

TAX REVENUE COLLECTIONS AND ALLOCATIONS FOR WIND, COAL, AND OIL AND GAS

This memorandum provides information on the tax revenue collections and allocations for wind, coal, and oil and gas.

WIND TAXATION AND ALLOCATIONS

Taxation

Wind turbine electrical generation units are either subject to property tax, pursuant to North Dakota Century Code Section 57-06-14.1, or payments in lieu of property tax based on capacity and generation, pursuant to Section 57-33.2-04.

Section 57-06-14.1 provides centrally assessed wind turbine electrical generation units with a nameplate generation capacity of 100 kilowatts or more, on which construction is completed before January 1, 2015, must be valued at 3 percent of assessed value to determine taxable valuation unless the electrical generation unit qualifies for a lower valuation of 1.5 percent of assessed value. Electrical generation units with a nameplate generation capacity of 100 kilowatts or more, for which a purchased power agreement was executed after April 30, 2005, and before July 1, 2006, and electrical generation units on which construction is completed after June 30, 2006, and before January 1, 2015, must be valued at 1.5 percent of assessed value to determine taxable valuation.

Electrical generation units with a nameplate generation capacity of 100 kilowatts or more, on which construction is completed after December 31, 2014, or which is 20 years or more from the date of first assessment, are subject to payments in lieu of property taxes pursuant to Section 57-33.2-04. Payments in lieu of taxes consist of a tax of \$2.50 per kilowatt times the rated capacity of a wind generator, plus a tax of .5 mill per kilowatt-hour of electricity generated by the wind generator during the taxable period.

Allocations

The taxable value of centrally assessed electrical generation units is subject to the mill levies of the taxing districts in which the property is located. Property tax revenue from centrally assessed electrical generation units is collected by the county and distributed to taxing districts at the same time as locally assessed property tax revenue is collected and distributed.

Revenue collected from the generation and capacity tax under Section 57-33.2-04 is collected by the Tax Commissioner and transferred to the State Treasurer for deposit in the electric generation, transmission, and distribution tax fund. The State Treasurer allocates the revenue deposited in the electric generation, transmission, and distribution fund to counties by April 1st of each year pursuant to Section 57-33.2-19. Revenue allocated to counties pursuant to Section 57-33.2-19 must be further allocated by the county auditor among each taxing district in which the wind farm is located in proportion to the respective taxing district's most recent property tax mill rate that applies to the land on which the wind farm is located. If generation turbines are located in more than one county or other taxing district, allocations of capacity tax revenue must be based on the capacity of the turbines within each county or other taxing district. The electricity output for the generation tax must be allocated according to the proportionate share of wind generation capacity within each county or other taxing district in relation to the total capacity of the wind farm.

The following table provides a list of wind companies subject to property tax and includes the county in which the wind company is located, the year in which the wind company was first assessed, the year in which the wind company will transition to paying tax based on generation and capacity pursuant to Section 57-33.2-04, the rated capacity of the wind company, the 2017 taxable value and average mill rate, and the estimated 2017 tax applied to the wind company. The data contained in the table was provided by the Tax Department.

Companies Subject to Property Tax Under Section 57-06-14.1	County	Year of First Assessment	Year of Conversion to Generation and Capacity Tax Under Section 57-33.2-04	Rated Capacity in Megawatts	Rated Capacity in Kilowatts	2017 Taxable Value	2017 Average Mill Rate	Estimated 2017 Tax
North Dakota Wind LLC	Lamoure	2004	2024	61.50	61,500	\$463,160	213.90	\$99,070
Velva Windfarm LLC	McHenry	2006	2026	11.88	11,880	52,640	189.80	9,991
Wilton Wind I (Burleigh Wind)	Burleigh	2006	2026	49.50	49,500	346,780	217.80	75,529
Oliver Wind I LLC	Oliver	2007	2027	50.60	50,600	554,600	172.60	95,724
Langdon Wind I LLC	Cavalier	2008	2028	118.50	118,500	1,391,720	211.50	294,349
Oliver Wind II LLC	Oliver	2008	2028	48.00	48,000	592,890	172.60	102,333
Otter Tail Power - Langdon	Cavalier	2008	2028	40.50	40,500	658,670	211.50	139,309
Tatanka Wind Power LLC ¹	Dickey	2008	2028	137.25	137,250	881,910	226.10	199,400
Ashtabula Wind I, LLC	Barnes	2009	2029	148.50	148,500	1,703,220	232.00	395,147
Langdon Wind II	Cavalier	2009	2029	40.50	40,500	598,090	211.50	126,496
Otter Tail Power - Ashtabula	Barnes	2009	2029	48.00	48,000	906,740	232.00	210,364
Ashtabula Wind II, LLC	Griggs	2010	2030	120.00	120,000	1,545,210	202.70	313,214
Cedar Hills Wind (Montana Dakota Utilities)	Bowman	2010	2030	19.50	19,500	343,905	165.70	56,985
Otter Tail Power - Luverne	Steele	2010	2030	49.50	49,500	643,110	198.90	127,914
Prairie Winds ND 1 (Basin Electric)	Ward	2010	2030	122.60	122,600	1,326,420	292.70	388,243
Rugby Wind LLC	Pierce	2010	2030	149.10	149,100	1,134,340	219.20	248,647
Wilton Wind II LLC	Burleigh	2010	2030	49.50	49,500	776,220	217.80	169,061
Ashtabula Wind III, LLC	Barnes	2011	2031	62.40	62,400	1,068,070	232.00	247,792
Baldwin Wind LLC	Burleigh	2011	2031	102.40	102,400	1,077,760	217.80	234,736
Total				1,429.73	1,429,730	\$16,065,455		\$3,534,304

¹Tatanka Wind Power LLC has 42.75 megawatts of its total 180 megawatts located in South Dakota.

