

# EU State Aid Rules

How do they affect the design of environmental taxes?

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# Outline of my presentation

- Why are environmental taxes important?
- State aid and environmental taxes
  - In general and in a Swedish context
- Why is state aid so difficult?
- Interaction with the EU Commission
- EU State Aid Modernisation Process
  - What will life look like post 2022?

# Why are Environmental Taxes Important?

# How to Reach ...

## Climate, Environment and Energy Policy Goals?

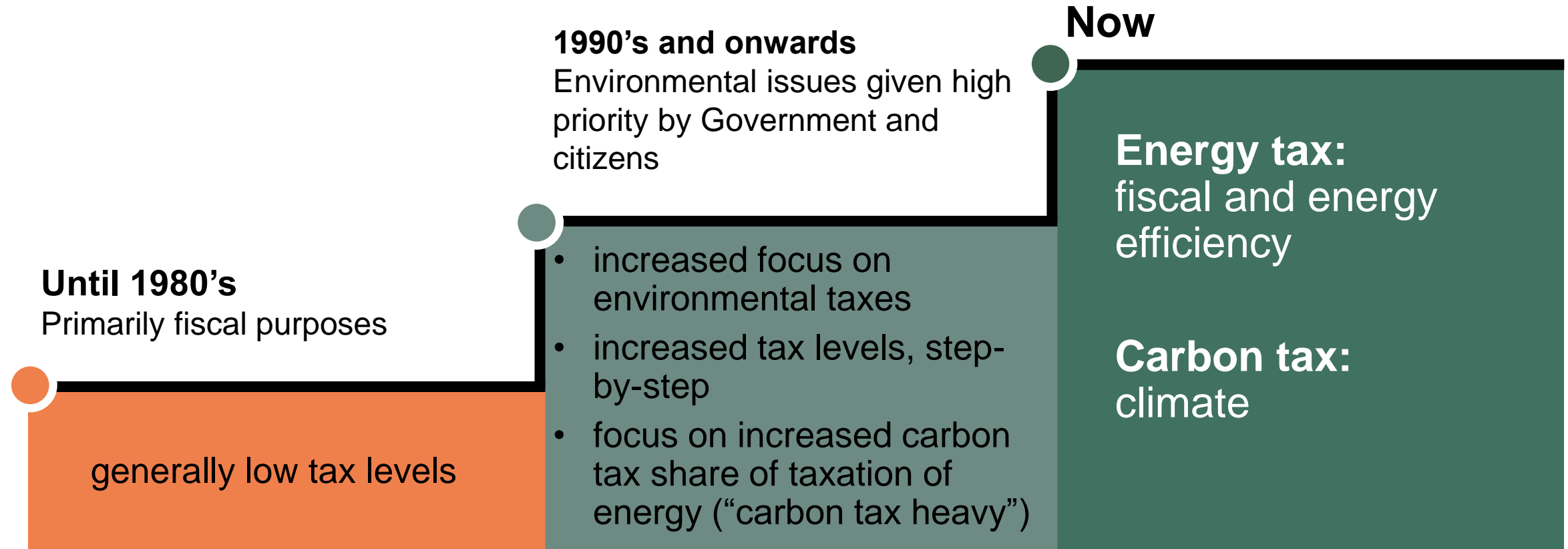
### Using environmental taxes in a cost-effective way ....

