

European Scrutiny Committee

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From: Sir William Cash MP

8 December 2021

Rt Hon. Lucy Frazer QC MP
Financial Secretary to the Treasury
HM Treasury
1 Horse Guards Road
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Northern Ireland Protocol: draft EU Energy Taxation Directive (update)

Thank you for your helpful update on the potential implications of the EU's draft new Energy Taxation Directive (ETD) for the UK, and under the Northern Ireland Protocol in particular.¹

We accept that the ramifications of the draft ETD for Northern Ireland and the wider UK internal market will depend heavily on the outcome of the legislative process in Brussels, and on the separate talks between the UK Government and the EU on the operation of the Protocol. We are therefore grateful for your commitment to keep us updated on relevant developments in both respects. We have concluded, however, that it cannot be ruled out at this stage that the EU proposal could affect statutory minimum fuel duty rates in Northern Ireland, and note that when a duty increase for aviation gasoline was required in Northern Ireland because of the Protocol, the Government chose to extend this increase to the whole of the UK to avoid divergence within our domestic market.

Similarly, we will also continue to monitor the negotiations between the Government and the European Commission on a new UK-EU Agreement on Gibraltar, including in relation to issues of excise and taxation, and may revert to you on the implications of the draft ETD in that context.

We also note that the European Commission is preparing further amendments to excise duty rules in relation to alcohol and tobacco products, which may

¹ Proposal for a council directive restructuring the Union framework for the taxation of energy products and electricity (recast); Council and COM number: 10872/21 + ADDs 1–7, COM(21) 563; ESC number: 41888.

raise similar issues in the context of the Northern Ireland Protocol (and, possibly, any UK-EU agreement on Gibraltar). We will engage with the Government on any such proposals, and their potential implications for the UK, in due course when they are available for public scrutiny, and of course taking into account the state of play in the Government's negotiations with the EU in respect of both Northern Ireland and Gibraltar.

In light of the above, we would welcome an update from you by the end of January on progress made, if any, in the Government's negotiations with the EU in respect of the VAT and excise provisions of the Northern Ireland Protocol.

I am copying this letter to Simon Hoare MP, Chair of the Northern Ireland Affairs Committee and Stephen Habberley, Clerk of that Committee; to Lord Kinnoull, Chair of the House of Lords EU Select Committee, and to Chris Johnson, that Committee's Clerk; and to Les Saunders in the Cabinet Office.

CHAIR