

# Municipal Government Act

progressive powers for municipalities

## INFORMATION BULLETIN #54

### Wind Turbine Taxation

*- Revised -*

**Summary:** Wind turbines for producing electricity are exempt from regular taxation. A tax based on capacity is payable instead. Associated land and buildings remain taxable.

**Legislation:** Wind Turbine Facilities Municipal Taxation Act, SNS2006, c.22

**Discussion:** The **Wind Turbine Facilities Municipal Taxation Act** (Act) provides a special municipal taxation regime for wind energy.

A wind turbine facility includes the wind turbine, the generator, and all electrical equipment including the substation, the tower and all foundations (except building foundations).

All wind turbine facilities with an aggregate of 100 kilowatts or less are completely exempt from taxation.

Taxation of a wind turbine facility commences six months after the facility has been commissioned. "Commissioned" means the facility has been connected to the grid or to a power consumer and has been in continuous operation for at least a day. Information respecting commissioning can be obtained from the Department of Energy (contact information below).

The Act applies to wind turbine facilities starting with the 2005-06 municipal taxation year. Facilities build on or before March 31, 2005 are deemed to have been commissioned on March 1, 2005.

The owner of the wind turbine facility, not the owner of the land, is liable for the facility tax. This provision has been put in place as many facilities are built on leased land. However, the landowner remains responsible for the taxes on land and buildings.

Taxation of the whole wind farm is based partly on regular taxes and partly on a special facility tax. Simply put, land and buildings are taxed conventionally (assessment times rate) while the wind turbine facilities are “exempt” from regular taxation, but subject to a special tax per megawatt of nameplate capacity. Nameplate capacity is the stated maximum output of the wind turbine. This number is on each turbine and can also be obtained from the Department of Energy.

A new facility will have a six month tax holiday after commissioning and then pay a pro-rated amount for the balance of the year. The taxes for the second year will be at the same rate (i.e., no adjustment). The Act also applies to all new Nova Scotia Power wind turbine facilities but not to the ones existing before April 1, 2006.

The special tax on wind turbine facilities over 100 kilowatts is initially based on a rate of \$5,500 per megawatt of nameplate capacity. Owners of wind turbine facilities in existence as of March 31, 2005 and deemed to have been commissioned on March 1, 2005, start paying taxes on the facilities as of September 1, 2005. For 2005-06 and 2006-07, the tax rate on facilities is \$5,500 per megawatt of nameplate capacity.

For 2007-08 and subsequent years the base rate is subject to one of two separate increases, depending on whether the facility is an existing one or a new one. For existing facilities that commenced paying taxes in 2005-06, the rate is \$5,500 per megawatt compounded by one per cent each year. So, in 2007-08, the rate is \$5,500 per megawatt; in 2008-09, it is \$5,610.55 per megawatt; in 2009-10, it is \$5,666.66 per megawatt; and so on.

For new facilities that commence paying taxes after 2006-07, the base rate is \$5,500 compounded by the percentage increase in the Canada Consumer Price Index (CPI) each year after 2006-07. The applicable CPA for 2007-08 is 2.0 percent, that is, the 2006 annual CPI published by Statistics Canada. So, the base rate for facilities that start paying taxes in 2007-08 is \$5,610 per megawatt.

For illustration purposes, if the CPI at 2.0 percent were to remain constant for the next two years, the respective base rates for new facilities that start paying taxes in 2008-09 and 2009-10 would be \$5,722.20 and at \$5,836.64 per megawatt.

Once a new facility's base rate is established, its taxes are pro-rated for the balance of the year. In the second year, the facility pays taxes using the same base rate (ie., no adjustment). In the third year and thereafter, the facility pays taxes with the base rate adjusted by compounding one percent each year. For example, the above 2007-08 base rate for new facilities is \$5,610 per megawatt. The same rate applies for 2008-09. Thereafter, the base rate is compounded by one percent each year, starting at \$5,666.10 in 2010-11

Where there is an existing agreement with Nova Scotia Power Inc. (Signed before March 31, 2006), the tax for the facility owner is \$4,500 per megawatt (plus one per cent compounded for each subsequent year starting 2007-08) until the agreement expires, to a maximum of 20 years from April 1, 2005. The Department of Energy will pay municipalities the difference between the \$4,500 rate and full taxation (based on the \$5,500 rate as increased year to year). In other words, there is no revenue loss to municipalities from this provision (Section 6). The facility tax payment is at the level that would apply were the facility subject to the \$5,500 rate from the beginning.

It should be noted that, the Department of Energy will only pay for the capacity stated as necessary to meet the terms of the agreement. If there is a greater capacity than necessary to meet these terms, the extra capacity is subject to full taxes (at the \$5,500 rate as applicable) payable by the owner.

Land, improvements to land, and buildings will be taxed as usual. The assessed value will be shown on the annual assessment roll filed with the municipality. This value will include land acquired by Nova Scotia Power for wind turbine facilities after April 1, 2006.

When a wind turbine generator is dismantled, taxes are pro-rated for the part of the year prior to dismantling. No change in tax liability results from reducing the capacity of the wind turbine generator.

The calculation of uniform assessment will use the actual assessments of land and buildings and the capitalized value of the nameplate capacity taxes paid by the owner of the wind

turbine facility and the Department of Energy under the Act, that is, total facility taxes divided by the municipality's commercial rate. The first year of calculation of uniform assessment on this basis will be for 2007-08.

Resources: If there is uncertainty about whether a facility has a contract with NSPI, check with the Department of Energy.

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Note: The reader is cautioned that preparation of this and subsequent Information Bulletins containing practical suggestions must necessarily involve interpretation of legislation as it applies in general situations. Specific situations may require careful legal analysis and therefore reference should be made to the *Municipal Government Act*, other relevant legislation and to legal advisors.