

Duke Energy Ohio Personal Property Tax Issue: Frequently Asked Questions

Q: What is this I hear about Duke Energy not paying its taxes in Ohio?

A: Duke Energy willingly pays its fair share of taxes and understands that paying taxes is a cost of doing business. However, like most taxpayers, we do not want to pay more than what is fair and accurate. We disagree with the Ohio Department of Taxation's 2009 assessment on our tangible personal property. The law allows all taxpayers to challenge an assessment they believe is inaccurate, and to make payments on what the taxpayers believe *is* accurate while working through the appeals process. That is what has happened with Duke Energy Ohio.

Q: So Duke Energy isn't paying its taxes?

A: Duke Energy is paying 90 percent of the full-year assessed value as we work through the appeals process with the Ohio Department of Taxation.

Q: What is the tangible personal property tax?

A: The value of tangible personal property for utilities is assessed each year in Ohio. The state then levies a tax on the assessed value of the property, such as poles, wires and lines, devices and machinery. It is separate from the tax on "real" property such as buildings and land, on which Duke Energy is separately assessed and pays additional taxes.

Q: When do utilities pay tangible personal property taxes?

A: Payments on the previous year's assessments are made in two installments the following year. Duke Energy makes its payments to the various county treasurers, normally in the first and third quarters of the year. For instance, the 2009 tax year assessment is paid in the first and third quarters of 2010.

Q: The economy is so bad and the communities that depend on this tax money already are facing revenue shortfalls. What prompted Duke Energy to look at this issue now?

A: The same economy that has been placing strains on other companies and taxpayers in general also has impacted Duke Energy. Our personal property tax appeal is no different than you filing an appeal on the assessed value on your property. If you felt that too high a value were placed on your property, you would want to correct that by stating your case on why a lower value is fair and accurate. We are doing the same thing; it is the prudent thing to do and every citizen (corporation or individual) has this same right under the laws in Ohio. The only difference in our appeal is that our numbers are larger.

We understand paying property taxes is part of the cost of doing business, and we have and willingly continue to pay our fair share. But we cannot pay more than what is accurate.

Q: If Duke Energy is challenging its 2009 tax bill, why is it just now withholding payments? Why didn't you tell schools sooner?

A: Ohio law allows either the state or the taxpayer to request fair market value adjustments on the taxpayer's assessed value, and that is what Duke Energy has requested. Over the past several months, we have worked through the process established by the state of Ohio to challenge our 2009 assessment. Unfortunately, we did not resolve the dispute and were facing deadlines to make our next payments. As soon as we made a decision to base our payments on our analysis rather than the proposed state valuation, as the law allows, we reached out to communities to let them know.

In the meantime, the appeal process continued.

In July, Duke Energy and the Ohio Department of Taxation reached a compromise that reflects a show of good faith by both sides during the appeal process. Under the agreement, Duke Energy agreed to cut by half the amount it previously planned to withhold. Under this agreement, Duke Energy will voluntarily pay 90 percent of the full-year 2009 tax assessment, inclusive of the initial payments we made in the first quarter, during the appeals process. For its part, the Ohio Department of Taxation has briefly extended the date for an administrative hearing on the dispute.

This compromise gives everyone some breathing room during the appeals process.

Q: Why not just pay 100 percent of the assessment while the appeal is continuing?

A: Duke Energy believes the assessment is inaccurate. Withholding a portion of the disputed amount is the prudent thing to do. If it is determined that the value of the personal property is lower than the assessment, communities would owe Duke Energy a refund on what the company overpaid, plus interest.

Q: What happens if it is determined that the value of Duke Energy's personal property is different than what was initially assessed?

A: If it is determined that the value of the personal property is lower than the assessment, communities would owe Duke Energy a refund on what the company overpaid, plus interest. If that is the case, Duke Energy will work with communities to develop a payment schedule that best suits the needs of the parties in accordance with the laws in Ohio.

Similarly, if it is determined that the initial assessment is accurate, Duke Energy would owe additional tax payments, plus interest.

Q: When will communities get the payments? Does Duke Energy owe interest on what it already has held back?

A: Each county has its own schedule for tax payments and distribution. Duke Energy already has made some of its second-half payments and is currently working with county tax administrators to process additional payments to reflect the company's decision to pay on 90 percent of the full-year assessment while this is in the appeals process. No interest is owed on this payment at this time, as the value of the personal property remains in dispute. Should the original valuation be upheld, Duke Energy would owe additional tax payments plus interest.

Q: If Duke Energy succeeds in getting Ohio to reduce the value of its personal property, what will the dollar impact be in 2010? What about in 2011?

A: The company is focused on the 2009 tax year at this time and wants to resolve the current dispute before considering plans for future tax years.