

January 21, 2010

To: IAMU Member Gas & Electric Utilities

From: Bob Haug, Executive Director

Re: Municipal Transfer Replacement Tax Return  
Suggested Form 2E/G to be filed with the City's Chief Financial Officer

Enclosed is a suggested "Municipal Transfer Replacement Tax Form" for filing with the chief financial officer of the city. The filing is required under Iowa tax law. Along with Form 2E/G, we have enclosed a two-sided set of "Notes and Instructions." This report is due March 31, 2010. For many municipal utilities, the person who completes the report is the chief financial officer of the city who is to receive the report.

**Please do not send this report to the Department of Revenue or to IAMU.**

Transfer replacement tax rates for 2009 may be found in December 16, 2009 edition of the Iowa Administrative Bulletin. The information may be accessed at the following web address: <http://www.legis.state.ia.us/asp/ACODOCS/DOCS/12-16-2009.Bulletin.pdf>. If you do not have web access and want to know the applicable rate or if you have any questions, please call Bob Haug or Amanda James at IAMU (800-810-4268).

**MUNICIPAL TRANSFER REPLACEMENT TAX RETURN**

This report must be filed with the Chief Financial Officer of the city by March 31, 2010

Step 1: Report the total taxable kilowatt-hours of electricity delivered by the taxpayer during 2009 within a competitive service area subject to a municipal electric transfer replacement tax.

Service Area	KWh Delivered	Municipal Electric Transfer Tax Rate	Municipal Electric Transfer Tax
_____	_____ x	_____ =	\$ _____

Step 2: Report the total taxable therms of natural gas delivered by the taxpayer during 2009 within a competitive service area subject to a municipal natural gas transfer replacement tax.

Service Area	Therms Delivered	Municipal Gas Transfer Tax Rate	Municipal Gas Transfer Tax
_____	_____ x	_____ =	\$ _____

Steps 3 and 4 are for municipal utility taxpayers only.

Step 3: Report the total transfers made by the taxpayer under section 384.89 during 2009.

Service Area	Electric Transfers	Natural Gas Transfers
_____ \$	_____ \$	_____

Step 4: Report the average amount of transfers made by taxpayer under section 384.89 during the preceding five calendar years. These transfers can be used as a credit against municipal transfer replacement tax calculated in steps 1 and 2.

Average Electric Transfers	Average Gas Transfers
\$ _____	\$ _____

Step 5: Subtract the average amount of transfers in step 4 from the transfer tax subtotals in steps 1 and 2.

Subtotal – Step 1 (Electric Transfer Tax)	\$ _____
Minus Average Electric Transfers	\$ ( _____ )
Total	\$ _____
Subtotal – Step 2 (Gas Transfer Tax)	\$ _____
Minus Average Gas Transfers	\$ ( _____ )
Total Tax	\$ _____

ATTESTATION

I \_\_\_\_\_ certify that I that I am the Company Representative responsible for this report, that to the best of my knowledge, information, and belief, all statements of

fact contained in said report are true and said report is a correct statement of the business and affairs of the above-named respondent with respect to each and every matter set forth herein.

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Signature of Authorized Representative

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Title

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Street Address

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City, State, Zip Code

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Date

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Telephone Number

SUBMIT THIS FORM ON OR BEFORE March 31, 2010 TO THE CHIEF FINANCIAL OFFICER OF THE CITY

## Municipal Transfer Replacement Tax Return Notes and Instructions

This tax return is filed by the municipal utility with the chief financial officer of the city. It is used to report transfer taxes and, for municipal utility filers, the transfer tax credit. In the case of a municipal utility governed by a city council, as opposed to one governed by a board of trustees, the report is a completely internal process. The form would also be used by certain self-generators<sup>1</sup> of electricity and by anyone delivering gas over their own pipeline facilities within the competitive service area of a municipal gas utility. In the event that a law authorized retail competition, competitive electric or gas suppliers might also use the form. This would only be the case if the law allowed an agent other than the municipal utility to deliver gas or electricity in the municipal utility's competitive service area.

