

## Renewable Energy in Ukraine



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**T**he alternative energy sector in Ukraine is considered by many as one of the most fast-growing and attractive industries for investment. This is explained, to a large extent, by the advantageous geographical conditions in Ukraine as well as increases in the prices of communal services, such as electricity and heating in the last two years and favourable legal framework. The positive trend in this area will continue in 2017.

### CURRENT STATE OF PLAY IN THE FIELD

Following a couple of years of relative silence on the alternative energy market in Ukraine, a substantial increase in the number of commissioned renewable energy projects has been observed in 2016 and the beginning of 2017. Thus, a couple of dozen projects, mainly in relation to wind, solar and biomass energy, has already been completed in 2016 or are at their final stages of completion. Many of these projects are carried out by foreign investors, who turned to the Ukrainian market following introduction of legal reforms in relation to feed-in tariff regulation in mid-2015.

The plans to construct high capacity solar power stations in the Chernobyl exclu-

sion zone announced by the Government of Ukraine also present a great opportunity for foreign investors.

### FEED-IN TARIFF: MAIN ATTRACTION FOR INVESTORS

For many years, Ukraine has been making efforts to stimulate financially the generation of electricity from alternative sources of energy. Such stimulation results in legislative provision for feed-in tariff, i.e., the guaranteed obligation of the state to purchase generated 'green' energy from producers of alternative energy.

The feed-in tariff is fixed in euro until 2030 and is paid in the national currency. All generated electricity, except for volumes for personal needs, shall be paid under the feed-in tariff (except for blast furnace and coke gas, and for hydro plants with capacity of up to 10 MW).

It is the obligation of the wholesale electricity market of Ukraine to purchase "green" energy produced under the feed-in tariff and make full payment for the cost of electricity, regardless of the installed capacity or volume of supply.

The amount of the feed-in tariff depends on the commission date of the object of electricity generation, including construc-

tion phase of the electricity station, which produces electricity from alternative energy sources.

The feed-in tariff for different types of renewable sources of energy is shown in the table below (in EUR).

### PREMIUM TO FEED-IN TARIFF

The use of equipment of Ukrainian origin by investors is stimulated by the relevant premium to the feed-in tariff (throughout all term of its validity), if the electricity objects are commissioned by 31 December 2024.

Therefore, if equipment of Ukrainian origin is used at least at the level of 30%, the premium to the feed-in tariff shall be 5%. If equipment of Ukrainian origin is used at least to the level of 50%, the premium to the feed-in tariff shall be 10%.

The level of use of equipment of Ukrainian origin at power plants that generate electricity from alternative energy sources is defined as the sum of respective percentages of specific items of equipment. The Law of Ukraine *On Electricity* provides an exhaustive list of equipment for each type of alternative energy source that qualifies for the feed-in tariff premium.

However, it is worth noting that such premium to the feed-in tariff is not applicable to the electricity objects of private households.

### PRIVATE HOUSEHOLDS: A NEW POPULAR TREND

According to the State Agency for Energy Efficiency and Energy Saving of Ukraine, the rise in the number of solar panels installed by households is latest trend in the alternative energy sector of Ukraine. This is attributed to the positive legislative changes made in 2015, which allowed private households to not only sustain their electricity needs by means of using renewable energy sources, but to also sell any such excessive energy generated under the feed-in tariff. The trend has been growing continuously for the last two years.

Thus, pursuant to the Law of Ukraine *On Electricity*, private households are entitled to set up electricity generating facilities with a capacity of up to 30 kW and sell electricity produced from solar or wind energy under the feed-in tariff to the electricity distribution company in the amount that exceeds monthly consumption of electricity by such private households.

### TAX BENEFITS

For a number of years, the producers of "green" energy in Ukraine have enjoyed quite substantial tax benefits. However, amend-

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**D**LF ATTORNEYS-AT-LAW is a Ukrainian law firm that provides consultancy services to mainly English and German speaking clients on various matters on doing business in Ukraine. We have vast expertise in corporate, M&A, insolvency, antitrust, labor, competition, IP, renewable energy law, advertising law, privatization, agriculture, real estate and tax law as well as in litigation and dispute resolution.

