

# KILOWATT HOUR TAX

The kilowatt-hour tax, and its companion self-assessor option tax, was created by Sub. SB 3 (123<sup>rd</sup> General Assembly) as part of electric utility de-regulation. This tax, effective May 1, 2001, replaces the public utility excise tax on electric and rural electric companies and the tax losses from the reduction in electric and rural electric tangible personal property tax assessment rates.

The kilowatt-hour tax is levied on electric distribution companies with end-users in this state. It is based on a declining three-tiered block of kilowatt-hour consumption of each individual end-user of electricity. For certain large consumers of electricity, there exists a self-assessor option tax. This tax is partially based on price and partially based on consumption. Companies that previously provided both electric and natural gas (or other utility) service must separate out the electric operations from the other services they provide.

The tax is paid monthly. The first payment was in June 2001 and was based upon May 2001 liability. Therefore, only one-month's revenue was received during FY 2001.

Amended Sub. SB 287 (123<sup>rd</sup> General Assembly) made several changes to the tax prior to its taking effect. First, it lowered the threshold to qualify as a self-assessor and "capped" the consumption portion of the self-assessor tax. It provided that the exempt qualified end-users will remit tax on the non-qualified portion of the electricity consumption. An exemption was enacted for qualified re-generation facilities. It also allows for businesses to declare that they will have enough electricity consumption in the upcoming year so they may self-assess, with a recapture tax if that business fails to meet the self-assessor threshold. The bill also contained a provision that if a self-assessor is served by a municipal electric utility and is located within that municipality, the tax will be remitted to that municipality.

House Bill 94 (124<sup>th</sup> General Assembly) also made several changes to the tax. First, it made a clarification to the "cap" on the consumption portion of the self-assessor option tax that was enacted under Sub. SB 287. It also clarified the annual application process for the self-assessor option. Several administrative and technical corrections were also made to the methodology of the school district property tax replacement fund and the local government property tax replacement fund operations. House Bill 94 also "froze" the local govern-

ment fund and the local government revenue assistance funds. In general, these funds were frozen at their FY 2001 level for the FY 2002 and FY 2003 monthly distribution. However, since the kilowatt-hour tax was not in effect for the whole of FY 2001, there will be no distributions from the revenue to either of these two funds.

## **TAX BASE (R.C. 5727.81):**

The kilowatt-hour tax has two bases.

1. For end-users below 45 million kilowatt-hours of annual consumption the base is on the amount of kilowatt-hours distributed to them per month.
2. For end-users above 45 million kilowatt-hours of annual consumption who opt to self-assess the base is partially based on the number of kilowatt-hours distributed to them per month and partially on the total price per month. The consumption portion of this option is capped at the first 504 million kilowatt-hours distributed to the end-user annually.

## **EXEMPTIONS AND DEDUCTIONS (R.C. 5727.80, 5727.81):**

1. Exempt end-users of electricity:
  - a. Federal government
  - b. End-users located at a federal facility that uses electricity to process uranium
  - c. The qualified use of electricity used by a qualified end-user
  - d. Qualified re-generation facilities

## **CREDITS:**

There are no credits applicable to this tax.

## **RATES (R.C. 5727.81):**

1. Electric distribution companies pay rates based on the monthly consumption by each end-user, using the following schedule:

Monthly Kilowatt-Hours Distributed to the End-User	Rate per Kilowatt-Hour
0–2,000 kilowatt-hours	\$0.00465
2,001 – 15,000 kilowatt-hours	\$0.00419
Over 15,001 kilowatt-hours	\$0.00363

- For end-users above 45 million kilowatt-hours in annual consumption, there is an option to self assess the tax. This self-assessor tax is calculated as the sum of 4% of the total price plus 0.75 mills on the first 504 million kilowatt-hours of annual consumption.

**FILING AND PAYMENT DATES (R.C. 5727.82):**

For kilowatt-hour and self-assessor taxpayers, the filing date is the twentieth day of each month. The payment will reflect the amount of electricity distributed to the end-users during the preceding month.

An annual application for registration as a self-assessing purchaser shall be made for each qualifying meter or location on a form prescribed by the tax commissioner. The registration year begins on the first day of May and ends on the following thirtieth day of April. Persons may apply after the first day of May for the remainder of the registration year.

**DISPOSITION OF REVENUE (R.C. 5727.84):**

<u>Fund</u>	<u>Percentage</u>
1) General Revenue Fund	59.976%
2) Local Government Fund <sup>(1)</sup>	2.646
3) Local Government Revenue <sup>(1)</sup> Assistance Fund	0.378
4) School District Property Tax Replacement Fund	25.900
5) Local Government Property <u>Tax Replacement Fund</u>	<u>11.100</u>
Total Distribution	100.000%

<sup>(1)</sup>House Bill 94 (124<sup>th</sup> General Assembly) temporarily “froze” the Local Government and Local Government Revenue Assistance Funds (See the Local Government Funds section). In general, the funds are frozen at their FY 2001 level for FY 2002 and FY 2003. Since the kilowatt-hour tax was in effect for only one-month of FY 2001, no distributions to those two funds will be made during the FY 2002 and FY 2003 period from the tax.

**OHIO REVISED CODE CITATIONS:**

Chapter 5727

**RECENT LEGISLATION:**

**House Bill 94; Effective September 6, 2001 (Biennial Budget Bill).**

**R.C. 5727.81, 5727.82, et al. – