

Text consolidated by Valsts valodas centrs (State Language Centre) with amending laws of:

12 June 2014 [shall come into force from 1 July 2014];

9 February 2017 [shall come into force from 9 March 2017].

If a whole or part of a section has been amended, the date of the amending law appears in square brackets at the end of the section. If a whole section, paragraph or clause has been deleted, the date of the deletion appears in square brackets beside the deleted section, paragraph or clause.

The *Saeima*¹ has adopted and
the President has proclaimed the following Law:

Subsidised Electricity Tax Law

Section 1. Terms Used in this Law

The terms used in this Law correspond to the terms used in the law On Taxes and Fees, the Electricity Market Law, the Energy Law and the law On Regulators of Public Utilities, unless provided otherwise in this Law.

Section 2. Scope of the Application of this Law

This Law prescribes the object of the subsidised electricity tax (hereinafter – tax), taxpayers, tax rate, procedures for creating and maintaining a register of subsidised electricity producers, procedures for calculating, paying and administering the tax, as well as liability for violating this Law.

Section 3. Taxable Object

Income obtained from the following shall be taxable (hereinafter – taxable income):

- 1) electricity sold within the scope of mandatory procurement;
- 2) guaranteed payment received for the electric capacity installed in a cogeneration unit or power plant;
- 3) electricity sold to the public trader – licensed electricity transmission or distribution undertaking – in accordance with the conditions of Section 40 of the Energy Law that were in force in the time period from 6 October 1998 until 7 June 2005, and the relevant procedures stipulated by the Cabinet.

Section 4. Taxpayers

Taxpayers are producers of electricity who have the following rights:

- 1) to sell electricity within the scope of mandatory procurement;
- 2) to receive guaranteed payment for the electric capacity installed in a cogeneration unit or power plant;
- 3) to sell electricity in accordance with the conditions of Section 40 of the Energy Law that were in force in the time period from 6 October 1998 until 7 June 2005.

Section 5. Tax Rate

- (1) Tax rate in the amount of 15 per cent shall be applied to taxable income from:

¹ The Parliament of the Republic of Latvia

- 1) electricity sold within the scope of mandatory procurement, in the production of which fossil energy resources were used;
 - 2) from guaranteed payment for the electric capacity installed in cogeneration installations, in which fossil energy resources are used.
- (2) Tax rate in the amount of 10 per cent shall be applied to taxable income from:
- 1) electricity sold within the scope of mandatory procurement, in the production of which renewable energy resources were used;
 - 2) from guaranteed payment for the electric capacity installed in electricity production units, in which renewable energy resources are used;
 - 3) from guaranteed payment for the electric capacity installed in cogeneration installations, in which renewable energy resources are used.
- (3) Tax rate in the amount of 5 per cent shall be applied to taxable income from electricity sold within the scope of mandatory procurement, if the following criteria are met concurrently:
- 1) electricity was produced in high efficiency cogeneration units with installed electric capacity not exceeding 4 megawatts in cogeneration units of natural gas, or without restriction of installed electric capacity in cogeneration units of renewable energy resources;
 - 2) the taxpayer sells at least 70 per cent of thermal energy obtained as a result of cogeneration process during a taxation year as a heating system transmission or distribution merchant licensed by the Public Utilities Commission (hereinafter – the Regulator) or transfers to another heating system transmission or distribution merchant licensed by the Regulator or local government that provides services of centralised heating system.
- (4) Tax rate in the amount of 5 per cent shall be applied to taxable income from electricity sold within the scope of mandatory procurement, if the following criteria are met concurrently:
- 1) electricity was produced in high efficiency cogeneration units with installed electric capacity not exceeding 4 megawatts;
 - 2) not less than 30 per cent of by-products or derived products of animal origin have been used for the production of electricity;
 - 3) not less than 70 per cent of the total raw materials has been ensured by the taxpayer or it has purchased the necessary raw materials from a producer who owns not less than 50 per cent of the equity capital shares of the taxpayer;
 - 4) the taxpayer uses the produced thermal energy for the production of its produce or sells to a producer which is considered the related party in relation to the taxpayer within the meaning of Section 1, Clause 18, Sub-clause “a”, “b”, “c”, “d” or “e” of the law On Taxes and Fees and which uses it for the production of its produce.
- (5) Tax rate in the amount of 5 per cent shall be applied to taxable income from electricity sold within the scope of mandatory procurement, if the following criteria are met concurrently:
- 1) electricity was produced in high efficiency cogeneration units with installed electric capacity not exceeding 4 megawatts;
 - 2) electricity is produced from wood biomass;
 - 3) the taxpayer uses not less than 70 per cent of the thermal energy obtained as a result of cogeneration, which is remaining after energy consumption of the main units producing or transforming energy, for the production of its produce or sells to a producer which is considered the related party in relation to the taxpayer within the meaning of Section 1, Clause 18, Sub-clause “a”, “b”, “c”, “d” or “e” of the law On Taxes and Fees and which uses it for the production of its produce.
- (6) Tax rate in the amount of 5 per cent shall be applied to taxable income from electricity sold within the scope of mandatory procurement, if the following criteria are met concurrently:
- 1) electricity was produced in high efficiency cogeneration units with installed electric capacity not exceeding 4 megawatts in cogeneration units of natural gas, or without restriction of installed electric capacity in cogeneration units of renewable energy resources;
 - 2) electricity was produced from fossil energy resources (natural gas) or biogas;

