business, or a separate commodity trading business that is acquiring output on wholesale terms as part of a standalone energy trading function rather than acting as a market interface.

1.37 In some cases, the relevant amounts might be the amounts received by the companies within a group that own the relevant generation assets. This will be where that company sells its output on wholesale market terms and there is no further sale of that output by the group into the wholesale market

1.38 In other cases, determining the relevant amounts might necessitate taking account of other group companies, whether in the UK or outside of the UK, such as those companies that act as the interface with the market and/or those that have responsibility for hedging. This approach ensures that groups are taxed on a measure that reflects the revenues in relation to UK generation, regardless of how they structure their business across entities. That includes ensuring groups are not taxed on amounts exceeding their realised revenues, for instance where other group companies have entered into

transactions that reduce the price at which generation output has been sold.

Detailed considerations

1.39 The measure of generation receipts above will be the amount that a group realises from relevant generation output in a qualifying period irrespective of when the relevant contracts were entered into.

1.40 For example, the revenue that a group receives for electricity generated in 2024 could be a function of both the price agreed under forward contracts in respect of 2024 output and the price received from selling unhedged 2024 output in the day-ahead and intra-day markets.

1.41 It is anticipated that the receipts for output of a period will generally align closely with the amounts recognised for financial reporting purposes.

1.42 However, it is possible that the measure of receipts could include revenues that are received or recognised for financial reporting purposes in a different period – for instance, if payments already received for generation output in 2023 have been recognised as revenue in 2022.

1.43 The measure of generation receipts will also take account of amounts arising from all potential routes to market including purchase power agreements, long forward contracts, and trading within the day-ahead and intra-day markets.

Adjustments

1.44 The amount that a group realises for relevant generation output will need to take account of certain items that can have the effect of increasing or decreasing revenues a group realises from its contracted sales.

1.45 Specifically, adjustments will be needed to reflect the net impact of:

- Gains or losses on financial instruments or arrangements that are intended to hedge the amount that a group realises for relevant generation
- Payments or receipts under options or CfDs relating to relevant generation output, for example payments that might need to be made under a virtual power purchase agreement entered into with a counterparty in respect of relevant generation output.
- Revenue from or (payments for) accepted balancing market offers, under which a generator agrees to increase its output
- The net impact of the imbalance settlement.

1.46 Revenue from the following sources will not be considered amounts realised from generation for the purposes of the EGL:

- Revenue from or payments for accepted balancing market bids, under which a generator agrees to reduce its output.

- Renewables Obligation Certificates or Renewable Energy Guarantees of Origin.
- Ofgem-regulated Feed-in Tariff generation and export tariff payments. Note that Feed-in Tariff sites that have opted to export on commercial terms will have such export revenue included.
- Payments not in connection with power provided to the grid, such as ancillary services.
- Capacity Market Payments in the few cases where renewable generators are eligible.

1.47 Corresponding adjustments to the group's measures of generated output will be needed in some cases. Where a generator makes an accepted balancing market offer to increase its generation, the increase in metered output as a result of the accepted offer will be counted towards the measure of generated output. However, where a generator makes an accepted balancing market bid to reduce its generation, the measure of metered output will be adjusted upwards by the amount of output not generated as a result of the accepted bid.

1.48 Balancing System use of services charges will not be available for deduction from generation receipts for the limited time generators are still liable for these during the first quarter of 2023.

Exceptional fuel costs

1.49 Where fuel is used to generate electricity, generators will be able to reduce exceptional generation receipts by a measure of the amount by which generation fuel costs exceed historic levels. This reflects that, for these generators, the benefit of higher electricity prices might be substantially offset by higher generation fuel acquisition costs.

1.50 To claim this relief, generators will be required to calculate a baseline fuel cost. This will be the lower of:

- A measure of the generator's fuel costs per MWh calculated over a period of at least twelve months between 1 January 2017 and 1 March 2020. (This will have to be estimated where this is not possible)
- A specified rate of £65 per MWh.

1.51 Where the baseline fuel cost is lower than the generator's actual fuel costs, a claim for allowable costs can be made. Actual fuel costs are to be calculated as:

$$\frac{\text{Generation fuel used for relevant generation in the period}}{\text{Total generation output}}$$

This measure of metered output will be unadjusted for accepted balancing market bids so that the measure of incurred fuel costs is not inflated by accepting a balancing market bid.