- ... is Sweden's primary instrument to reach set goals
- ... is easy to administer and gives results
- ... may need to include state aid elements to ensure best overall environmental results



# The Swedish Context

## Increased Focus on Environmental Taxes



# Environmental Taxes in the 2019 January Agreement

After the 2018 Parliamentary election, an agreement was made in January 2019 between

- Social Democratic Party
- Green Party
- Centre Party
- The Liberals

## Environmental taxes, for example:

- Tax measures, *in force from 1.8.2019*:
  - Raised chemicals tax
  - Abolished tax reduction for diesel in mining
  - Raised taxation on fuels in certain heat production
- Tax or fee on single use plastics .... *from 2020*
- ”*Green tax shift*” (15 billion SEK = approx. 1.5 billion € during 4 years)
- ”*Comprehensive tax reform*”

**State aid:** *“EU state aid rules and other aid schemes shall be reformed in order to contribute to and not counteract a fossil free society and the implementation of the Paris Agreement.”*



# State Aid and Environmental Taxes

In general and in a Swedish context

# Basic Points ....

- The EU State Aid Rules are fundamental for the well-functioning of the Internal Market
- However, environmental tax aid merit special considerations – why?
- **The very purpose of an environmental tax is to make firms change their behavior = distorts competition!**





# If State Aid Rules are not Observed ....

- Complaints to the EU Commission
- Unlawful aid should be recovered from the aid beneficiaries – maintain a level playing field in the internal market
  - “Ignorance of EU law excuses no one”
  - No excuse to act in line with national law
  - Aid recovered retroactively for 10 years including interest
- Infringement procedures if a Member State does not recover unlawful aid – heavy fines incl. interest

# Swedish Example

## State Aid Energy tax on electricity for industry

- Energy tax rates per MWh
  - 0.5 € industry; 34 € service sector companies
- State aid to industry
  - Selective in comparison to other national business
  - Does not matter that major competitors outside SE pay low or no tax
  - Would not be politically feasible to apply 34 € to industry
  - One of the largest monetary state aid schemes in the EU



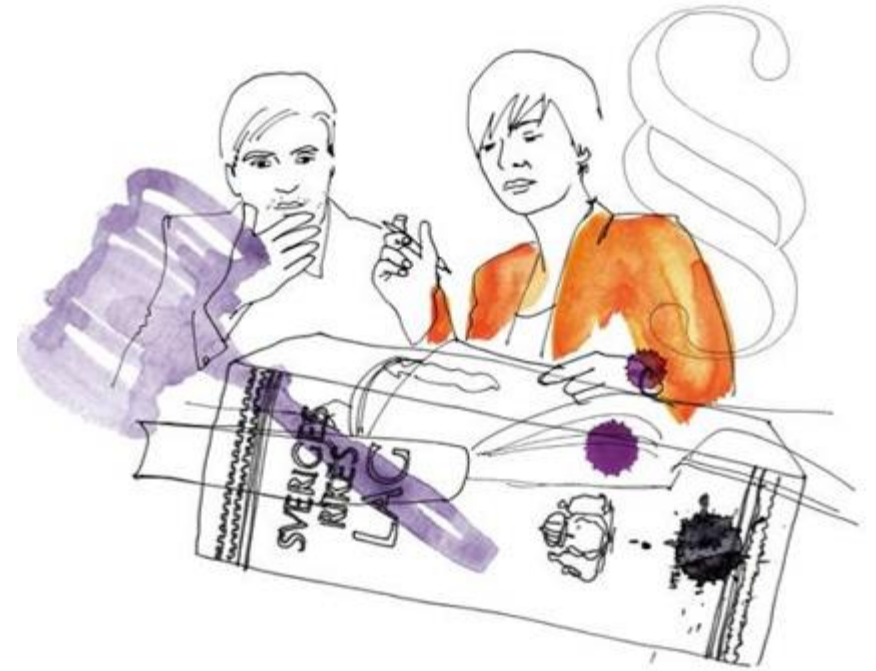
# Some Swedish Statistics ....

- Total state aid (excl. agriculture) 4.3 billion €
- State aid for environmental protection incl. energy savings: 3.1 billion €
  - Close to 90 per cent environmental tax state aid
  - 18 different aid schemes energy and carbon taxation
  - Largest scheme lower energy tax on electricity for industry: ~ 1.3 billion €
- So ... what's so special about environmental taxes??

