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# South Dakota Taxation: How it applies to Wind Energy Facilities

Presentation for the  
Wind Energy Task Force  
September 7, 2011

## Presenters

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- Sales, Use and Contractors' Excise Tax
  - Presented by Alison Jares, Revenue Supervisor, Business Tax Division
  
- Wind Facility Property Taxation
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## Wind Farm Construction – South Dakota Sales & Use Taxes

- Sales Tax is charged by the retailer or service provider
- Use tax is paid by the purchaser or user when sales tax was not charged by the retailer or service provider
- South Dakota State Sale Tax rate is 4%
  - City tax applies to the sale/purchase of products or services where the goods or services are received in a city that imposes a city tax

## Wind Farm Construction – Contractors' Excise Tax

- Contractors' Excise Tax is a 2% tax on the gross receipts of a contractor
  - The 2% tax is on the entire gross receipts without any deduction for taxes charged to the customer or for any expenses or losses incurred
- The contractor is responsible for paying sales or use tax on all equipment, materials and services used in the construction project

## Wind Farm Construction – Contractors' Excise Tax

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- Wind Farms generating 5 MW or greater are subject to property tax under SDCL 10-35. Construction projects for owners subject to tax under SDCL 10-35 are taxed under SDCL 10-46B, the Alternate Realty Improvement Contractors' Excise Tax

## Wind Farm Construction – Contractors' Excise Tax

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- The alternate Realty Improvement Contractors' Excise Tax, SDCL 10-46B
  - Prime Contractor and all Subcontractors are subject to the 2% Contractors' Excise tax. There are no exemptions from the Contractors' Excise tax.
  - Materials furnished by the owner are not subject to the Contractors' Excise tax

## Wind Farm Construction – Sales, Use & Contractors' Excise Taxes Applied

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- Modeling Inputs:
  - Plant Size (Nameplate Capacity): 100 MW  
(50 Turbines @ 2 MW Capacity)
  - Project Cost: \$200 million

## Wind Farm Construction – Sales, Use & Contractors' Excise Taxes Applied

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- Taxes Applied
  - Assuming 70% of the total project cost is for materials, the estimated Sales or Use taxes due would be \$5,600,000.00
    - $\$200 \text{ million} \times 70\% \times 4\%$
  - Assuming 100% of the total project cost is subject to the Contractors' Excise tax, the estimated Excise tax due would be \$4,082,000.00
    - $\$200 \text{ million} \times 2.041\%$  (this is using the bid factor)

## Wind Farm Construction – Sales, Use & Contractors' Excise Taxes Applied

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- Total Estimated Sales, Use and Contractors' Excise taxes
  - \$5,600,000 + \$4,082,000 = \$9,682,000

## Continuous and Future Taxes

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- All parts and services purchased for use at the wind farm will be subject to the 4% state Sales or Use tax
- All construction, including repairs, at the wind farm will be subject to the 2% Contractors' Excise Tax

## South Dakota Taxation: Property Tax/Alternative Tax

### Property Tax / Alternative Tax for Wind Farms in South Dakota

- Current System - Property Tax Incentive
  - Established by the 2008 Legislature
  - "In Lieu Of" Tax
  - SDCL 10-35-16 through 10-35-22
  
- Prior to July 1, 2008, County Directors of Equalization assessed a property tax on wind farms in South Dakota. They assessed the base, foundation, tower, and substation for property tax purposes. The wind turbines and blades were not considered "real property" under the statute, so they were not assessed. SDCL 10-4-36 (now repealed).

## Property Tax / Alternative Tax for Wind Farms in South Dakota

- The Alternative Tax has two parts: 1) a “nameplate capacity” tax; and 2) a “gross receipts” tax, both of which are in lieu of property taxes

- 1) Nameplate Capacity Tax
  - \$3 multiplied by the Total Nameplate Capacity
  - 100% goes to the local governments

Example:

100 MW (100,000 KW) farm = \$300,000 nameplate capacity tax

## Property Tax / Alternative Tax for Wind Farms in South Dakota

- (continued)

- 2) Gross Receipts Tax
  - 2% of the wind farm’s actual production of electricity (in kWh) multiplied by the base rate (the initial base rate was set at \$0.0475, and by statute, that base increases by 2.5% each year thereafter).
  - 20% goes to local governments, 80% goes to the property tax reduction fund

Example:

100 MW farm (100,000 KW), with a 30% capacity factor  
[100,000KW x 24 x 365 x .30 = 262,800,000 kWh]  
[262,800,000 x .02 x \$.0512 = \$269,107.20]

## Property Tax / Alternative Tax for Wind Farms in South Dakota

- o Total Alternative Taxes

-The wind farm in the examples on the previous slides would pay a total of \$569,107.20 in taxes (2011 taxes payable in 2012), \$300,000 in nameplate taxes, and \$269,107.20 in gross receipts taxes.

-NOTE: The \$569,107.20 in taxes is before any rebate under SDCL 10-35-22 which is up to 90% of the wind farm's gross receipts tax for years 1-5, and 50% of their gross receipts tax for years 6-10.

## Property Tax / Alternative Tax for Wind Farms in South Dakota

- o Gross Receipts Tax Rebate

-SDCL 10-35-22 provides for a rebate of a portion of the wind farm's gross receipts tax (no portion of the nameplate tax is rebated).

-The maximum rebate a wind farm can receive is 50% of the cost of the collector system or for transmission lines to the wind farm.

-The rebate lasts up to 10 years, and cannot be more than 90% of their gross receipts tax for years 1-5 and 50% of their gross receipts tax for years 6-10.

## Property Tax / Alternative Tax for Wind Farms in South Dakota

- o Rebate Example

- Using the wind farm from the examples on the prior slides:

- For Years 1-5

- o [ $\$269,107.20 \times .90 = \$242,196.48$ ]

- For Years 6-10

- o [ $\$269,107.20 \times .50 = \$134,553.60$ ]

- Total Rebate for All Years is \$1,883,750.40

- (assuming this amount would be less than 50% of the cost of the transmission lines and collector systems).