

PROVINCE OF BRITISH COLUMBIA
ORDER OF THE LIEUTENANT GOVERNOR IN COUNCIL

Order in Council No. 302 , Approved and Ordered June 05, 2015


Lieutenant Governor

Executive Council Chambers, Victoria

On the recommendation of the undersigned, the Lieutenant Governor, by and with the advice and consent of the Executive Council, orders as follows:

- 1 *The Liquefied Natural Gas Income Tax Regulation, B.C. Reg. 229/2014, is repealed.*
- 2 *Effective January 1, 2017, the attached Liquefied Natural Gas Income Tax Regulation is made.*
- 3 *Effective January 1, 2017, section 1 of the Interest Rate under Various Statutes Regulation, B.C. Reg. 386/92, is amended by adding “, Liquefied Natural Gas Income Tax Act” after “Provincial Sales Tax Act”.*

DEPOSITED

June 5, 2015

B.C. REG. 101/2015


Minister of Finance


Presiding Member of the Executive Council

(This part is for administrative purposes only and is not part of the Order.)

Authority under which Order is made:

Act and section: *Liquefied Natural Gas Income Tax Act, S.B.C. 2014, c. 34, ss. 125, 127, 127.1 and 127.5*

Other: *OIC 673/2014*

May 26, 2015

R/412/2015/12

LIQUEFIED NATURAL GAS INCOME TAX REGULATION

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Definitions

- 1 In this regulation:

“Act” means the *Liquefied Natural Gas Income Tax Act*;

“Groundbirch East Meter Station” means the natural gas pipeline meter station located at UTM Coordinate Zone 10 N 6187148m E 633567m, near Dawson Creek.

Financial incentive

- 2 For the purposes of the definition of “financial incentive” in section 1 of the Act, the following amounts are prescribed:
 - (a) an amount claimed by a taxpayer under section 122 (2) [*closure tax credit*] of the Act;
 - (b) an amount deducted by a taxpayer under section 172 (2) [*natural gas tax credit*] of the *Income Tax Act*.

Reference point

- 3 For the purposes of the definition of “reference point” in section 1 of the Act, the prescribed reference point is the Groundbirch East Meter Station.

Rate of interest – section 43 of Act

- 4 For the purposes of the description of “D” in the definition of “income shortfall adjustment” in section 34.3 (1) of the federal Act, as that section applies for the purposes of this Act, the rate of interest prescribed is the prime lending rate of the principal banker to the government plus 3%.

Investment allowance – prescribed rate

- 5 For the purposes of the description of “rate” in section 46 (1) of the Act, the prescribed rate is 3%.

Pipeline fuel and losses adjustment

- 6 (1) In this section, “**month**” has the same meaning as in section 47 of the Act.
- (2) For the purposes of section 51 (1) of the Act, a taxpayer’s pipeline fuel and losses adjustment in respect of an LNG facility and for a month is the percentage determined by the following formula:

$$\text{pipeline fuel and losses adjustment} = \left[\frac{\text{volume variance}}{\text{adjusted LNG facility inlet volume}} \right] \times 100\%$$

where

volume variance = the amount determined for the month under subsection (3);

adjusted LNG facility inlet volume = the total of the following:

- (a) the volume of natural gas deemed to have been purchased under section 49 of the Act by the taxpayer in the month at the LNG facility inlet meters for the LNG facility;
- (b) the volume of natural gas disposed of by the taxpayer in the month at the LNG facility inlet meters for the LNG facility;
- (c) the volume of natural gas disposed of by the taxpayer in the month while that natural gas is in the feedstock pipeline that delivers natural gas to the LNG facility.

- (3) For the purposes of the description of “volume variance” in subsection (2), the amount determined for the month is the amount determined by the following formula:

$$\text{volume variance} = \frac{\text{feedstock pipeline inlet volume} + \text{acquisitions} - \text{dispositions} - \text{change in LNG facility inventory}}{\text{inlet volume}}$$

where

feedstock pipeline inlet volume = the volume of natural gas owned by the taxpayer that passes through the feedstock pipeline inlet designated in respect of the LNG facility in the month;

acquisitions = the volume of natural gas acquired by the taxpayer in the month

- (a) while that natural gas is in the feedstock pipeline that delivers natural gas to the LNG facility, or
- (b) at an LNG facility inlet meter for the LNG facility from a person or partnership with whom the taxpayer was not dealing at arm’s length;

dispositions = the volume of natural gas disposed of by the taxpayer in the month

- (a) while that natural gas is in the feedstock pipeline that delivers natural gas to the LNG facility, or
- (b) at an LNG facility inlet meter for the LNG facility;

change in inventory = the volume of natural gas equal to the volume of natural gas owned by the taxpayer and in the feedstock pipeline at the end of the month less the volume of natural gas owned by the taxpayer and in the feedstock pipeline at the end of the preceding month;

LNG facility inlet volume = the volume of natural gas notionally acquired by the taxpayer at the LNG facility inlet meters for the LNG facility in the month.

Reference price

7 In determining the reference price for the purposes of section 51 (1) of the Act, the minister charged with the administration of the *Petroleum and Natural Gas Act* must consider all monthly Natural Gas Exchange Inc.'s NGX AB-NIT natural gas price indices that relate to any period in the month.

