

URL: <http://mobile.deloitte-tax-news.de/german-tax-legal-news/german-act-on-power-market-20-european-commission-approves-german-plan-to-phase-out-certain-lignite-fired-power-plants-according-to-eu-state-aid-rules.html>

 13.06.2016

German Tax and Legal News

German Act on Power Market 2.0: European Commission approves German plan to phase-out certain lignite-fired power plants according to EU state aid rules

On May 27, 2016 the European Commission (EU COM) has decided upon the state aid implications of the German legislator's plan to phase-out certain lignite-fired power plants by compensating the plant operators for putting the plants into a security reserve for a period of four years. The compensation worth € 1.6 billion in total does not violate EU state aid rules.

Background – Draft Power Market Act

In November 2015 the German government decided to phase-out the most polluting lignite-fired power plants (eight in total) as a means to meet its CO₂-emissions reduction plans until 2020. In its [draft](#) of the Power Market Act ("Strommarktgesetz") amending the Energy Industry Act lignite-fired power plants are to be decommissioned (as of 2020) after being operated off-market as part of a security reserve (§ 13g of the draft). The respective compensation for the operational costs and loss of profit was subject to the EU COM approval.

Lignite-fired power generation in Germany

In Germany lignite-fired power generation has a share of 24 % in 2015 and still constitutes the main generation technology. With the planned decommissioning 13 % of lignite-fired power capacity will be abandoned. This should save about 11-12.5 million tons per year of CO₂-emissions.

As a compensation for the operators for not being able to sell electricity on the market, they are compensated with approx. € 1.6 billion in total. The first power plant will be put into security reserve in October 2016.

Decision of the European Commission

The EU COM monitors the Member States' compliance to state aid provisions according to Art. 107 and 108 TFEU. The German government sought approval according to state aid rules prior to enacting the Power Market Act. The EU COM assessed whether the compensation for loss of profits distorts competition. According to the EU COM the compensation does not violate European state aid law, as in light of the significant contribution to reduce CO₂-emissions in Germany, the potential distortions caused by the aid are largely offset by the environmental benefits.

Diese Mandanteninformation enthält ausschließlich allgemeine Informationen, die nicht geeignet sind, den besonderen Umständen eines Einzelfalles gerecht zu werden. Sie hat nicht den Sinn, Grundlage für wirtschaftliche oder sonstige Entscheidungen jedweder Art zu sein. Sie stellt keine Beratung, Auskunft oder ein rechtsverbindliches Angebot dar und ist auch nicht geeignet, eine persönliche Beratung zu ersetzen. Sollte jemand Entscheidungen jedweder Art auf Inhalte dieser Mandanteninformation oder Teile davon stützen, handelt dieser ausschließlich auf eigenes Risiko. Deloitte GmbH übernimmt keinerlei Garantie oder Gewährleistung noch haftet sie in irgendeiner anderen Weise für den Inhalt dieser Mandanteninformation. Aus diesem Grunde empfehlen wir stets, eine persönliche Beratung einzuholen.

This client information exclusively contains general information not suitable for addressing the particular circumstances of any individual case. Its purpose is not to be used as a basis for commercial decisions or decisions of any other kind. This client information does neither constitute any advice nor any legally binding information or offer and shall not be deemed suitable for substituting personal advice under any circumstances. Should you base decisions of any kind on the contents of this client information or extracts therefrom, you act solely at your own risk. Deloitte GmbH will not assume any guarantee nor warranty and will not be liable in any other form for the content of this client information. Therefore, we always recommend to obtain personal advice.