

437A.4 Replacement tax imposed on delivery of electricity.

1. A replacement delivery tax is imposed on every person who makes a delivery of electricity to a consumer within this state. The replacement delivery tax imposed by this section is equal to the sum of the following:

a. The number of kilowatt-hours of electricity delivered to consumers by the taxpayer within each electric competitive service area during the tax year multiplied by the electric replacement delivery tax rate in effect for each such electric competitive service area.

b. Where applicable, and in addition to the tax imposed by paragraph "*a*", the number of kilowatt-hours of electricity delivered to consumers by the taxpayer within each electric competitive service area during the tax year multiplied by the electric transfer replacement tax rate for each such electric competitive service area.

2. If electricity is consumed in this state, whether such electricity is purchased, transferred, or self-generated, and the delivery, purchase, transference, or self-generation of such electricity is not subject to the tax imposed under subsection 1, a tax is imposed on the consumer at the rates prescribed under subsection 1.

3. Electric replacement delivery tax rates shall be calculated by the director for each electric competitive service area as follows:

a. The director shall determine the average centrally assessed property tax liability allocated to electric service of each taxpayer, other than a municipal utility, principally serving an electric competitive service area and of each generation and transmission electric cooperative for the assessment years 1993 through 1997 based on property tax payments made. In the case of a municipal utility, the average centrally assessed property tax liability allocated to electric service is the centrally assessed property tax liability of such municipal utility allocated to electric service for the 1997 assessment year based on property tax payments made.

b. The director shall determine, for each taxpayer, the number of kilowatt-hours of electricity generated which would have been subject to taxation under section 437A.6, the number of pole miles which would have been subject to taxation under section 437A.7, and the number of kilowatt-hours of electricity delivered to consumers which would have been subject to taxation under this section in calendar year 1998, had such sections been in effect for calendar year 1998.

c. The director shall determine the electric generation, transmission, and delivery tax components of the average centrally assessed property tax liability determined in paragraph "*a*" for each electric competitive service area as follows:

(1) The electric generation tax component for an electric competitive service area shall be computed by multiplying the tax rate set forth in section 437A.6 by the number of kilowatt-hours of electricity generated by the taxpayer principally serving such electric competitive service area which would have been subject to taxation under section 437A.6 in calendar year 1998, had that section been in effect for calendar year 1998.

(2) The electric transmission tax component for an electric competitive service area shall be computed by multiplying the tax rates set forth in section 437A.7 by the number of pole miles for each line voltage owned or leased by the taxpayer principally serving such electric competitive service area which would have been subject to taxation under section 437A.7 on December 31, 1998, had that section been in effect for calendar year 1998.

(3) The electric delivery tax component for an electric competitive service area shall be the average centrally assessed property tax liability allocated to electric service of the taxpayer principally serving such electric competitive service area less the electric generation and transmission tax components computed for such electric competitive service area.

(4) The electric delivery tax component for each electric competitive service area shall be adjusted, as necessary, to assign the excess property tax liability of each generation and transmission electric cooperative to the electric competitive service areas principally served on January 1, 1999, by its distribution electric cooperative members and by those municipal utilities which were purchasing members of a municipal electric cooperative association that is a member of the generation and transmission electric cooperative. Such assignment of excess property tax liability of each such generation and transmission electric cooperative shall be made in proportion to the appropriate wholesale rate charges in calendar year 1998 to its distribution electric cooperative members and municipal electric cooperative association members which purchased electricity from the generation and transmission electric cooperative. Any amount assignable to a municipal electric cooperative association shall be reassigned to the electric competitive service areas served by such association's purchasing municipal utility members and shall be allocated among them in proportion to the appropriate wholesale rate charges in calendar year 1998 by such municipal electric cooperative association to its purchasing municipal utility members. For purposes of this subsection, "*excess property tax liability*" means the amount by which the average centrally assessed property tax liability for the assessment years 1993 through 1997 of a generation and transmission electric cooperative exceeds the tentative generation and transmission taxes which would have been imposed on such generation and transmission electric cooperative under sections 437A.6 and 437A.7 for calendar year 1998, had such taxes been in effect for calendar year 1998. An electric cooperative described in section 437A.7, subsection 3, paragraph "c", is deemed not to have any excess property tax liability.