1.52 The relief available will be the difference between the baseline fuel cost and the generator's actual fuel costs per MWh, multiplied by the output generated.

1.53 Generation fuel costs will be considered the costs of acquiring fuel used to generate electricity. In addition to acquisition costs, groups may include the costs of transporting fuel, so long as this is done consistently in measuring the baseline fuel costs and actual fuel costs. Acquisition of feedstock will also be considered a fuel cost.

Revenue sharing arrangements

1.54 Generators may be required to make payments to a third party for access to a source of generation fuel such as landfill waste based on the value of the revenues it earns or calculated in proportion to electricity prices. In these cases, generators will be able to deduct the exceptional element of the shared revenues, calculated as the amount of revenue passed on versus the amount of revenue that would have needed to be passed on had generators' average achieved price equalled the benchmark price. This is to ensure that generators are not subject to the EGL on a measure of generation receipts which they are obliged to pass on or share to a substantial extent with third parties.

1.55 This relief will only be available for arrangements under which payments are based on revenues that a generator earns or payments linked to market electricity prices.

1.56 The relief will also be limited to arrangements with third parties and arrangements under which payments are calculated on a pre-tax rather than post-tax basis.

Groups

Overall approach

1.57 The Electricity Generator Levy will be applied to a measure of exceptional generation receipts calculated at the level of a group. For the purposes of the EGL, a group will consist of the ultimate parent, known as the principal company, its 75% subsidiaries, and the 75% subsidiaries of those subsidiaries.

1.58 While the calculation of exceptional UK generation receipts will be undertaken at the level of a corporate group, liability for the tax will fall on a single group company known as the lead member, with the other companies in the group then jointly and severally liable.

1.59 Groups will be able to nominate the lead member that will be liable for the tax and responsible for its administration and payment. Otherwise it will normally be the responsibility of the UK principal company. The EGL will be administered in the same way as Corporation Tax.

1.60 The EGL will need to be paid in line with the normal Corporation Tax payment dates for the company making the payment (including under the quarterly instalment payments regime where appropriate).

Significant minority shareholders in group companies

1.61 Where a group includes a member company that has at least one significant minority shareholder, there will be rules that allow the group to elect for that company to be individually liable for its share of the group's overall EGL liability, i.e. the amount of the group's liability that can reasonably be attributed to the activities of the company.

1.62 This rule will make it easier for groups to ensure that the costs of the EGL are borne by the companies whose activities have given rise to those costs, in situations where that could have significant commercial implications.

1.63 For the purposes of this rule, a significant minority shareholder broadly means a person with at least 10% ownership of the company.

1.64 The rules permit the group to make an election such that the company pays the EGL that relates to its output to ensure that the economic cost of the tax falls on the correct shareholders.

1.65 A significant minority shareholder may receive output from the group company and sell that output on. To ensure that the full EGL revenues are captured, any exceptional wholesale receipts over the amount paid for that output will be EGL receipts for the minority shareholder. The arrangements for this are covered in paragraphs 1.105 to 1.108.

1.66 The group will remain jointly and severally liable for the company's EGL liability.

Joint ventures

Context

1.67 As set out in the previous technical note, the government has been giving consideration to how the EGL applies to corporate joint ventures (JVs) where:

- There are a small number of shareholders holding a large percentage interest in a company
- The company does not form part of the group of one of those shareholders due to there being no shareholder with a 75% interest.

1.68 In theory, these corporate JVs could be subject to the EGL on the same basis as any corporate group and looked at independently of their shareholders. However, there are unique fact patterns of these JV structures, resulting from the small number of significant shareholders, that would make this problematic.

1.69 These fact patterns include the potential for a JV's contracted sales to third parties to be hedged at the level of JV members as opposed at the level of the JV company itself. They also include the potential for a JV to sell its generation output to JV members for a low

fixed amount with JV members then selling output to the market at prevailing prices.

1.70 In these situations, calculating exceptional UK generation receipts at the level of the JV in isolation may overstate or understate the level of exceptional UK generation receipts that arise when evaluated on aggregate across the JV and its members – which could create unfair outcomes, commercial distortions and opportunities for circumvention of the tax through restructuring.