3) the taxpayer uses not less than 70 per cent of the thermal energy obtained as a result of cogeneration, which is remaining after energy consumption of the main units producing or transforming energy, for ensuring the plant vegetation process in covered areas, the total area of which is not less than 5000 square metres, or supplies to a producer which is considered the related party in relation to the taxpayer within the meaning of Section 1, Clause 18, Sub-clause “a”, “b”, “c”, “d” or “e” of the law On Taxes and Fees and which uses the produced thermal energy for ensuring the plant vegetation process in covered areas, the total area of which is not less than 5000 square metres.

Section 6. Register of Subsidised Electricity Producers

(1) The Ministry of Economics responsible for the field of energy (hereinafter – the Ministry) shall create and maintain the register of subsidised energy producers (hereinafter – the register). The register shall be available to the public on the website of the Ministry.

(2) The Ministry shall aggregate information in the register on:

1) the taxpayer, the decisions issued thereto on the fact that rights to sell electricity within the scope of mandatory procurement or to receive guaranteed payment for the electric capacity installed in the power plant and for energy resources used in production of electricity are granted;

2) attestations issued to the taxpayer on the taxable income disbursed in the taxation period and the sum of the deducted tax;

3) the conformity of the income received by the taxpayer with the conditions of Section 5 of this Law and the applicable tax rate.

(3) The Ministry shall update information of the register within three working days after information on changes in the information included in the register has been received, and shall inform the public trader and the State Revenue Service regarding the changes within three working days after making of the changes in the register.

(4) The Regulator shall, not later than within two working days, inform the Ministry that the taxpayer does not conform to the conditions of Section 5, Paragraph three of this Law, including that the licence for trading thermal energy or the licence for production of electricity issued to the taxpayer is no longer in effect.

(5) The group established by the Ministry for the control of a cogeneration unit and power plant (hereinafter – the control group) shall, not later than within two working days, inform the Ministry if it has established that the actual situation of the taxpayer and the tax rate applied thereto does not conform to the information included in the register.

(6) The Rural Support Service shall, not later than within two working days, inform the Ministry if it has established that the actual situation of the taxpayer referred to in Section 5, Paragraph four, five or six of this Law and the tax rate applied thereto does not conform to the information included in the register.

(7) The taxpayer shall, without delay but not later than within three working days from establishing changes in the actual circumstances, inform the Ministry in writing on any non-conformity of the actual circumstances with the information included in the register.

Section 7. Procedures for Calculating the Tax

(1) The taxation period of the tax shall be one calendar month.

(2) The taxpayer shall calculate the tax by multiplying the sum of taxable income to be disbursed in the taxation period by the tax rate to be applied to the relevant applicable income.

(3) The taxpayer shall write out the invoice for the electricity transferred and sold to the public trader in the electricity system and for the guaranteed payment for the electric capacity installed in a cogeneration unit or power plant in the taxation period and shall submit the invoice to the public trader not later than by the fifteenth date of the following taxation period. If the last day

of the term for writing out or submitting the invoice is a nonworking day or a public holiday, the invoice may be submitted on the next working day. The taxpayer shall indicate the following in the invoice written out to the public trader regarding taxable income:

- 1) the number assigned to the power plant in the register;
- 2) the sum of taxable income;
- 3) the tax rate applicable to the relevant taxable income;
- 4) the amount of tax.

(4) The taxpayer who receives income taxable with different tax rate shall ensure separate accounting for income taxable with different applicable rate. The taxpayer shall indicate the information referred to in Paragraph three of this Section in the invoice written out to the public trader separately for each type of income taxable with different tax rate.

(5) Upon writing out an invoice to the public trader, the taxpayer has a duty to verify the information included in the register and to ensure the conformity of the tax rate indicated in the invoice with the rate indicated in the register.

(6) The public trader who disbursed taxable income to the taxpayer during the taxation period shall check the calculation of tax to be paid, performed by the taxpayer, on the basis of the information indicated in the invoice written out by the taxpayer and the information available in the register.

(7) If tax rates indicated in the invoice written out by the taxpayer differ from the information available in the register, the public trader shall recalculate the payable tax according to the tax rate indicated in the register and shall, within five working days from the day of receipt of the invoice, notify the Ministry and the taxpayer thereof.

(8) If the rate referred to in Section 5 of this Law is no longer applicable to the taxable income of the taxpayer and the information on it is not included in the register, then the taxpayer shall, without delay but not later than within three working days after setting in of such circumstances and prior to writing out an invoice, inform the Ministry and the public trader thereof in writing. The taxpayer shall indicate in the invoice and the public trader shall apply tax rate that is applicable to the taxable income according to the actual situation.

