

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?

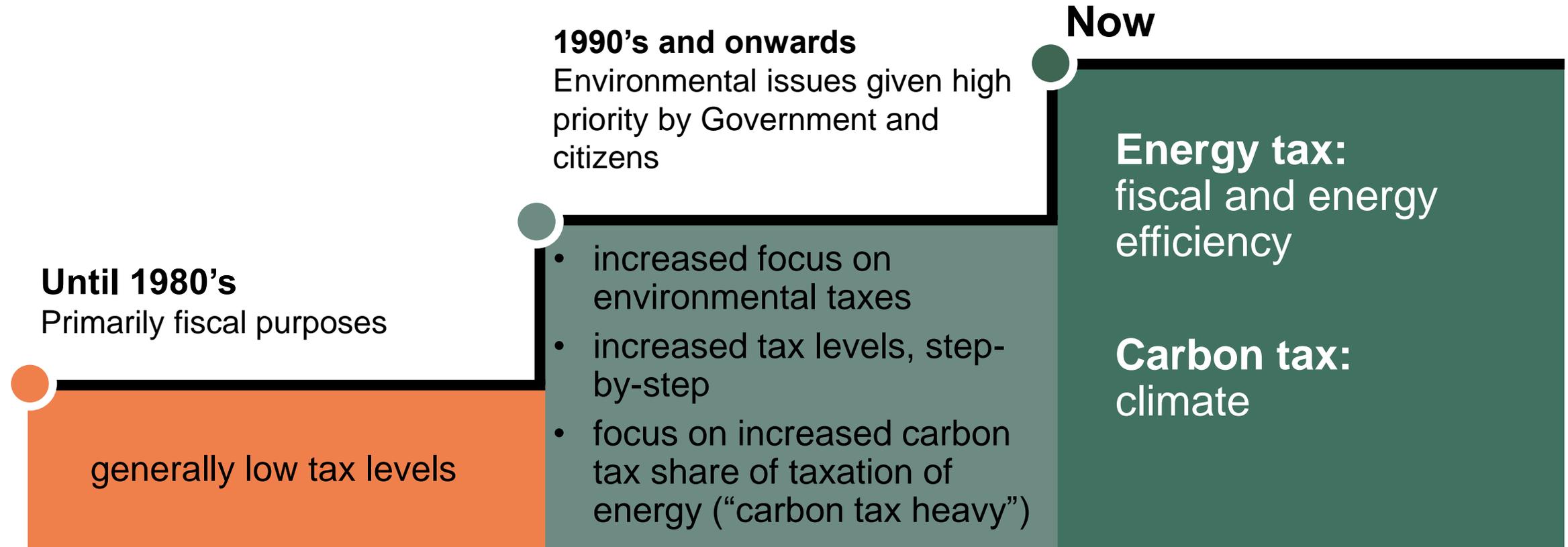
Using environmental taxes in a cost-effective way