d. The director shall determine an electric delivery tax rate for each electric competitive service area by dividing the electric delivery tax component for the electric competitive service area, as adjusted by paragraph "c", subparagraph (4), by the number of kilowatt-hours delivered by the taxpayer principally serving the electric competitive service area to consumers in calendar year 1998, which would have been subject to taxation under this section if this section had been in effect for calendar year 1998.

4. Municipal electric transfer replacement tax rates shall be calculated annually by the city council of each city located within an electric competitive service area served by a municipal utility as of January 1, 1999, by dividing the average annual dollar amount of electric-related transfers made pursuant to section 384.89 by the municipal utility serving the electric competitive service area, other than those transfers declared exempt from the transfer replacement tax by the city council, plus the municipal transfer replacement tax received by the municipality, if any, during the five immediately preceding calendar years by the number of kilowatt-hours of electricity delivered to consumers in the electric competitive service area during the immediately preceding calendar year which were subject to taxation under this section or which would have been subject to taxation under this section had it been in effect for such calendar year. The city council on its own motion, or in the case of a municipal utility governed by a board of trustees under chapter 388 upon a resolution of the board of trustees requesting such action, may declare any transfer or part of such transfer to be exempt from the transfer replacement tax under this section. Such rates shall be calculated and reported to the director on or before August 31 of each tax year.

5. A municipal utility taxpayer is entitled to a credit against the municipal electric transfer replacement tax equal to the average amount of electric-related transfers made by such municipal utility taxpayer under section 384.89, other than those transfers declared exempt from transfer replacement tax by the city council, during the preceding five calendar years.

6. The following are not subject to the replacement delivery tax imposed by subsections 1 and 2:

a. Delivery of electricity generated by a low capacity factor electric power generating plant.

b. Delivery of electricity to a city from such city's municipal utility, provided such electricity is used by the city for the public purposes of the city.

c. Electricity consumed by a state university or university of science and technology, provided such

electricity was generated by property described in section 427.1, subsection 1.

d. Electricity generated and consumed by a self-generator.

7. Notwithstanding subsection 1, the electric delivery tax rate applied to kilowatt-hours of electricity delivered by a taxpayer to utility property and facilities which are placed in service on or after January 1, 1999, and are owned by or leased to and initially served by such taxpayer shall be the electric delivery tax rate in effect for the electric competitive service area principally served by such utility property and facilities even though such utility property and facilities may be physically located in another electric competitive service area.

8. If for any tax year after calendar year 1998, the total taxable kilowatt-hours of electricity required to be reported by taxpayers pursuant to section 437A.8, subsection 1, paragraphs "a" and "b", with respect to any electric competitive service area, increases or decreases by more than the threshold percentage from the average of the base year amounts for that electric competitive service area during the immediately preceding five calendar years, the tax rate imposed under subsection 1, paragraph "a", and subsection 2, for that tax year shall be recalculated by the director for that electric competitive service area so that the total of the replacement electric delivery taxes required to be reported pursuant to section 437A.8, subsection 1, paragraph "e", for that electric competitive service area with respect to the tax imposed under subsection 1, paragraph "a", and subsection 2, shall be as follows:

a. If the number of kilowatt-hours of electricity required to be reported increased by more than the threshold percentage, one hundred two percent of such taxes required to be reported by taxpayers for that electric competitive service area for the immediately preceding tax year.

b. If the number of kilowatt-hours of electricity required to be reported decreased by more than the threshold percentage, ninety-eight percent of such taxes required to be reported by taxpayers for that electric competitive service area for the immediately preceding tax year.