Pipeline differential amount

8 (1) In this section:

“**minister**” means the minister charged with the administration of the *Petroleum and Natural Gas Act*;

“**month**” means a calendar month and, in relation to a partial calendar month in a taxpayer’s taxation year, means the calendar month that includes that partial month.

(2) For the purposes of section 51 (1) of the Act, the pipeline differential amount for a month is the amount determined by the following formula:

$$\text{amount} = \frac{\text{directional flow indicator}}{\text{indicator}} \times \left[\frac{(\text{upstream amount} + \text{downstream amount})}{\text{total days}} \right]$$

where

directional flow indicator = the following applicable value for the month:

- (a) if the month ends before January 1, 2017, -1;
- (b) if the month ends after January 1, 2017, either -1 or 1 as determined for the month in accordance with subsection (3) by the minister;

upstream amount = the total of all amounts, each of which is the amount obtained by subtracting the average price, expressed in \$/GJ, reported for the Daily Spot Gas Price at Station 2, B.C., from the average price, expressed in \$/GJ, reported for the NGX AB-NIT Same Day Index, for each day

- (a) that is not a Saturday or a holiday,
- (b) that is in a month in the previous 5 calendar years and for which the directional flow indicator for the month is equal to -1, and
- (c) for which both of those average prices are reported in the Canadian Gas Price Reporter;

downstream amount = the total of all amounts, each of which is the amount obtained by subtracting the average price, expressed in \$/GJ, reported for the NGX AB-NIT Same Day Index from the average price, expressed in \$/GJ, reported for the Daily Spot Gas Price at Station 2, B.C., for each day

- (a) that is not a Saturday or a holiday,
- (b) that is in a month in the previous 5 calendar years and for which the directional flow indicator for the month is equal to 1, and
- (c) for which both of those average prices are reported in the Canadian Gas Price Reporter;

total days = the total obtained by adding the number of days for which an amount was determined under the description of “upstream amount” and the number of days for which an amount was determined under the description of “downstream amount”.

- (3) For the purposes of paragraph (b) of the description of “directional flow indicator” in subsection (2),
 - (a) the minister may determine the value for a month before or during the month or during the following month, and
 - (b) without limiting what the minister may consider in determining the value for a month, the minister must consider the volume of natural gas the minister estimates will be received in British Columbia from outside the province in the 12-month period beginning with that month.
- (4) For the purposes of section 51 (2) of the Act, a prescribed LNG facility is an LNG facility for which a meter station designated in respect of the LNG facility, for the purposes of the definition of “feedstock pipeline inlet” in section 1 of the Act, is located on the natural gas pipeline system known as the NGTL System and owned by NOVA Gas Transmission Ltd.

Manner of calculating interest – section 124.383 of Act

- 9 Interest payable to the government under the Act must be
 - (a) compounded monthly, and
 - (b) calculated on the number of days since the last compounding of interest or, if no compounding has yet occurred, from the date that interest is payable under the Act.

Bonds – when bond may not be required

- 10 The commissioner may not require a person to deposit a bond under section 124.600 (1) of the Act, or to have a bond deposited on the person’s behalf under that section, in any of the following circumstances:
 - (a) the total amount of tax payable under the Act by the person for the 3 taxation years beginning with the person’s first, current or next taxation year, as estimated by the commissioner assuming each of the 3 taxation years is not less than 365 days, is equal to or less than \$300 000;

- (b) the value of those assets of the person that are land, improvements or tangible personal property in British Columbia, other than liquefied natural gas, natural gas liquids or natural gas, exceeds the total of
 - (i) the person's liabilities in relation to those assets, and
 - (ii) the total amount of tax payable under the Act by the person as estimated for the purposes of paragraph (a).

Bonds – matters to be considered

- 11** For the purposes of section 124.600 (5) of the Act, the commissioner must consider the following matters in determining, in relation to a bond to be deposited by or on behalf of a person, the amount of the bond or whether the bond is satisfactory:
- (a) the total amount of tax payable under the Act by the person for the 3 taxation years beginning with the person's first, current or next taxation year, as estimated by the commissioner assuming each of the 3 taxation years is not less than 365 days;
 - (b) the person's history of compliance with
 - (i) the tax payment requirements, and any collection and remittance requirements, of an enactment,
 - (ii) the royalty payment requirements of an enactment, and
 - (iii) the tax payment requirements of the federal Act;
 - (c) the extent by which the value of those assets of the person that are land, improvements or tangible personal property in British Columbia, other than liquefied natural gas, natural gas liquids or natural gas, exceeds the total of the person's liabilities in relation to those assets;
 - (d) in relation to the LNG source for which the person or partnership is registered or applying to be registered, whether or not other persons or partnerships that are engaged in or deriving income from liquefaction activities in respect of the same LNG source are registered in respect of that LNG source;
 - (e) the amount of the person's potential liability under sections 124.603 to 124.605 of the Act, as estimated by the commissioner;
 - (f) the person's credit rating from a credit rating organization acceptable to the commissioner.