The intent of the transfer replacement tax is to ensure that transfers of excess funds made in accordance with section 384.89 could continue in a competitive retail market. In the absence of a transfer replacement tax, loss of customers to a competing supplier could either reduce the ability of the municipal utility to sustain the same level of transfers or would shift the transfer burden to remaining customers. This tax converts transfers into a tax paid on all taxable deliveries, regardless of who made the delivery.

The intent of this tax provision is that transfer taxes equal transfers for the tax year. However, the transfer tax rate is based on a five-year floating average of transfers, while the tax itself is based on deliveries in the single tax year. A single year's deliveries may be higher or lower than the recent average, depending on weather and other changes in load. Consequently, the credit may be higher or lower than the tax. The tax and credit can be balanced by adjusting current year transfers, assuming the total transfer is not set by a formula. Alternatively, the agreement for transferring funds should provide for the balance or deficit to carry-over for adjustment in a later year.

Step 1. Enter the name of the municipal utility. For municipal electric utilities, "competitive service area" and "service area" mean the exclusive service territory established in accordance with rules of the Iowa Utilities Board.

The line "kWh Delivered" refers to taxable deliveries of electricity. Electricity used by the municipal utility or other departments of the city is not subject to the tax and is not considered in establishing the rate.

The "Municipal Electric Transfer Tax Rate" is the rate published by the Department of revenue, based on the utility's annual filing (by August 31) of the transfer replacement tax rate.

Step 2. Enter the name of the municipal gas utility. For municipal gas utilities, "competitive service area" and "service area" mean the competitive service area

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<sup>1</sup> Self-generation is treated as a delivery; however, an exemption applies to self-generation from units operating at or below a 20 percent net capacity factor. For example a backup generator at a hospital or business would not likely be subject to replacement taxes, because those generators would not be running 20 percent of the time.

established in the utility replacement tax legislation, passed in 1998 and effective January 1, 1999. The competitive service area is defined only for replacement tax purposes. It is not an exclusive service area and the municipal gas utility could extend facilities beyond its competitive service area. In general, the competitive service area was defined by identifying an area extending beyond the current corporate limits or, where another gas utility serves customers near the city, the midpoint between the municipal gas utility's facilities and those of the other gas utility. In some cases the preference of the municipal gas utility was to designate the corporate limits as the competitive service area. If you are unsure of the area in which the transfer replacement tax applies, you can find the description of each city's area in section 437A.3(19).

The line "Therms Delivered" refers to taxable deliveries of gas. Gas used by the municipal utility or other departments of the city is not subject to the tax and is not considered in establishing the rate.

The "Municipal Gas Transfer Tax Rate" is the rate published by the Department of revenue, based on the utility's annual filing (by August 31) of the transfer replacement tax rate.

Step 3. Total transfers are only those made under section 384.89<sup>2</sup>. Do not include non-cash transfers, such as the value of free or discounted street lighting. Under section 437A.4(4) provision is made for the governing body of the utility to exclude all or portions of excess fund transfers from the reported amounts.

Step 4. The average of 384.89 transfers for the five years preceding the year of filing becomes a credit to the municipal utility's replacement tax. This is the same information needed in filing the transfer replacement tax report on or before August 31.

Step 5. Calculate the transfer replacement tax. Adjust current year's transfers as necessary. For example, if deliveries were unusually high and resulted in a tax that was substantially above the 5-year average, the current year transfers could be reduced to cover the amount of tax in excess of the credit.

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<sup>2</sup> 384.89 Transfer of surplus. The governing body of a city utility, combined utility system, city enterprise, or combined city enterprise which has on hand surplus funds, after making all deposits into all funds required by the terms, covenants, conditions, and provisions of outstanding revenue bonds, pledge orders, and other obligations which are payable from the revenues of the city utility, combined utility system, city enterprise, or combined city enterprise and after complying with all of the requirements, terms, covenants, conditions and provisions of the proceedings and resolutions pursuant to which revenue bonds, pledge orders, and other obligations are issued, may transfer such surplus funds to any other fund of the city in accordance with any rules promulgated by the city finance committee created in section 384.13 if the transfer is also approved by the city council, provided that no transfer may be made if it conflicts with any of the requirements, terms, covenants, conditions or provisions of any resolution authorizing the issuance of revenue bonds, pledge orders, or other obligations which are payable from the revenues of the city utility, combined utility system, city enterprise, or combined city enterprise which are then outstanding.