

Electricity Act, 1998 Highlights from the 2007 Ontario Budget

6022

About this Notice

On March 22, 2007, a number of measures relating to the *Electricity Act, 1998* were proposed in the 2007 Ontario Budget. The proposed amendments to the regulations must be made and filed to become law. This notice provides general information and is not a substitute for the legislation.

Payments-in-Lieu of Tax

The Electricity Act, 1998 requires public electricity utilities that are exempt from corporate income tax to make payments-in-lieu (PILs) equal to the amount of tax they would be liable to pay if they were not exempt. This ensures fair tax treatment between public and private sector electricity utilities.

The Budget proposes to introduce several amendments to maintain a level playing field between public and private electricity utilities and their shareholders.

- Rules would confirm the current administrative practice of allowing public electricity utilities to defer PILs on rollovers under sections 85 and 97 of the *Income Tax Act* (Canada). The rules would also confirm that rollovers are only available when transferring assets to a corporation if the corporation is subject to PILs or to a partnership if all the partners are subject to PILs.
- Effective for taxation years ending after March 22, 2007, a partnership would be deemed to dispose of all its assets at fair market value where a partner ceases to be subject to PILs or where an entity not subject to PILs acquires an interest in the partnership.
- While corporations can usually deduct interest paid to their shareholders from their taxable income, shareholders must include the interest received in their taxable income. However, unlike most shareholders, municipalities are not subject to tax or PILs on interest. To prevent the potential for excessive interest deductions by municipal electricity utilities (MEUs), new rules would make the deductibility of interest by MEUs consistent with the proposed Ontario Energy Board cost of capital rules. The new rules would limit the interest rate on debt to municipalities and impose a debt to equity ratio. These measures would be effective for all interest payments made by all MEUs to municipalities after March 22, 2007.

Payments-in-Lieu of Tax
(cont'd)

- Some MEUs operate businesses other than electricity distribution and generate significant deductions and losses from such businesses. Proposed new rules would ensure that deductions and losses from a particular business are only used to offset income from that particular business. These measures would be effective for taxation years ending after March 22, 2007.

For More Information:

Please contact the Ministry Information Centre between 8:15 am and 5:00 pm toll free from anywhere in Canada.

- English language enquiries 1-800-263-7965
- French language enquiries 1-800-668-5821
- TTY (Teletypewriter) 1-800-263-7776

Website at www.fin.gov.on.ca