

Ministry of Finance

March 2006

Highlights from the 2006 Ontario Budget – *Electricity Act, 1998*

6014

About this Notice

On March 23, 2006, two measures relating to the *Electricity Act, 1998* were proposed in the 2006 Ontario Budget. The proposed amendments to the regulations must be made and filed to become law.

Refund of Transfer Tax

The municipal electrical utility (MEU) transfer tax is a 33 per cent tax paid by a municipality or MEU that sells or transfers electricity assets to another entity. It was intended as a one-time tax on the sale of such assets. However, where the proceeds of that sale are used to acquire other electricity assets, which are subsequently sold, transfer tax may apply to that second sale. The effect is a “cascading” of tax on the proceeds of the first sale.

The *Electricity Act, 1998* authorizes the Minister of Finance to set rules to relieve this “cascading” of transfer tax. Rules have been developed that would allow for the refund of transfer tax where the proceeds of a transfer are reinvested in other eligible electricity assets.

A draft regulation setting out the proposed rules will be posted on the Ministry of Finance website for industry comment with the view to finalizing the proposals in the summer of 2006.

Payments-in-Lieu of Tax

The *Electricity Act, 1998* requires a MEU that is exempt from federal or Ontario corporate income tax to make payments-in-lieu (PIL) equal to the amount of tax it would be liable to pay if it were not exempt. This ensures a fair tax treatment between public- and private-sector electricity utilities.

For both federal and Ontario corporate income tax purposes, corporations are allowed to deduct donations made to a municipality. This deduction provides a benefit to MEUs and their municipal shareholders that is unavailable to private-sector utilities. Unlike a private-sector utility, an MEU can make donations to its municipal shareholder instead of paying it an after-PIL dividend.

To maintain a level playing field between public- and private-sector electricity utilities and their shareholders, it is proposed that MEUs not be allowed to deduct the value of gifts made to an Ontario municipality on or after March 23, 2006.

For More Information

Please contact the Ministry Information Centre between 8:15 a.m. and 5 p.m.

- English: 1-800-263-7965 (Canada & U.S.)
- French: 1-800-668-5821 (Canada & U.S.)
- TTY (Teletypewriter): 1-800-263-7776

Website at www.trd.fin.gov.on.ca