- ... 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!**



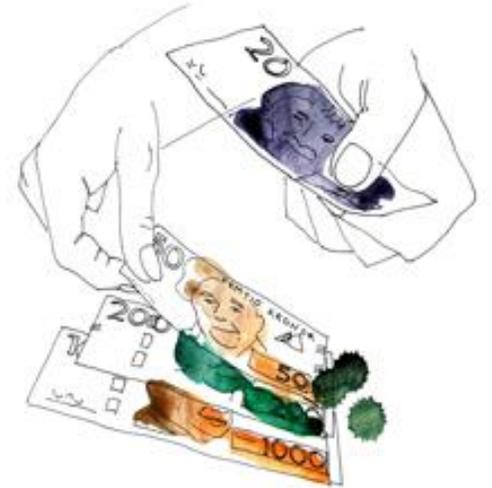
If State Aid Rules are not Observed

- 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



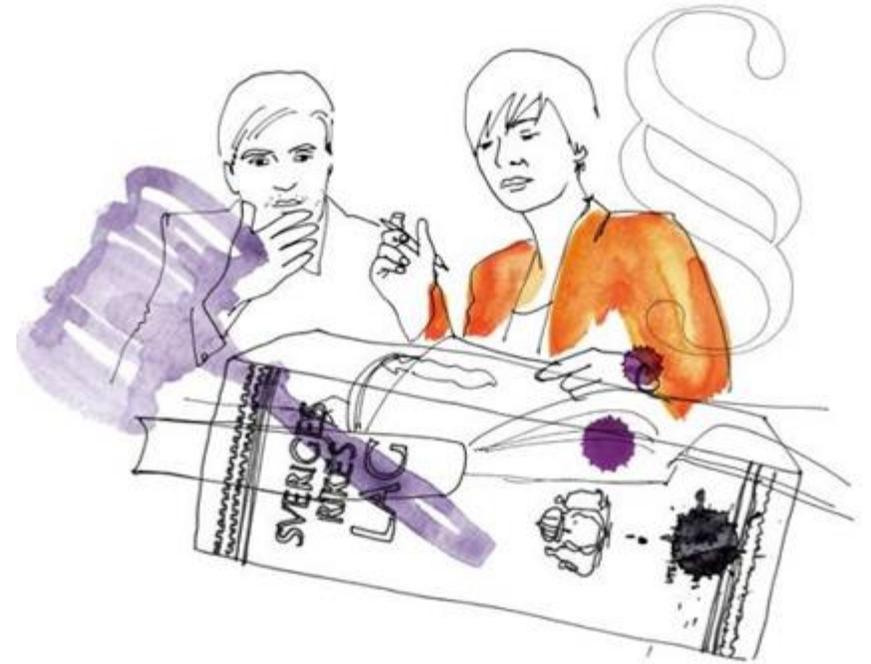
Some Swedish Statistics

- 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 ...

