

ONTARIO REGULATION

made under the

ELECTRICITY ACT, 1998

Amending O. Reg. 124/99

(TRANSFER TAX ON MUNICIPAL ELECTRICITY PROPERTY)

1. Section 1 of Ontario Regulation 124/99 is revoked and the following substituted:

1. The following percentages are prescribed for the purposes of subsection 94 (1) of the Act:

1. 22 per cent, in respect of a transfer that meets the following conditions:
 - i. The transfer is made after December 31, 2015.
 - ii. If the approval of the Ontario Energy Board for the transfer is required under the *Ontario Energy Board Act, 1998*, an application for approval of the transfer is made to the Ontario Energy Board before January 1, 2019.
 - iii. A written agreement to make the transfer is complete before January 1, 2019 and is not materially changed after that date.
2. 33 per cent, in respect of all other transfers.

2. Section 3 of the Regulation is amended by adding the following subsections:

(22) Subsection 94 (1) of the Act does not apply to a transfer by a municipal corporation or by a municipal electricity utility of an interest in property described in subsection 94 (1), (1.1) or (2) of the Act if the following conditions are satisfied:

1. The transfer is made after December 31, 2015.
2. The municipal corporation or the municipal electricity utility is an eligible entity within the meaning of subsection (24).
3. If the approval of the Ontario Energy Board for the transfer is required under the *Ontario Energy Board Act, 1998*, an application for approval of the transfer is made to the Ontario Energy Board before January 1, 2019.

4. A written agreement to make the transfer is complete before January 1, 2019 and is not materially changed after that date.

(23) A municipal corporation or municipal electricity utility is an eligible entity for the purposes of paragraph 2 of subsection (22) if,

- (a) the municipal corporation or municipal electricity utility enters into a written agreement to transfer an interest in property described in subsection 94 (1), (1.1) or (2) of the Act;
- (b) the agreement is the first written agreement that the municipal corporation or municipal electricity utility enters into after April 22, 2015 to transfer an interest in property described in subsection 94 (1), (1.1) or (2) of the Act; and
- (c) on the day before the written agreement is entered into, the municipal corporation or municipal electricity had fewer than 30,000 customers.

(24) For the purposes of determining the number of customers of a municipal corporation or municipal electricity utility under clause (23) (c), a person is a customer of the municipal corporation or municipal electricity utility if, within the 30-day period before the day the agreement described in clause (23) (c) was entered into,

- (a) the person purchased or acquired electricity from the municipal corporation or the municipal electricity utility for his, her or its own consumption or for the consumption by another person at the expense of the person who purchased or acquired the electricity;
- (b) the person purchased or acquired electricity from the municipal corporation or the municipal electricity utility on behalf of, or as agent for, a principal who wishes to acquire electricity for consumption by the principal or by the other person at the principal's expense;
- (c) the person purchased or acquired electricity from a person, partnership or trust that does not deal at arm's length with, or is affiliated with, the municipal corporation or municipal electricity utility, for his, her or its own consumption or for the consumption by another person at the expense of the person who purchased or acquired the electricity; or
- (d) the person purchased or acquired electricity from a person, partnership or trust that does not deal at arm's length with, or is affiliated with, the municipal corporation or the municipal electricity utility on behalf of, or as agent for, a principal who wishes to acquire electricity for consumption by the principal or by the other person at the principal's expense.

(25) For the purposes of clauses (24) (c) and (d),

- (a) a person, partnership or trust is deemed not to deal at arm's length with a municipal corporation or municipal electricity utility if they do not deal with each other at arm's length within the meaning of section 251 of the *Income Tax Act* (Canada); and
- (b) a person, partnership or trust is deemed to be affiliated with a municipal corporation or municipal electricity utility if they are affiliated with each other within the meaning of section 251.1 of the *Income Tax Act* (Canada).

Commencement

3. This Regulation is deemed to have come into force on April 23, 2015.