

Iowa Department of
REVENUE

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TO: IOWA ASSESSORS

FROM: JULIE ROISEN, MA, CAE *JRE*
LOCAL GOVERNMENT SERVICES DIVISION ADMINISTRATOR

RE: WIND ENERGY CONVERSION PROPERTY

DATE: MARCH 22, 2019

A recent report by the Iowa State Auditor identified areas in which there have been inconsistencies in the assessment and valuation of wind energy conversion property under section 427B.26. The Department agreed to address some of those concerns in a memorandum to all assessors.

A taxpayer is not entitled to special valuation procedures for its wind energy conversion property unless it timely files a declaration of intent by February 1 of the assessment year in which the property is first subject to assessment. See Iowa Code § 427B.26(3) and Iowa Administrative Code r. 701-80.13(1). Rule 80.13(1) establishes that such property "shall not be assessed until the assessment year following the year the entire wind plant is completed. The wind plant is completed when it is placed in service." This means that if the wind plant is placed in service on or after January 1, 2019, it will first be subject to assessment effective January 1, 2020. The declaration of intent is then required to be filed by February 1, 2020. If the taxpayer fails to file the declaration of intent by the February 1 deadline, the wind plant will not be subject to special valuation procedures set forth in section 427B.26 and the assessment for 2020 should be at full market value. The earliest the wind plant could be subject to special valuation procedures would be the 2021 assessment year, assuming the declaration is filed by February 1, 2021.

If the declaration of intent is not filed timely, section 427B.26(3) requires that the wind plant will be valued and assessed pursuant to section 441.21(8)(b). However, the 5-year exemption for "solar energy system" property set forth in section 441.21(8)(b) only prohibits an increase in the value of the property on which the solar system is placed. Generally, wind energy conversion property subject to section 427B.26 is assessed separately as an improvement on leased land. Therefore, it is the Department's opinion that the wind plant property itself is not subject to exemption and must be valued at full

market value. Lastly, while declarations of intent are not statutorily required to be permanently maintained, best practice is for the declaration of intent to be kept as part of the assessor's permanent file for the wind plant project.

The Auditor's report also identified inconsistencies as to when the taxpayer's net acquisition cost data is due. Section 427B.26 only applies the February 1 deadline to the declaration of intent. The statute does not require a specific deadline for the taxpayer to provide the net acquisition cost data once the declaration of intent has been timely filed. As with assessments for other property, it is the responsibility of the assessor to determine a value for that property. The assessor under section 441.17 has inherent authority to require any taxpayer to provide necessary documents needed for the assessor to properly value property for assessment purposes. Failure of a taxpayer to provide acquisition cost data by a date certain, however, does not alleviate the assessor's responsibility to place a value on that property for assessment purposes. For the first year following a timely filed declaration of intent, the assessor must determine a value for the wind plant prior to the submission of the final abstract of value to the Department, which is July 1 of the current assessment year. Any adjustments made by the assessor to the net acquisition costs of the wind energy plant that occurs in subsequent assessment years must be done prior to the notice of assessment being mailed to the taxpayer, or by April 1 of that assessment year. However, local ordinances as passed may set forth particular requirements for providing costs data to assessors which will need to be met by the taxpayer.

A recent question has arisen as to whether wind energy conversion property continues to be subject to special valuation after the nineteenth year of operation. The Department has consistently taken the position that wind energy conversion property continues to be assessed at 30 percent of its net acquisition cost as long as it remains in operation and the local ordinance remains in force. In effect, the Legislature has placed a residual value of 30 percent on wind tower plant property that continues in operation regardless of its age. The use of a residential value in valuing assets was approved in *Maytag v. Partridge*, 210 N.W.2d 584, 592 (Iowa 1973). The special valuation procedures only cease at "the end of the nineteenth assessment year following the assessment year in which the property was first assessed" if the city council or county board of supervisors has repealed the ordinance. See § 427B.26(1)(b). See also, memorandums dated March 27, 2008 and October 3, 2008 which are located on the Department of Revenue's website.

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Another issue that was raised in the Auditor's Report involved how subsequent changes to net acquisition costs are treated. Per memorandums dated October 20, 2008 and March 15, 2010 and a policy letter dated June 8, 2017, all located on the Department's website, it is the Department's opinion that costs which are attributable to the original construction project should be added to the net acquisition costs as first assessed. All other costs that are attributable to maintenance or refurbishing of the wind plant property are not added to the net acquisition costs as first assessed at any time. If a new tower or other improvement is added to the wind plant after the plant was first subject to assessment, the new tower or improvement should be assessed when it first comes into service and will be subject to a new assessment schedule starting at zero percent of net acquisition costs for the first year.

If a taxpayer substantially replaces an existing tower or other improvements with a new tower or improvement, the new property will be subject to its own assessment schedule starting at zero percent. Net acquisition costs will consist of the acquired costs of the new property. Any original property remaining in use as part of the new tower or improvement, such as foundations and support buildings, will continue on the original assessment schedule. The assessor will have to remove the costs attributable to the components being replaced from the original assessment schedule or otherwise the taxpayer will be taxed on assets that no longer exist.

This memorandum will be placed on the Department's website. Assessors are reminded to review the Department's website on occasion to see if there have been any updates in the treatment of wind energy conversion property.