1.71 To respond to these challenges, the EGL will include special rules for joint venture arrangements to ensure the tax applies to a representative measure of exceptional generation receipts, whether realised at the level of the JV or at the level of its members.

1.72 Where joint ventures are conducted without a corporate entity in place, the rules for joint ventures set out here will not apply and the participating investors will be treated separately. This includes cases where the joint venture is established as a partnership or a limited liability partnership (LLP).

1.73 The annex to this document provides examples of how the joint venture rules will work in a range of cases.

Special rules for joint ventures

1.74 The special rules will be applied to qualifying JVs, defined as companies that are not 75% owned by a single company, and so do not form part of the group of a shareholder, but which are 75% owned by five or fewer persons.

1.75 The special rules will then have three core components.

Step 1: Taxation of JV

1.76 Qualifying JVs will first be subject to the EGL in their own right on the same basis as other companies or corporate groups.

1.77 This means that qualifying JVs that operate relevant UK generation assets and have annual output greater than 50GWh will be subject to the EGL on exceptional generation receipts above the £10m annual levy allowance.

Step 2: Taxation of JV members on untaxed JV exceptional generation receipts

1.78 Separate from the taxation of the qualifying JV, material JV members (defined as those members with a shareholding of at least 10%) will be within scope of the EGL on specified amounts that relate to their interest in the JV.

1.79 Each material JV member will be attributed their proportionate share of the exceptional generation receipts within the JV that have been sheltered from the EGL because of the £10m allowance.

1.80 These attributed amounts will be treated as an addition to exceptional generation receipts of those JV members and will be

subject to the EGL insofar as those members' exceptional generation receipts exceed £10m at group-level.

1.81 For example, if two investor groups participated in a JV with each owning a 50% share, and the JV earned £25m in exceptional returns, its EGL liability would be £15m after taking into account the £10m allowance. Each investor group would then need to add £5m onto its generation receipts to reflect use of the allowance.

1.82 This step is to ensure that each group only benefits from a single £10m allowance in respect of exceptional generation receipts that it receives directly from its own generation activity or indirectly through relevant JV interests.

Step 3: Taxation of JV members on returns from selling or hedging JV output

1.83 Where material JV members realise amounts from selling output of the JV or hedging output of the JV, those amounts will be treated as additions or reductions to the member's exceptional generation receipts.

1.84 So:

- Consider that a JV member acquires output from the JV and then sells that output to third parties at a higher price. The return that the JV member makes from that on-selling would be treated as a positive amount of exceptional generation receipts of the JV member.
- Consider that a JV member hedges the price at which power is sold from the JV to third-parties and makes a profit on that hedge. The return that the JV member makes from that hedge would be treated as a positive amount of exceptional generation receipts of the JV member.
- Consider that a JV member hedges the price at which power is sold from the JV to third-parties and makes a loss on that hedge. The loss that the JV member makes from that hedge would be treated as a negative amount of exceptional generation receipts of the JV member.

1.85 The basic principle here is that these are amounts that closely relate to the generation output of the JV and would have increased or decreased exceptional generation receipts upon which the JV is subject to the EGL had they been taken into account at that level. This suggests that it would be appropriate to tax or relieve these amounts at JV member level – albeit with a need to further consider how accurately that principle is delivered in certain fact patterns as is covered below.

Relief for negative amounts

1.86 There may be cases where a JV member realises a negative amount in respect of its interest in the JV and that negative amount would have decreased the exceptional generation receipts on which the JV is subject to the EGL, had it been taken into account at the JV

level. As in step 3 above, in these cases, that negative amount will be treated as a negative amount of exceptional generation receipts for the JV member.

1.87 Where the JV member is a group that has exceptional generation receipts from other JV interests or from its own generation assets then that negative amount will provide relief in reducing the group's chargeable receipts.

1.88 However, where the JV member does not have independent exceptional generation receipts then the negative amount could be of no benefit to the group, i.e. this negative amount will not be effectively relieved.

