

**LEGAL  
ALERT**

**DLF**  
ATTORNEYS-AT-LAW

# RENEWABLE ENERGY IN UKRAINE



**May 2016**

## CONTENTS

|   |          |
|---|----------|
| <b>Procedure for sale of ‘green’ energy generated by the households</b> | <b>2</b> |
| <b>How much could be earned through ‘green’ energy?</b>                 | <b>2</b> |
| <b>Procedure on feed-in tariff premium</b>                              | <b>6</b> |

### **Procedure for sale of ‘green’ energy generated by the households**

On 15 April 2016, the restated Procedure for sale, accounting and payments for electricity generated from alternative energy power facilities of private households became effective. This procedure specifies the process of commissioning generating facilities of private households, procedure for accounting and sale of generated electricity.

The Law of Ukraine ‘On electricity’ provides for the possibility for households to be equipped with solar and wind power facilities with capacity of up to 30 kW.

Private households are entitled to set up electricity generating facilities with 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.

Generation facility at a private household is deemed to be commissioned as of the date of submission (sending) of the respective notification to the electricity distribution company. The latter shall examine capacity of a generation facility at the household within three business days following receipt of the respective notification.

If within the household there are several commissioned generating facilities, to which several coefficients of feed-in tariff apply, such household shall establish special commercial accounting for each such generating facility as well as special commercial accounting for electricity consumed by the household.

### **How much could be earned through ‘green’ energy?**

For many years Ukraine has been making efforts to financially stimulate generation of electricity from alternative sources of energy. Such stimulation results in, first of all, legislative provision for feed-in tariff, i.e. the guaranteed obligation of the state to purchase generated ‘green’ energy from producers, and also in establishment of a significant number of tax benefits for producers of alternative energy.

As of today, the alternative energy sector remains to be attractive for investors despite certain peculiarities of financing such projects in Ukraine. There is also interest in this sector on the part of communal enterprises, which aim to sort out problems with landfills and wastewater treatment plants or optimize street lighting in the cities. So how much could be earned through 'green' energy?

### *Feed-in tariff*

As of 16 July 2015, there is a new procedure for calculation of feed-in tariff, i.e. the special tariff for purchase of electricity generated from alternative energy sources (except for blast furnace and coke gas, and for hydro plants with capacity of up to 10 MW). In addition, a possibility to make money out of production of electricity from alternative energy sources might be employed both by legal entities (industrial plants) and households. The households may now be equipped not only with solar power plants, but also with wind turbines with capacity of up to 30 kW (not exceeding capacity allowed under the agreement on electricity use).

The new procedure for calculation of feed-in tariff is established by the Law of Ukraine "On changes to certain acts of Ukraine in relation to provision of competitive conditions of electricity generation from alternative energy sources" dated 4 June 2015 (became effective on 16 July 2015), which amended the Law of Ukraine "On electricity". It is worth mentioning that feed-in tariff for electricity generated at plants, which have been commissioned during previous years, will continue to be applicable in the amount, which was specified for each type of energy object.

The feed-in tariff is fixed in euro until 2030, and its amount is specified by multiplication of the retail tariff for consumers of the second voltage type as of January 2009 (UAH 0.5846, at that time EUR 0.05385) by the feed-in tariff coefficient for the relevant type of alternative energy. However, now the National Commission for State Energy and Public Utilities Regulation will quarterly convert the feed-in tariff into national currency on the basis of the average official currency rate of the National Bank of Ukraine. All generated electricity, except for volumes for personal needs, will be paid under the feed-in tariff.

Another new development was introduction of the feed-in tariff for electricity generated from geothermal energy.

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

### *Amount of feed-in tariff*

The amount of feed-in tariff depends on the commission date of the electricity generation object, including phase of construction of the electricity station, that produces electricity from alternative energy sources. The certificate issued by the authorized state construction body, which certifies compliance of the constructed object with the project documentation and its operational readiness (for objects of categories IV and V of difficulty), or the registered declaration on operational readiness of the constructed object (for objects of categories I-III of difficulty) serve as confirmation of the fact and date of commission.

The feed-in tariff is as follows (EUR):

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

The feed-in tariff for electricity generated from biogas and biomass was substantially increased in July 2015. In addition, biomass was legally defined as non-excavated biologically renewable substance of organic origin, which is capable of biological decomposition, such as products, waste, fishery, forest and agriculture (crop and livestock) residue and residue from the technologically connected industry areas, as well as components of industrial or domestic waste capable of biological decomposition.

As the feed-in tariff coefficient has increased, the feed-in tariff for electricity generated by hydro plants is now significantly higher.