# Incentive Effect ...

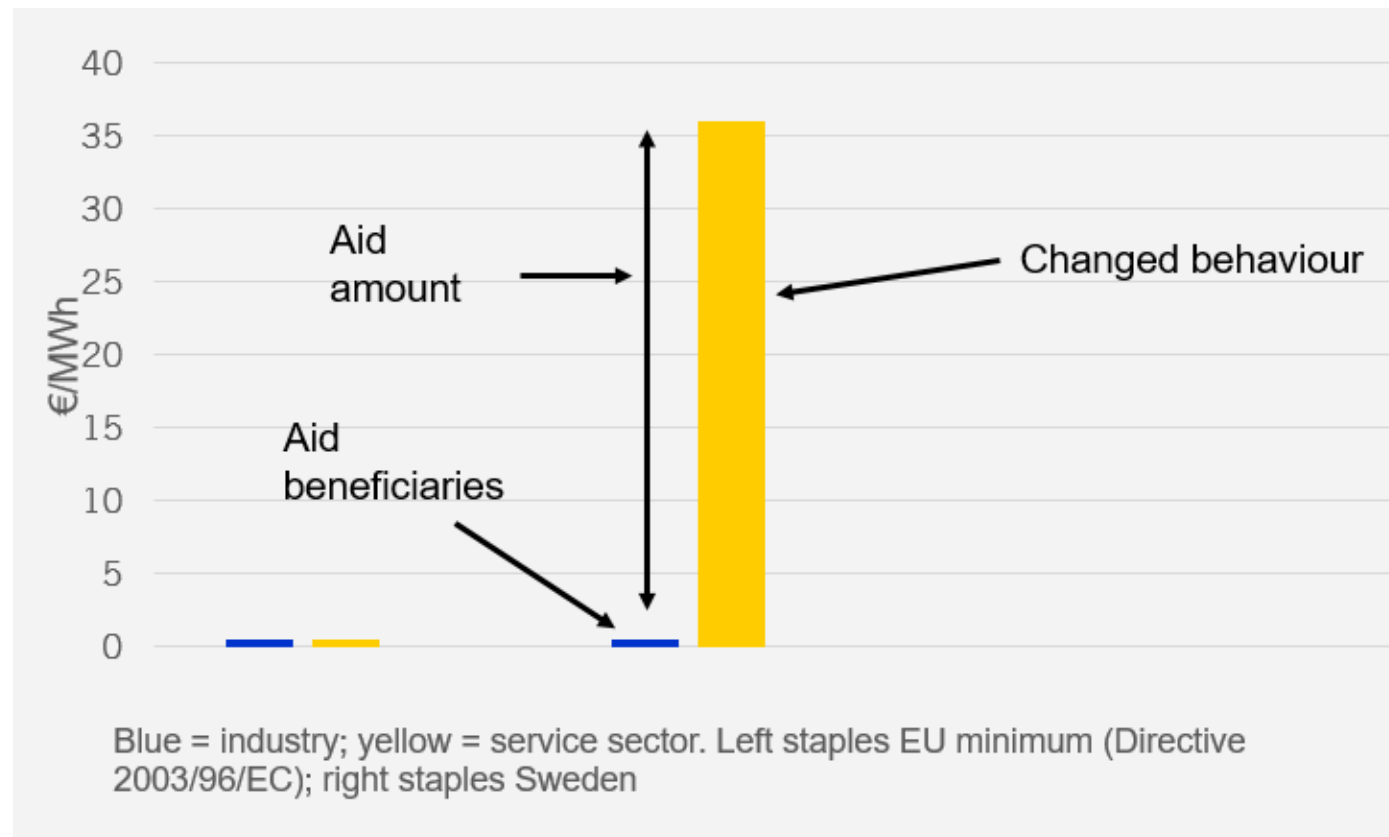
... in relation to environmental taxes

- Incentive effect is one criteria for compatible aid
- Aid in the form of a tax exemption to certain firms
  - .... gives them a direct incentive to change their behaviour, e.g. reduce emissions, or
  - .... enables a higher tax level for other firms, thus indirectly contributing to an overall higher level of environmental benefits to society (“indirect incentive effect”).