The following table provides a list of the wind companies subject to a capacity and generation tax in lieu of property tax and includes the county in which the wind company is located, the rated capacity of the wind company, and the generation and capacity tax applied to the company. The data contained in the table was provided by the Tax Department.

Companies Subject to Generation and Capacity Tax Under Section 57-33.2-04	County	Rated Capacity in Megawatts	Rated Capacity in Kilowatts	Tax From Capacity	Tax From Generation	Total 2017 Generation and Capacity Tax
ALLETE, Inc. ¹	Morton	496.60	49,660	\$1,241,500	\$875,683	\$2,117,183
Brady Wind, LLC	Stark	149.64	14,964	374,100	47,435	421,535
Brady Wind II, LLC	Hettinger	0	0	372,420	9,284	381,704
BWF Wind (Northern States Power Co.)	Rollete	150.00	15,000	375,000	311,113	686,113
Courtney Wind (Northern States Power Co.)	Stutsman	200.00	20,000	500,000	43,191	543,191
Minnkota Power Cooperative	Nelson	1.80	180	4,500	2,605	7,105
Montana-Dakota Utilities Co. (Thunderspirit)	Adams	107.50	10,750	268,750	218,472	487,222
Oliver Wind III, LLC	Oliver	99.20	9,920	248,040	2,331	250,371
Total		1,204.74	120,474	\$3,384,310	\$1,510,114	\$4,894,424

¹ALLETE, Inc., is doing business as Minnesota Power.

COAL TAXATION AND ALLOCATIONS

Taxation

The tax on coal includes a coal severance tax and a coal conversion facilities privilege tax. The coal severance tax is imposed on the act of removing coal from the earth and is applied at a rate of 37.5 cents per ton pursuant to Chapter 57-61. An additional 2 cent per ton tax also is levied for the lignite research fund.

The coal conversion facilities privilege tax is imposed on the operator of each coal conversion facility pursuant to Chapter 57-60. The tax rate varies based on the type of coal conversion facility. Electrical generating plants are subject to a levy of .65 mill times 60 percent of the installed capacity of the plant times the number of hours in the taxable period, plus a levy of .25 mill per kilowatt-hour of electricity produced for sale. Coal gasification plants are subject to a monthly tax of 13.5 cents per thousand cubic feet of synthetic natural gas produced for sale, or 2 percent of gross receipts, whichever is greater. Plants that convert coal to products other than gas are subject to a tax equal to 2 percent of gross receipts. Coal beneficiation plants are subject to a tax equal to 20 cents per ton of beneficiated coal produced for sale, or 1.25 percent of gross receipts, whichever is greater.

Allocations

Coal severance tax revenue and coal conversion privilege tax revenue is collected by the Tax Commissioner and paid to the State Treasurer. The State Treasurer allocates severance tax revenue collections to the coal development trust fund, lignite research fund, and political subdivisions in accordance with the formula provided in Section 57-62-02. Collections from the additional 2 cent tax are allocated to the lignite research fund.

Pursuant to Section 57-60-14, the State Treasurer allocates 85 percent of coal conversion facilities privilege tax revenue collections received from facilities in each county to the general fund and the remaining 15 percent to the county. Of the amount allocated to the general fund, 5 percent must be allocated to the lignite research fund. The amount allocated to each county under Section 57-60-14 must be further apportioned between the county general fund and the school districts and cities within the county pursuant to Section 57-60-15.

Information regarding the allocation of 2017-19 biennium estimated coal tax revenue collections can be found in the Legislative Council memorandum entitled *2017-19 Biennium Estimated Coal Tax Revenue - Allocation Flowchart* ([Appendix A](#)).

OIL AND GAS TAXATION AND ALLOCATIONS

Taxation

Pursuant to Chapter 57-51, a gross production tax of 5 percent of the gross value at the well is levied upon all oil produced in the state except a royalty interest in oil produced from an interest held by an organized Indian tribe or produced from a state, federal, or municipal holding. A gross production tax also is levied upon all gas produced in the state, subject to certain exemptions, and is calculated by multiplying taxable production by an annually adjusted flat rate per thousand cubic feet of gas.

The oil extraction tax is levied on the extraction of oil from the earth, subject to certain exemptions and rate reductions, pursuant to Chapter 57-51.1. Beginning January 1, 2016, the oil extraction tax rate was reduced from 6.5 to 5 percent and is subject to change depending on the average price of a barrel of crude oil. If the average price of a barrel of crude oil exceeds the trigger price for 3 consecutive months, the rate increases to 6 percent on all oil extracted. The rate remains at 6 percent until the average price of a barrel of crude oil falls below the trigger price for 3 consecutive months, at which time the rate reverts to 5 percent on all oil extracted. The trigger price is \$90 as adjusted by the Tax Commissioner each year based on the producer price index for industrial commodities.

Allocations

Oil and gas gross production tax revenue and oil extraction tax revenue is collected by the Tax Commissioner and paid to the State Treasurer. The State Treasurer allocates the revenue collections pursuant to the formulas provided in Chapters 57-51, 57-51.1, and 57-51.2. Information regarding the allocation of 2017-19 biennium estimated oil and gas tax revenue collections can be found in the Legislative Council memorandum entitled *2017-19 Biennium Estimated Oil and Gas Tax Revenue - Allocation Flowchart* ([Appendix B](#)).