

TITLE V TAXATION

CHAPTER 72 PERSONS AND PROPERTY LIABLE TO TAXATION

Payment in Lieu of Taxes for Renewable Generation Facilities

Section 72:74

72:74 Payment in Lieu of Taxes. –

- I. The owner of a renewable generation facility and the governing body of the municipality in which the facility is located may, after a duly noticed public hearing, enter into a voluntary agreement to make a payment in lieu of taxes. A lessee of a renewable generation facility which is responsible for the payment of taxes on the facility may also enter into a voluntary agreement with the municipality in which the facility is located to make a payment in lieu of taxes, provided the lessee shall send by certified mail to the lessor written notice which shall state that the property of the lessor may be subject to RSA 80 should the lessee fail to make the payments required by the agreement. A copy of such notice shall be provided to the municipality in which the facility is located.
- II. A renewable generation facility subject to a voluntary agreement to make a payment in lieu of taxes under this section shall be subject to the laws governing the utility property tax under RSA 83-F. Payments made pursuant to such agreement shall satisfy any tax liability relative to the renewable generation facility that otherwise exists under RSA 72. The payment in lieu of taxes shall be equalized under RSA 21-J:3, XIII in the same manner as other payments in lieu of taxes, but shall be excluded from the tax base used to determine the statewide education property tax in accordance with RSA 76:8, I(a). In the absence of a payment in lieu of taxes agreement, the renewable generation facility shall be subject to taxation under RSA 72.
- III. If a municipality that contains more than one school district receives a payment in lieu of taxes under this section, the proceeds shall be prorated to the districts in the same manner as local taxes are prorated to the districts, or in the case of a cooperative school district between the city or town and pre-existing school district.
- IV. The collection procedures in RSA 80 shall be used to enforce a voluntary agreement to make a payment in lieu of taxes authorized by this section.
- V. If a municipality enters into a voluntary payment in lieu of taxes agreement with an owner, or a lessee responsible for payment of taxes, of a renewable generation facility, the municipality, upon the request of the owner, or a lessee responsible for payment of taxes, of any other renewable generation facility located within the municipality, shall offer a comparable agreement to the owner or lessee of such facility.
- VI. Except as provided in paragraph VII, no voluntary agreement entered into under this section shall be valid for more than 5 years; however, any such agreement may be renewed or amended and restated for any number of consecutive periods of 5 years or less.
- VII. The owner of a renewable generation facility and the governing body of the municipality in which the facility is located may agree to a term exceeding 5 years if such term is necessary for the financing of the project or is otherwise advantageous to both parties and both parties agree to such term.

Source. 2006, 294:6. 2007, 113:1, eff. Aug. 10, 2007. 2014, 277:2, eff. July 28, 2014. 2021, 31:1, eff. July 1, 2021.

TITLE V TAXATION

CHAPTER 72 PERSONS AND PROPERTY LIABLE TO TAXATION

Payment in Lieu of Taxes for Combined Heat and Power Agricultural Facilities

Section 72:74-a

72:74-a Payment in Lieu of Taxes for Combined Heat and Power Agricultural Facilities. –

I. In this section, "combined heat and power agricultural facility" means a facility that engages in commercial agricultural production and uses an on-site combined heat and power system, as defined by RSA 362-A:1-a, I-d, with the exception that the size of such system may be up to .5 MW of electric power per acre of the portion of the combined heat and power agricultural facility that consists of that acreage that is used in the production and storage of agricultural commodities that are raised for sale, to furnish at least 85 percent of the facility's heat and power needs, not to exceed a total of .5 MW of electric power per acre of the portion of the combined heat and power agricultural facility that consists of that acreage that is used in the production and storage of agricultural commodities that are raised for sale. A combined heat and power agricultural facility shall not constitute a "utility" as defined by RSA 83-F:1, IV. A combined heat and power agricultural facility shall include all structures used for active agricultural purposes, including any buildings in which the combined heat and power system is housed, all structures ancillary to the combined heat and power agricultural facility, and the entirety of the lot on which such structures are physically located.

II. The owner of a combined heat and power agricultural facility and the governing body of the municipality in which the facility is located may, after a duly noticed public hearing, enter into a voluntary agreement to make a payment in lieu of taxes. A lessee of a combined heat and power agricultural facility which is responsible for the payment of taxes on the facility may also enter into a voluntary agreement with the municipality in which the facility is located to make a payment in lieu of taxes, provided the lessee shall send by certified mail to the lessor written notice which shall state that the property of the lessor may be subject to RSA 80 should the lessee fail to make the payments required by the agreement. A copy of such notice shall be provided to the municipality in which the facility is located.

III. A combined heat and power agricultural facility subject to a voluntary agreement to make a payment in lieu of taxes under this section shall not be subject to the laws governing the utility property tax under RSA 83-F. Payments made pursuant to such agreement shall satisfy any tax liability relative to the combined heat and power agricultural facility that otherwise exists under RSA 72. The payment in lieu of taxes shall be equalized under RSA 21-J:3, XIII in the same manner as other payments in lieu of taxes. In the absence of a payment in lieu of taxes agreement, the combined heat and power agricultural facility shall be subject to taxation under RSA 72.

IV. If a municipality that contains more than one school district receives a payment in lieu of taxes under this section, the proceeds shall be prorated to the districts in the same manner as local taxes are prorated to the districts, or in the case of a cooperative school district between the city or town and pre-existing school district.

V. The collection procedures in RSA 80 shall be used to enforce a voluntary agreement to make a payment in lieu of taxes authorized by this section.

VI. If a municipality enters into a voluntary payment in lieu of taxes agreement with an owner, or a lessee responsible for payment of taxes, of a combined heat and power agricultural facility, the municipality, upon the request of the owner, or a lessee responsible for payment of taxes, of any other combined heat and power agricultural facility located within the municipality, shall offer a comparable agreement to the owner or lessee

TITLE V TAXATION

CHAPTER 72 PERSONS AND PROPERTY LIABLE TO TAXATION

Property Taxes

Section 72:23-n

72:23-N Voluntary Payments in Lieu of Taxes. – The governing body of any municipality may enter into negotiations for a voluntary payment in lieu of taxes from otherwise fully or partially tax exempt properties, and may accept from such properties a voluntary payment in lieu of taxes.

Source. 1996, 208:1, eff. June 10, 1996.

