

## Electricity tax for wind farms in Germany

Wind energy in recent years, despite the implementation challenges that wind farm projects face, has become an increasingly important source of Germany's total gross electricity generation. This article helps navigate the electricity tax reporting obligations for onshore and offshore wind power plants.



23.5% of total gross electricity generation in Germany comes from wind energy. Compared to 2010, this is almost a fourfold increase and this share continues to rise steadily. However, there are many hurdles to overcome when implementing wind farm projects: lack of land (due to strict rules on minimum distances), long and particularly complicated approval procedures, as well as a wide variety of reporting requirements that are difficult to comprehend. This considerable bureaucracy is hindering wind power's expansion in Germany. To remove the uncertainties regarding the applicable reporting obligations, this article explains the electricity tax obligations for onshore and offshore wind power plants.

### Onshore wind farms

#### A. Supplier status

Anyone who operates wind turbines in Germany and 'feeds' the electricity generated into the grid is considered as a supplier under German electricity tax law, to the extent that electricity is supplied to third parties.

For this reason, before commencing operations, a supplier's permit must be

applied for at the locally-responsible main customs office. With regard to energy law regulation, the operator only has to announce its status as supplier if he delivers energy to households. However, the registration in a specific register organized by the national regulatory authority is mandatory (Marktstammdatenregister).

Wind power plant operators are usually classified as so-called "limited suppliers". In such a case, the official forms 1412, 1410a, 1410az published by the customs authority must be submitted to the competent main customs office for registration. It is important to note: anyone who withdraws self-generated electricity for self-consumption or supplies it to third parties without prior registration is generally obliged to submit a tax declaration immediately and to pay the tax due without delay!

#### B. Self-generation with permission

On the one hand, a formal permit can be applied for to exempt the self-consumption of self-generated electricity from tax. Depending on the size of the plant, the tax exemption for decentralized energy generation or for electricity generation from renewable energy sources in large-scale plants is relevant.

The permit must be applied for on the respective officially prescribed forms published by the main customs office.

According to this procedure, only annual declarations of the tax-free self-consumed electricity quantities must be submitted. This reporting is made on form 1400 and must be submitted to the main customs office by 31 May of the following year. In general, electricity tax payments can be avoided by following this procedure.

### C. Own generation without permission

If there is no permit for tax-privileged consumption of self-generated electricity, then the electricity amounts withdrawn for self-consumption must be declared on the officially prescribed form by 31 May of the following year. The accruing electricity tax must be calculated therein and paid, at the latest, by 25 June of the same year.

In this case, the tax burden can regularly be offset by the subsequent submission of tax relief applications. The tax relief for electricity from renewable energy sources can be applied for until 31 December of the year following the electricity withdrawal. The official form 1470 must be used for this tax relief, regardless of the size of the installation. The application for relief must also be accompanied by the self-declaration of state aid, if this has not yet been submitted for the corresponding application year.

To the extent that tax relief is submitted at the same time as the tax return, then a cash outflow can often be avoided by submitting a set-off request.

### D. External purchase of electricity for power generation

If third-party electricity is used for electricity generation, then an application for tax relief can also be submitted for these electricity volumes. In principle, only electricity quantities technically required for electricity generation are subject to this relief. Generally, these quantities are to be delimited meteorologically.

To simplify the procedure, the Electricity Tax Ordinance (StromStV) also provides a simplification rule in this case. For each relief period, 0.3% of the gross electricity generation of a wind farm can be claimed as electricity for electricity generation without further proof. In addition to application for relief, an operating description is required for each electricity generation plant on official forms.

### Offshore wind farms

According to the Electricity Tax Act, the use

of electricity in the German tax territory is subject to electricity tax. The tax territory is defined as the territory of the Federal Republic of Germany excluding the area of Büsingen and the island of Helgoland. As a coastal state, the Federal Republic of Germany claims a 12-nautical-mile zone from the coast as its territory in addition to the continental shelf. German offshore wind farms, on the other hand, are generally located in the North Sea and Baltic Sea within the adjacent 200-nautical-mile economic zone.

Electricity from wind turbines generated in this area and taken for self-consumption at the place of generation is not subject to electricity tax in Germany, as the electricity is taken from the supply grid outside the German tax territory. Thus, it is not necessary to apply for permits for the tax-free withdrawal of self-consumption. On the other hand, registration as a supplier may be required to the extent that electricity is supplied to third parties in the tax territory.

### Registration portal for the Energy and Electricity Tax Transparency Ordinance

Since the tax exemptions and tax reliefs for the own generation of electricity from renewable energy sources are defined as state aid, they must be reported annually to the customs administration by 30 June of the following year. According to the Energy Tax and Electricity Tax Transparency Ordinance (EnSTransV), only the subsidies exceeding 200,000 euros in the previous calendar year are subject to the obligation to report.

Finally, it is important to note that, due to the fact that every operator of a wind installation is obliged to register it in the "Markstammdatenregister" at BNetzA, all authorities involved can easily control if operators duly fulfil their regulatory duties.

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