1.89 In these situations, the government is considering a rule that would allow the JV member to surrender the negative amount to the JV, which could then use it to reduce the exceptional generation receipts upon which it is charged. The rule would ensure that any compensating payments from the JV to the JV member for the transfer of relief would be neutral for tax purposes. The amount that could be offset in this way could be limited as follows:

- The investor undertaking would not be able to surrender more than its overall shortfall in a qualifying period (taking account of all other surrenders).
- The JV would not be able to claim more than its exceptional receipts in a qualifying period (taking account of all other claims).
- The investor undertaking would not be able to surrender more than the amount of its shortfall that relates to the JV in question.
- The JV would not be able to claim more than the amount of exceptional receipts that relate to the investor undertaking in question.

In each case, the reference to JV and JV member refers to the whole of the generating undertaking, either a singleton company or the whole group

1.90 This could allow the JV to benefit from the lower price realised by the investor, and would allow the JV to make a payment to the investor in consideration for this surrender.

1.91 This rule is not covered in the draft legislation and officials will be engaging with taxpayers on how this rule might be structured.

Appropriate taxation of positive amounts

1.92 As set out above, the special rules for joint ventures are, at a broad level, designed to tax exceptional generation receipts of a qualifying JV and then separately tax or relieve amounts that arise to a material corporate JV member in respect of its interest in the JV, insofar as those amounts would have increased or decreased the exceptional generation receipts on which the JV is subject to the EGL had they been taken into account at that level.

1.93 It is recognised that the positive amounts that a JV member receives from on-selling JV output or from instruments that hedge JV output might not always meet that last condition, i.e. they might not be amounts that would have led to increased exceptional generation receipts on which the JV is subject to the EGL.

1.94 For example, consider that a JV sells one million MWh of output to members at a price of £50 per MWh which then sell that output to the market at £75 per MWh. In this situation the positive amount of £50 million that arises at JV member level is not an amount that would have increased exceptional generation receipts if it had arisen at the level of the JV on the basis that the JV would still have an achieved average price below the benchmark.

1.95 In recognition of this the government is considering how to ensure that JV members are only taxed on positive amounts that meet the principle set out above.

1.96 One option might be to reduce the positive amount upon which a JV member is taxed by its proportionate share of exceptional generation receipt deficits at the level of the JV i.e. JV exceptional generation receipt deficits multiplied by the JV member's interest in the JV.

1.97 Another option (which is similar in principle) would be to allow exceptional generation receipt deficits at the level of the JV to be surrendered to JV members that would then be able to use those deficits to reduce positive JV amounts subject to the EGL.

Transparency

1.98 The approach outlined above aims to ensure that the measure of exceptional generation receipts in respect of a qualifying JV takes account of receipts and other transactions that arise at the JV level as well as the level of JV members.

1.99 Recognising that aim, the government has considered whether an alternative approach could be to treat a qualifying JV as transparent and deem the generation output and generation receipts of the JV to arise directly to members.

1.100 Those members would then be subject to the EGL on exceptional UK generation receipts that arise from the attributed output and revenue, adjusted for hedging or on-selling that a member might have undertaken in respect of the JV interest.

1.101 While this approach might be simpler from a conceptual standpoint, there are several challenges that it would give rise to.

1.102 For example, there would be the need to develop a basis for attributing JV output and revenue to individual members that delivers sensible and proportionate outcomes for the different commercial arrangements in the market.

1.103 Equally there would be a need to consider the treatment of exceptional generation receipts attributed to non-material members,

i.e. whether those receipts would fall outside of the EGL charge or whether those receipts would need to be taxed at the level of the JV to avoid leakage.

1.104 For these reasons the government is not minded to proceed with this model but would nonetheless be interested in stakeholder reflections on this alternative approach and the benefits it might have as an elective fallback.

Taxation of significant minority shareholders on specified amounts

1.105 As noted in paragraph 1.65, the issues raised with regards to JVs also considered relevant to companies in which there are significant minority shareholders.

1.106 There may be amounts at the level of a significant minority shareholder that closely relate to the generation output of the company in which the shareholder has a significant minority interest and which would have increased or decreased exceptional generation receipts upon which that company (or the group of which it is a part) is subject to the EGL.

1.107 Similar rules will therefore be introduced to tax or relieve amounts that groups realise from on-selling or hedging generation output of a company in which they have a significant minority shareholding, with similar consideration being given to the issues identified in paragraphs 1.67 to 1.73 and the appropriate approaches for addressing them.