[9 February 2017]

Section 8. Duties of Taxpayers whose Taxable Income are Applied Tax Rate in the Amount of 5 Per cent

(1) Taxpayers who conform to the requirements of Section 5, Paragraph four of this Law have a duty to accumulate information in electronic form regarding raw materials utilised in the production of biogas on each calendar day in division according to their types.

(2) Taxpayers who conform to the requirements of Section 5, Paragraph four, five or six of this Law have a duty to accumulate information in electronic form regarding the amount of thermal energy produced, consumed and sold on each calendar day.

Section 9. Procedures for Paying the Tax

(1) Deduction of the tax and transfer thereof to the State budget shall be performed by the public trader who disburses taxable income to the taxpayer during the taxation period.

(2) The public trader shall deduct tax at the time of disbursing the income and pay the tax into the State budget within five days after the end of the taxation period.

Section 10. Tax Administration

(1) The public trader shall perform accounting of the disbursed taxable income and the deducted tax sum and shall, within 15 days after the end of the taxation period, submit a report to the electronic declaration system of the State Revenue Service in accordance with Annex to this

Law. If requested by the taxpayer, the public trader shall issue an attestation to him or her regarding the taxable income disbursed and the tax amount deducted in the taxation period.

(2) If the public trader establishes that incorrect rate has been applied to the income received by the taxpayer or incorrect tax sum has been deducted, the public trader shall notify the Ministry and the State Revenue Service thereof within five days after the moment of deducting the tax.

(3) If the Ministry establishes, including on the basis of information received from the control group, taxpayer, public trader or Rural Support Service, that incorrect rate has been applied to the income received by the taxpayer or incorrect tax sum has been deducted, the Ministry shall prepare within a month and send to the State Revenue Service an opinion on the tax rate applicable and tax sum to be paid.

(4) Taking into account the opinion of the Ministry referred to in Paragraph three of this Section, the State Revenue Service shall calculate the tax to be additionally paid into the State budget or accordingly reimburse the unjustifiably deducted tax sum to the taxpayer in accordance with the law On Taxes and Fees and the law On the State Revenue Service.

Section 11. Liability for Violations of this Law

(1) If the State Revenue Service calculates the tax to be additionally paid into the budget, then late fee and fine shall be additionally applicable to the calculated sums in accordance with the law On Taxes and Fees.

(2) The taxpayer shall be liable for the violations of this Law in accordance with the Latvian Administrative Violations Code and the Criminal Law.

Section 12. Aid within the Scope of *de minimis*

The taxpayer may apply for the application of the tax rate referred to in Section 5, Paragraph four, five or six of this Law in accordance with Commission Regulation (EU) No 1407/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to *de minimis* aid (Text with EEA relevance) (European Union Official Journal, 24.12.2013, L 352/1).

[12 June 2014]

Section 13. Competence of the Cabinet in the Field of Subsidised Electricity Tax

The Cabinet shall issue regulations on application of the tax rate referred to in Section 5, Paragraphs four, five and six of this Law, stipulating the procedures by which information shall be provided to the Rural Support Service, and the procedures by which the Rural Support Service shall administer and control application of the tax, as well as accounting of *de minimis* aid.

Transitional Provisions

1. The tax shall be applied to the taxable income obtained from 1 January 2014 until 31 December 2017.

2. The public trader shall submit the report referred to in Section 9, Paragraph one of this Law to the State Revenue Service in printed form on taxation periods until 30 June 2014.

3. Upon preparing proposals for the State budget for year 2015 the Cabinet shall submit an evaluation to the *Saeima* on the possibilities to reduce the tax rates referred to in Section 5 of this Law.

4. Section 12 of this Law shall not be applied from the following taxation period in which the co-ordination of the European Commission or a decision on the conformity of aid with internal market of the European Community was received.

5. Taxpayers who from 1 January 2014 are not able to prove their conformity with the criteria referred to in Section 5, Paragraph three of this Law are entitled to submit a request to the Ministry of Economics on tax re-calculation until 1 March 2015, on the basis of the results of economic activity of year 2014. The Ministry of Economics shall inform the recipient regarding the decision taken within a month and, if it is in favour of the taxpayer, shall inform the State Revenue Service on the amount of overpaid tax within three working days from taking of the decision.

This Law shall come into force on 1 January 2014.

This Law has been adopted by the *Saeima* on 6 November 2014.

President

A. Bērziņš

Rīga, 27 November 2013

**Report on the Sums Disbursed to Subsidised Electricity Taxpayers
(Summary)**

Taxation year:
Taxation period:
INCOME DISBURSER

(Public trader)	(Registration No.)
(Legal address)	

INCOME RECIPIENTS

No.	Taxpayer's name	Reg. number	Taxable value (euro)			Deducted tax sums (euro)			Date when income was disbursed	Taxable income in total (euro)	Deducted tax in total (euro)
			rate 5%	rate 10%	rate 15%	rate 5%	rate 10%	rate 15%			
1											
2											
3											
[...]											

Manager:

Executor:

Telephone number of the executor:

Date: