



HM Treasury

Electricity Generator Levy – New Investment Exemption

Technical note

November 2023

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Background

1.1 The Chancellor announced at Autumn Statement 2022 the introduction of the Electricity Generator Levy (EGL). The EGL is a tax on the extraordinary returns of electricity generators. It is an exceptional and time-limited measure that responds to the effect that unique geopolitical events are having on the prices being paid for electricity in the UK.

1.2 The EGL was introduced from 1 January 2023 and legislated for in Part 5 of Finance Act (Number 2) 2023.¹ The levy is legislated to remain in force until 31 March 2028. The government has reiterated that the EGL will end on that date. Should the crisis abate and prices fall below the benchmark price, the revenue forecast from the levy will not materialise and consideration would be given to the tax's ongoing application.

New investment exemption

1.3 The government has announced that where the substantive decision to proceed with a project to create a new electricity generating station or expand an existing generating station is made on or after 22 November 2023, receipts from that new generating station or additional capacity will not be subject to the EGL. The meaning of a project to create a new station and expand an existing station is explained below.

1.4 An exemption for receipts from new investments in electricity generating stations will strengthen the incentives for investment in renewable energy generation.

1.5 This technical note is being published to help generators understand how the proposed exemption applies to their new investments. It does not provide formal guidance, which HMRC will issue.

1.6 There will be no change to the operation of the levy for stations not covered by the scope of this exemption.

Technologies in scope

1.7 All technologies within scope of the EGL will be covered by this exemption.

¹ [Finance \(No. 2\) Act 2023 - Parliamentary Bills - UK Parliament](#)

New investment projects

1.8 The existing rules for the Electricity Generator Levy use the concept of a generating station. A station with output subject to the EGL is a “relevant generating station”.

1.9 This exemption means that additional generating capacity created by a new project will not be considered a “relevant generating station” for the purpose of calculating liability to the EGL.

1.10 A new project will be one for which a substantive decision to proceed is taken on or after 22 November 2023.

1.11 That substantive decision should broadly reflect the circumstances that would be expected to exist for a typical commercial “Final Investment Decision” or “FID”, which is a term commonly applied to a stage in large projects.

1.12 The projects that will be affected by the exemption are those that result in:

- a new generating station, or
- an increase in the generating capacity of an existing generating station.

1.13 The government does not see the need to introduce a highly prescriptive rule to determine when a substantive decision to proceed is taken for the purpose of the exemption. The government proposes to introduce a condition (the “new investment condition”) based on the likelihood of a project proceeding immediately before the date the exemption was announced on 22 November 2023. Objective factors should clearly point to whether or not there was a significant likelihood of a project not proceeding at that time.

1.14 These factors may include:

- a main board level commitment to undertake the project
- an approval of the total financial commitment required for the project
- the release of project funding by major investors
- the commitment to contracts regarding generating equipment and installation activity
- where relevant, the triggering of options to acquire the interests in land required for the site of the station
- the approval of a credible timetable or programme for the project demonstrating that the facility can reasonably be expected to be commissioned
- public statements announcing the decision to go ahead with the project, which may include announcements made for regulatory purposes

1.15 Generation volumes that are subject to and settled under a Contract for Difference (CfD) with the Low Carbon Contracts Company Ltd are already not considered to be attributable to a "relevant" generation station. In the case of a new project that has signed a CfD, the exemption will apply (meaning EGL will not be charged) to generation that does not give rise to payments under the CfD. The implication here is that where a CfD project qualifies for the exemption, then the generation that is typically referred to as 'merchant nose' will be exempt of EGL.

Projects to expand existing generating stations

1.16 Where a project adds generation capacity to an existing station, then for EGL purposes the additional capacity will be treated as a separate station that could be within scope of the exemption (subject to the project meeting the new investment condition).

1.17 Where expansion is beyond the former boundaries of a site, particularly where a new interest in land or seabed is obtained, that may be considered a separate generating station under the existing EGL rules. Alternatively, a project may involve the installation of additional generating equipment within the existing site.

1.18 The government would expect in-scope generators to demonstrate that generation infrastructure (rated capacity in MW) has been expanded, not simply that generation output has increased.

1.19 The provision of separate metering of the resulting additional output would be an indicator that there is a distinct project for the purposes of the exemption. The provision of a distinct metering, though a useful indication of station expansion, would not be regarded as determinative. Where a project can demonstrate it has delivered additional capacity and the new investment condition is met, then the additional generation attributable to the expansion will qualify for the exemption.

Maintenance and life extensions

1.20 Refurbishment, general repair, maintenance and replacement of parts, including where such activities lead to the operation of an existing generation station beyond its originally planned life, will not be covered by this exemption. This includes cases where the refurbishment, repair, maintenance and replacement of parts is essential for maintaining capacity or could lead to increased capacity.

Repowering projects

1.21 The government intends for the exemption to apply to new renewable investment generation capacity, including through repowering. Repowering involves the full replacement of the core generating equipment of an existing generating station.

1.22 Where substantially all of the core electricity generating equipment of a station is replaced with full decommissioning and recommissioning, the station should be within scope of the exemption. The station should at least maintain the previous generating capacity.

Next Steps

1.23 The government would be grateful for views shared by stakeholders on the above note. This might include areas where generators and investors would like further detail or clarification in subsequent guidance from HMRC.

1.24 If you think you will be within scope of the exemption and wish to discuss, please get in contact through:
electricitygeneratorlevy@hmtreasury.gov.uk

1.25 The government will publish draft legislation as soon as possible and introduce legislation for the exemption in an upcoming Finance Bill.

HM Treasury contacts

This document can be downloaded from www.gov.uk

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