Our core customers are SMEs from various fields. We offer them tailor-made and economically viable solutions. The firm is also a reliable business partner for a number of listed corporations and their subsidiaries in Ukraine. We represent our clients in a wide range of industries: IT, engineering, management consulting, agriculture, life sciences and healthcare,

renewable energy, foodstuffs, pharmaceuticals and chemicals as well as home appliances.

Our team is multilingual and led by two partners, Igor Dykunsyy, LL.M. and Andriy Navrotskyi, LL.M. Most of our lawyers graduated from Ukrainian law universities and successfully continued their studies abroad, particularly in England and Germany. Our specialists are held in high esteem in professional circles thanks to their expertise on the special features of doing business in Ukraine.

Our attorneys understand not only the needs of our clients, but also their business philosophy and the specific needs of their respective business models. Legal and tax advice is a business relationship built on trust and this is a significant advantage for our clients.

We have a close working relationship with various business associations in Ukraine and regularly publish our articles in local and international legal and business journals. In addition, we come recommended by a number of foreign embassies in Ukraine.

ments made to the *Tax Code of Ukraine* in late 2014 cancelled many tax privileges for producers of electricity from alternative energy sources, specifically in relation to income and land taxation. Currently only those entrepreneurs constructing renewable energy objects in the Chernobyl exclusion zone enjoy tax privileges; the rent for land use in the exclusion zone is paid at 15% (i.e., with an 85% discount).

Nevertheless, some tax benefits are still available for renewable energy producers. Thus, pursuant to the *Tax Code of Ukraine*, no VAT is applicable to transactions on import to the territory of Ukraine of:

– equipment which is functioning on the basis of alternative energy sources, energy

saving equipment and materials, means of measuring, control and management of energy resources, equipment and materials for production of alternative types of fuels or electricity from renewable energy sources;

– materials, equipment, components for manufacturing equipment, which is functioning on the basis of renewable energy sources; raw materials, equipment and components for production of alternative types of fuels or electricity from renewable energy sources; energy saving equipment and materials, products whose operation provides saving and rational use of energy resources; means of measuring, controlling and managing energy resources.

In addition, pursuant to the *Customs Code of Ukraine*, the abovementioned goods

are exempt from import and export duties, provided that the taxpayer uses them for its own production and that no identical goods with the same qualities are produced in Ukraine. Nevertheless, this tax benefit, while being settled on paper, cannot be actually implemented in practice due to the failure of the Cabinet of Ministers of Ukraine to approve the list of such goods with specification of codes under the Ukrainian Classification of Foreign Economic Activity Products.

Furthermore, the *Tax Code of Ukraine* provides that any transactions regarding sale of electricity generated by qualified cogeneration units and/or from renewable energy sources are not subject to excise tax.

Type	Capacity (kW)	Commission date				
		01.07.-31.12.2015	2016	2017 – 2019	2020 – 2024	2025 – 2029
<b>Ground-mounted solar power plant</b>		0.1696	0.1599	0.1502	0.1352	0.1201
<b>Rooftop solar power plant</b>		0.1804	0.1723	0.1637	0.1475	0.1309
<b>Wind turbine</b>	<600		0.0582		0.0517	0.0452
	600-2000		0.0679		0.0603	0.0528
	>2000		0.1018		0.0905	0.0792
<b>Biomass</b>			0.1239		0.1115	0.0991
<b>Biogas</b>			0.1239		0.1115	0.0991
<b>Hydro plant</b>	<200		0.1745		0.1572	0.1395
	200-1000		0.1395		0.1255	0.1115
	1000-10000		0.1045		0.0942	0.0835
<b>Geothermal energy</b>			0.1502		0.1352	0.1201
<b>Solar power for private household</b>	<30	0.2003	0.1901	0.1809	0.1626	0.1449
<b>Wind turbine for private household</b>	<30		0.1163		0.1045	0.0932