For purposes of paragraphs "a" and "b", in computing the tax rate under subsection 1, paragraph "a", and subsection 2, for tax year 1999, the director shall use the electric delivery tax component computed for the electric competitive service area pursuant to subsection 3, paragraph "c", in lieu of the taxes required to be reported for that electric competitive service area for the immediately preceding tax year.

The threshold percentage shall be determined annually and shall be eight percent for any electric competitive service area in which the average of the base year amounts for the preceding five calendar years does not exceed three billion kilowatt-hours, and ten percent for all other electric competitive service areas.

Any such recalculation of an electric delivery tax rate, if required, shall be made and the new rate shall be published in the Iowa administrative bulletin by the director by no later than May 31 following the tax year. The director shall adjust the tentative replacement tax imposed by subsection 1, paragraph "a", and subsection 2 required to be shown on any affected taxpayer's return pursuant to section 437A.8, subsection 1, paragraph "e", to reflect the adjusted delivery tax rate for the tax year, and report such adjustment to the affected taxpayer on or before June 30 following the tax year. The new electric delivery tax rate shall apply prospectively, until such time as further adjustment is required.

For purposes of this section, "*base year amount*" means for calendar years prior to tax year 1999, the sum of the kilowatt-hours of electricity delivered to consumers within an electric competitive service area by the taxpayer principally serving such electric competitive service area which would have been subject to taxation under this section had this section been in effect for those years; and for tax years after calendar year 1998, the taxable kilowatt-hours of electricity required to be reported by taxpayers pursuant to section 437A.8, subsection 1, paragraphs "a" and "b", with respect to any electric competitive service area.

9. *a.* After calendar year 1998, if a municipal electric cooperative association ceases to purchase electricity from the generation and transmission electric cooperative from which it purchased electricity in 1998, and for a period of one hundred eighty days after such purchases cease, no municipal utility member of such association purchases electricity from such generation and transmission electric cooperative, the excess property tax liability assigned pursuant to subsection 3, paragraph "c", subparagraph (4), to the electric competitive service areas principally served by the municipal utility members on January 1, 1999, shall be removed from the electric delivery tax component of those electric competitive service areas and the electric delivery tax rate for those electric competitive service areas shall be recalculated to reflect that change.

b. After calendar year 1998, if a municipal utility ceases to be a purchasing member of a municipal electric cooperative association which purchased electricity in calendar year 1998 from a generation and transmission electric cooperative, and for a period of one hundred eighty days after the municipal utility ceases to be a purchasing member of such association such municipal utility does not purchase electricity from such generation and transmission electric cooperative, the excess property tax liability assigned pursuant to subsection 3, paragraph "c", subparagraph (4), to the electric competitive service area principally served by the municipal utility on January 1, 1999, shall be removed from the electric delivery tax component of those electric competitive service areas and the electric delivery tax rate for those electric competitive service areas shall be recalculated to reflect that change.

c. If a recalculation has previously been made by the director pursuant to subsection 8 for an electric competitive service area described in this subsection, the recalculation required by this subsection shall be made by the director by modifying the most recent recalculation under subsection 8 to eliminate the excess property tax liability originally allocated to such electric competitive service area under subsection 3, paragraph "c", subparagraph (4).

d. Any recalculation required by this subsection shall be made and the new rate shall be published in the Iowa administrative bulletin by the director by May 31 of the calendar year during which the events described in paragraphs "a" and "b" are reported as provided in section 437A.8, subsection 1, paragraph "f". The new electric delivery tax rate shall be effective January 1 of the tax year in which it is published and shall apply prospectively, until such time as further adjustment is required.

10. The electric delivery tax rate in effect for each electric competitive service area shall be published by the director in the Iowa administrative bulletin on or before November 30, 1999, and annually after that date, during the last quarter of the tax year.