If within the electricity object that uses alternative sources of energy there are several coefficients (and, respectively, different amounts) of feed-in tariff applied, special commercial accounting for each phase of construction and/or station shall be established.

### *Premium to feed-in tariff*

The mandatory local content requirement (share of components of the electricity object of Ukrainian origin used during construction of the electricity object) was cancelled. As of now, the use of equipment of Ukrainian origin by the investors will be stimulated by the relevant premium to the feed-in tariff (throughout all term of its validity), if the electricity objects are commissioned between 1 July 2015 and 31 December 2024. However, such premium to the feed-in tariff is not applicable to electricity objects of private households.

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

The level of use of equipment of Ukrainian origin at the power plants that generate electricity from alternative energy sources is defined as the sum of respective percentages of specific items of equipment. Thus, for blades and towers such indicator is established at the rate of 30%, for gondolas and main frames at 20%. By using solar power photovoltaic modules of Ukrainian origin one may expect a premium to feed-in tariff of 5%, as the specific percentage for photovoltaic modules is 40%; for mounting systems for photovoltaic modules, inverter equipment, energy accumulation and tracking such specific percentage is 15%. The Law provides a list of equipment for each type of alternative energy source that qualifies for the feed-in tariff premium.

### *Tax benefits – money as well?*

Until 2015 the producers of 'green' energy enjoyed more tax benefits than now. Amendments made to the Tax Code of Ukraine in late 2014 cancelled tax privileges for producers of electricity from alternative energy sources concerning income and land taxation.

Pursuant to Article 197.16 of 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, control and management of energy resources.

Pursuant to Article 282 of the Customs Code of Ukraine, the abovementioned goods are exempt from import and export duties. However, such goods are exempt from “import” VAT and import / export duty only if the taxpayer uses them for own production and if no identical goods with the same qualities are produced in Ukraine.

It is worth mentioning that the list of such goods with specification of codes under the Ukrainian Classification of Foreign Economic Activity Products should be established by the Cabinet of Ministers of Ukraine. However, as of today such list is not approved and, as a result, it is impossible to apply this tax benefit until adoption of the relevant resolution by the Cabinet of Ministers of Ukraine.

Transactions concerning sale of electricity generated by qualified cogeneration units and / or from renewable energy sources are not subject to excise tax pursuant to Article 213.2.8 of the Tax Code of Ukraine.

### **Procedure on feed-in tariff premium**

On 26 February 2016, the Procedure on determining the level of use of Ukrainian-made equipment on electricity objects that produce electricity from alternative sources of energy and establishment of the relevant premium to feed-in tariffs became effective.

The certificate issued by the authorized body, which certifies compliance of the constructed object with the project documentation and its operational readiness, or the registered declaration on operational readiness of the constructed object serves as confirmation of the fact and date of commission.

The Procedure stipulates that Ukrainian origin of equipment shall be confirmed by the certificate on Ukrainian origin issued by the Ukrainian Chamber of Commerce.

In order to apply premium to the feed-in tariff on the basis of the requirement of Ukrainian origin, the applicant shall submit its application along with the following documents to the National Commission for State Energy and Public Utilities Regulation:

- explanatory note on any equipment of Ukrainian origin along with the relevant origin certificates and documents that certify ownership (possession) to such equipment;
- calculation of the level of use of Ukrainian origin equipment;
- information on contractors (general contractors), which performed well drilling works at the electricity objects that produce electricity from geothermal energy.

The application and supporting documents are considered by the National Commission for State Energy and Public Utilities Regulation within 30 business days.

### Contact Persons:

Igor Dykunskyy, LL.M.,  
Partner  
[igor.dykunskyy@DLF.ua](mailto:igor.dykunskyy@DLF.ua)

Andrii Zharikov, LL.M.,  
Associate  
[andrii.zharikov@DLF.ua](mailto:andrii.zharikov@DLF.ua)

This legal alert is intended to provide a brief overview of current changes to the Ukrainian legislation and should not be viewed as legal advice. For more details or if you would like a specific advice, please, e-mail the named contact persons or use our contact form.

The legal alert is a free electronic publication. To unsubscribe, please, send a short e-mail at [info@DLF.ua](mailto:info@DLF.ua)

---

### DLF attorneys-at-law

Torus Business Centre | 17d Hlybochytska Street | 04050 Kyiv, Ukraine | [www.DLF.ua](http://www.DLF.ua) | [info@DLF.ua](mailto:info@DLF.ua)  
T +380 44 384 24 54 | F +380 44 384 24 55