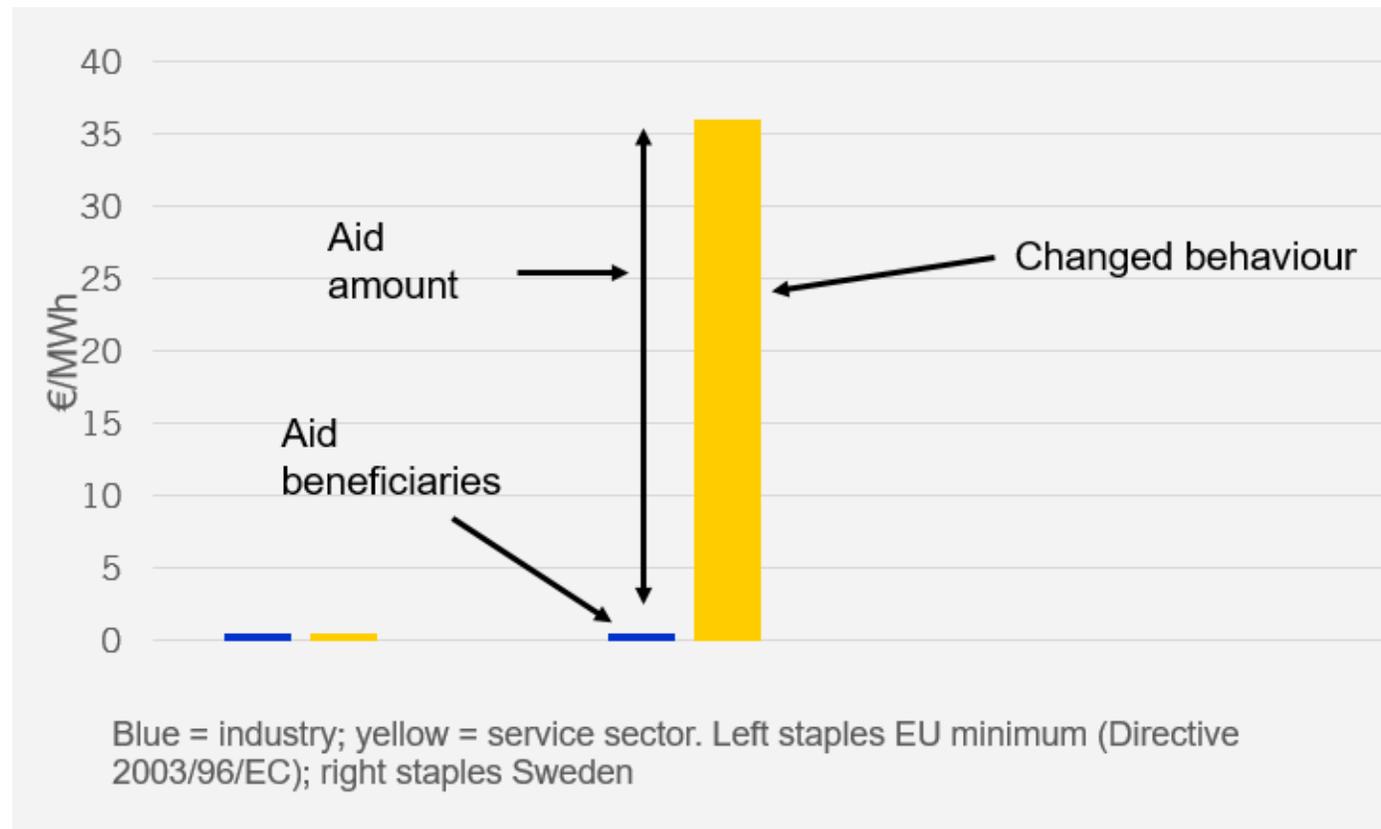
... in relation to environmental taxes

- 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

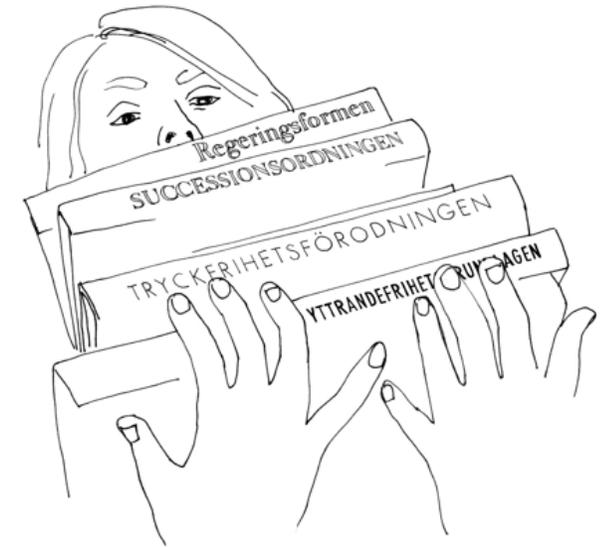


Why is State Aid So Difficult?

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



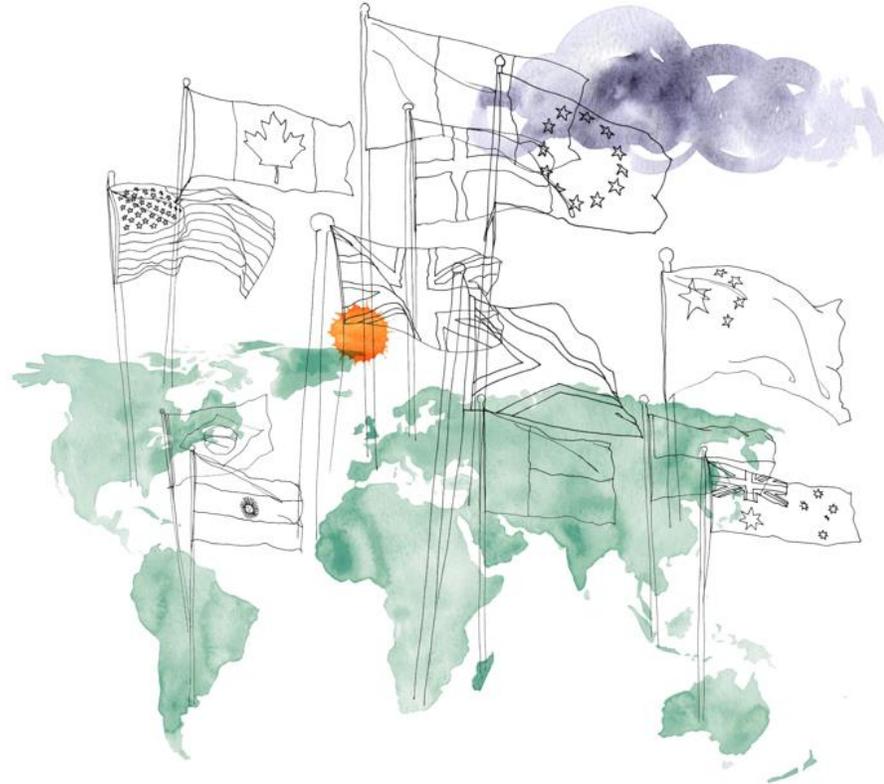
EU State Aid Modernisation (III)

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!



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

