

APRIL 30 DEADLINE FOR ANNUAL REPORT FOR ELECTRIC-GENERATING FACILITIES APPROACHING (AND SO ARE CHANGES TO THE NEW YORK TAX RULES FOR RENEWABLE PROJECTS)

Hodgson Russ Renewable Energy Alert
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For the renewable energy industry, the focus this New York budget season has been on the potential adoption of a defined methodology for real property taxation of wind and solar projects, hopefully bringing some uniformity and certainty to project valuation. Anticipating that effort, last year, the Legislature created an annual reporting requirement for electric-generating facilities. As of January 1, 2020, owners of single electric-generating facilities or multiple electric-generating facilities located on the same New York site with nameplate capacity of one megawatt or greater must file an Annual Report, formally known as [Form RP-575](#), with the State Department of Taxation and Finance Office of Real Property Tax Services (ORPTS).[1] Last year, due to the onset of the COVID-19 pandemic, the deadline to submit the report was extended from April 30 to June 30. This year, however, ORPTS confirmed by telephone that the report is due by the April 30 deadline.

Information to Report on Form RP-575

Form RP-575 consists of six topical parts covering plant production; plant revenue; plant expenses; capital expenditures and physical plant additions, retirements, and changes; excludable assets; and real property purchase and sale agreements. The reporting period is for January 1 through December 31 of the year preceding the April 30 due date.

The form also provides a Freedom of Information Law (“FOIL”) request for protection from disclosure. Given the information to be provided, it would be prudent to seek protection routinely with the filing of the Form RP-575. Protection however, is not guaranteed. In the event of a FOIL request for information, the owner would need to submit a statement in support justifying the grant of such protection.

Electric-generating facilities located in New York City filing Real Property Income and Expense Statements with the New York City Department of Finance are not required to file Form RP-575.[2]

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Purpose of Form RP-575

The Legislature created this reporting mandate to provide ORPTS information that will be used in appraisals used in equalizing levies among taxing jurisdictions. The information will also inform advisory appraisals that may be provided to local governments for their consideration in setting property tax assessments.

Penalties for Failing to Timely File

The failure to timely file Form RP-575 will result in a fine under Real Property Tax Law § 575-a of up to \$10,000 for every failure to file and an additional sum of \$1,000 for every day the failure to file continues.

Takeaways

Owners of covered electric-generating facilities required to file the form should familiarize themselves with what is required and marshal responsive information so to ensure that the report is filed by the deadline, avoiding the penalties for untimely submissions.

Next year's reporting may well require more information. The New York Budget Legislation (Part X) being advanced as this is issued expands ORPTS' authority to request information "in the case of solar and wind energy systems, such other information as the commissioner may reasonably require for the development and maintenance of an appraisal model and discount rate as required pursuant to section 575-b of this chapter."

If you have any questions about completing Form RP-575, what the expected amendments mean for taxation of wind or solar projects, or about renewable energy projects generally, please contact [Daniel Spitzer](mailto:dspitzer@hodgsonruss.com) (716.848.1420), [Henry Zomerfeld](mailto:hzyomerfeld@hodgsonruss.com) (716.848.1370), or a member of our [Renewable Energy Practice](#).

[1] Real Property Tax Law § 575-a.

[2] New York State Department of Taxation and Finance, New annual reporting requirement for electric generating facilities, *obtained from* <https://www.tax.ny.gov/research/property/valuation/utilities/egf.htm>.