1.108 It is recognised that the rules for a company with minority shareholders might further be complicated by the fact that the company will, by its nature, be part of a wider group, and therefore part of that wider group's calculation of the EGL liability.

Implementation

Administration

1.109 The Electricity Generator Levy will incorporate the existing Corporation Tax rules for tax administration. This means that, for example, the Corporation Tax rules for reporting liability under self-assessment, making payments, opening enquiries and charging interest and penalties will apply. An important difference is that where electricity generation takes place within a group of companies then a single company in the corporate group will be responsible for the EGL.

1.110 The default position is that the principal company of a group will be responsible for payment of the Electricity Generator Levy and the calculation of the tax is to be made on the same basis as that company's Corporation Tax accounting period. A group will be able to nominate another member company to take on this role and the accounting period will be determined accordingly. The draft legislation published with this note includes a power for the details of the

nomination procedure to be set out in regulations but it is anticipated that these may instead be contained in the legislation that is set out in the Finance Bill.

1.111 The Corporation Tax rules that require large companies to make quarterly payments will apply to the Electricity Generator Levy but no payment will be required until the Finance Bill in which the EGL is legislated receives Royal Assent. It will be necessary to identify the element of the EGL included with payments of Corporation Tax and to provide details of how the liability to the EGL is calculated as part of the company's Corporation Tax return.

Next steps

1.112 The government intends to introduce the draft legislation published today as part of the next Finance Bill. The draft may be subject to further revision to ensure it will work as intended.

1.113 HMRC will issue draft guidance for taxpayers early in 2023. If you have questions about HMRC's expectations of taxpayers, please be in touch at egl@hmrc.gov.uk. This address can also be used to share any observations about the draft legislation.

1.114 This note also requests views on how the policy is delivered in a small number of identified areas such as the special rules for qualifying JVs. These can be shared using the same address.

Annex: Worked examples

Example 1: EGL for a joint venture company and members

- 1.1 Company A and Company B each own 50% in a JV company. The JV sells 1m MWh output to Company A at a fixed price of £125 per MWh, 1m MWh to Company B at day-ahead prices, and 1m MWh output to Third-Party C at day-ahead prices. The average output price achieved by the JV over the period is £145 per MWh.
- 1.2 Company A sells on the power it buys from the JV. The average price is £150 per MWh. Company B enters day-ahead-fixed swap that acts as a hedge against its JV interest and makes a loss on that instrument of £20m.
- 1.3 The JV has exceptional UK generation receipts of (£145 per MWh – £75 per MWh) x 3m = £210m
- 1.4 The JV's liability to the tax is therefore calculated as:
- £210m – £10m allowance = £200m chargeable exceptional generation receipts
 - £200m x 45% = £90m EGL liability
- 1.5 As material investors in the JV, each of the JV members will also be liable for the EGL on specified amounts relating to their interest in the JV as follows:
- For Company A, exceptional receipts from output received from the JV of (£150 per MWh – £125 per MWh x 1m = £50m) and a proportionate share of the JV's exceptional generation receipts that fall below the allowance = £5m. This means a total amount of £55m.
 - For Company B, a loss of (£20m) on the derivative instrument and a proportionate share of the JV's exceptional generation receipts that fall below the allowance = £5m. This means a total amount of (£15m).
- 1.6 These amounts are summed with any exceptional generation receipts relating to members' other JV interests or, where relevant, their own generation output. That aggregate amount of exceptional generation receipts is then charged to the EGL insofar as it exceeds the £10m allowance.

Example 2: EGL for an LLP joint venture and members

1.7 Company A and Company B are each members in a LLP in which they have equal interests. The LLP generates electricity which is sold directly to the wholesale market through a third party offtaker.

1.8 In this case, the LLP is treated as transparent for the purposes of the EGL. Each of Company A and Company B include a share of the generation of the LLP in their EGL calculations reflecting their respective interests in the LLP in the period in question. They then also include their share of the receipts and costs of the LLP that relate to that generation.

Example 3: EGL for an unincorporated joint venture and members

1.9 Company W, X, Y and Z jointly own a wind farm in respect of which they are each entitled to 25% of the output from the generation asset. They are operating in business separately and are not operating in partnership with each other.

1.10 In this case, they are each operating as a generator and should include their receipts and costs from that generation activity in their EGL calculations.

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