

**CHAPTER 81-08-03**  
**COAL CONVERSION FACILITIES PRIVILEGE TAX**

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**81-08-03-01. Definitions.**

As used in these sections and for the administration of North Dakota Century Code chapter 57-60, unless the context requires otherwise:

1. "Cost to repair" means the cost to return a disabled unit to generating capability, including costs from the date on which the unit became incapable of generating electricity to the date the unit again becomes capable of generating electricity.
2. "Eighteen consecutive months" means the eighteen-month period commencing immediately following the last month during which a unit was capable of generating electricity.
3. "Estimated cost to repair" means an estimate of the total cost to return the unit to generating capability, made at the end of the first eighteen consecutive months that a unit is incapable of generating electricity. The estimate includes costs from the date the unit became incapable of generating electricity through projected completion of repair.
4. "First taxable production" means the first production which occurs after April 20, 1987, and which is subject to the coal conversion facilities privilege tax.
5. "Original cost" means the total undepreciated cost of construction of and additions to the unit, less retirements, as recorded on the books of the operator, on the date the unit became incapable of generating electricity.

**History:** Effective November 1, 1987.

**General Authority:** NDCC 57-60-12

**Law Implemented:** NDCC 57-60-01, 57-60-02, 57-60-03

**81-08-03-02. Taxable electrical production.**

"Electricity produced for the purpose of sale" includes electricity supplied to a coal mine serving the coal conversion facility. It does not include electricity used within the plant or used within freestanding structures located at the plantsite which constitute an integral part of the plant, for example, an AC/DC terminal.

**History:** Effective November 1, 1987.

**General Authority:** NDCC 57-60-12

**Law Implemented:** NDCC 57-60-01, 57-60-02, 57-60-03

**81-08-03-03. Installed capacity.**

The operator of each electrical generating plant shall certify to the tax commissioner the installed capacity of the power unit as defined in North Dakota Century Code section 57-60-01, shown in kilowatts on the nameplate assigned to the turbine of the power unit, the manufacturer of the power unit, and the serial number of the power unit.

**History:** Effective November 1, 1987.

**General Authority:** NDCC 57-60-12

**Law Implemented:** NDCC 57-60-01, 57-60-02, 57-60-03

**81-08-03-04. Calculation of reduced tax rate.**

If a unit has been incapable of generating electricity for eighteen consecutive months, the tax on that unit for taxable periods beginning after the eighteenth month must be reduced by the ratio that the estimated cost to repair bears to the original cost of the unit. When the unit is again capable of generating electricity, the reduced tax rate must be recalculated, using the ratio that the cost to repair bears to the original cost of the unit. Taxes for all taxing periods during which the reduced rate was in effect must be recalculated, and adjustments for underpayments or overpayments made. The full tax rate will be in effect for the month in which the unit is again capable of generating electricity.

**History:** Effective November 1, 1987.

**General Authority:** NDCC 57-60-12

**Law Implemented:** NDCC 57-60-01, 57-60-02, 57-60-03

**81-08-03-05. Maximum benefit under reduced tax rate.**

The rate reduction calculated for a unit that has been incapable of generating electricity for eighteen consecutive months may not exceed one hundred percent of the tax.

**History:** Effective November 1, 1987.

**General Authority:** NDCC 57-60-12

**Law Implemented:** NDCC 57-60-01, 57-60-02, 57-60-03

**81-08-03-06. Taxable synthetic natural gas.**

"Taxable synthetic natural gas" does not include synthetic natural gas used within the plant and does not include any amount of synthetic natural gas in excess of one hundred ten million cubic feet per day, over and above that used within the plant. Calculation of any amount of synthetic natural gas in excess of one hundred ten million cubic feet per day must be accomplished by multiplying one hundred ten million cubic feet by the number of days in the month for which the report is filed, and subtracting the result from the total number of cubic feet of synthetic natural gas produced, less that used within the plant, during the month for which the report is made.

**History:** Effective November 1, 1987.

**General Authority:** NDCC 57-60-12

**Law Implemented:** NDCC 57-60-01, 57-60-02, 57-60-03

**81-08-03-07. Byproducts revenue exempt from taxation.**

Effective after December 31, 2000, for any given month, the allowed exemption of revenue derived from the sale of byproducts other than the sale of carbon dioxide for use in enhanced recovery of oil or natural gas may not exceed twenty percent of the sum of total gross receipts from the sale of synthetic natural gas during the month plus total gross receipts from the sale of byproducts during the month. Gross receipts from the sale of carbon dioxide for use in enhanced recovery of oil or natural gas are not subject to tax but are included in total gross receipts for the purpose of the percentage calculation.

**History:** Effective November 1, 1987; amended effective July 1, 1989; November 1, 1991; July 1, 1998; June 1, 2002.

**General Authority:** NDCC 57-60-12

**Law Implemented:** NDCC 57-60-01, 57-60-02, 57-60-03