# Swedish Example

Indirect incentive effect energy tax rates on electricity in different business sectors

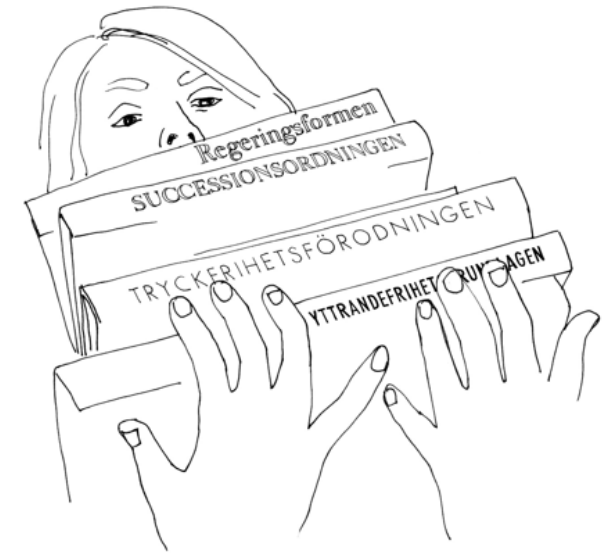


# Why is State Aid So Difficult?

# Why is it Hard ...

... to advice policy makers on state aid assessment?

- Hard to predict ...
  - The EC Treaty => the ECJ and the EU COM
  - ECJ Court rulings, EU COM Energy and Environment Aid Guidelines (EEAG), EU COM cases
  - Especially difficult when exploring a new area of policy design
- If aid is found to be unlawful
  - ... the beneficiaries take the blame
- Time constraints ...
- Administrative complexity



# Interaction with the EU COM





# Contacts Sweden ./ DG COMP

From designing of aid to ex post monitoring

- **Bilateral contacts**
  - Pre-notification stage
  - Notification process or General Block Exemption Regulation (GBER)
  - Annual reporting to EU State Aid Scoreboard
  - If applicable, overcompensation reports and discussions on how to eliminate future risks of overcompensation
  - State Aid Transparency Website (firms above thresholds)
  - DG COMP ex post monitoring of certain aid schemes
  - Recovery of aid (to be avoided!!)
- **Lobbying when EU legal acts are revised**



# EU State Aid Modernisation Process

## What will life look like post 2022?

# EU State Aid Modernisation (I)

Help or hindrance to reach climate and environmental goals?

- Ongoing EEAG and GBER evaluation
  - Now until 31.12.2022
  - COM plans to prolong current EEAG and GBER 2020-2022
  - Proper design is crucial to enable Member States to implement cost-effective environmental taxes
  - Hard to get COM state aid approvals based directly on the EC Treaty.



# EU State Aid Modernisation (II)

## Provisions important to maintain post 2022

- Simplified procedures for aid within EU harmonised taxation above minimum tax levels
- GBER for bulk part of aid schemes
- Acceptance of Indirect Incentive Effect
- Special considerations for tax aid when publishing individual aid data on public website
- Acknowledge that all sustainable biofuels are part of the solution and not a problem for a fossil free society



# EU State Aid Modernisation (III)

## Challenges for design of EU state aid provisions post 2022

- How to design the EEAG and the GBER ...
  - ... strict enough to ensure a level playing field within the EU?
  - ... not severely restricting innovative new environmental tax designs?
  - ... keeping the administrative burden on authorities and firms at a reasonable level?
- If state aid rules in fact prevent Member States from applying properly designed environmental taxes => more costly for society to reach goals

# We Need All the Tools in the Tool Box to Fight Climate Change

A key element is properly designed state aid rules!



# Contact Information

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More information  
on the Swedish carbon tax:  
<http://www.government.se/carbontax>

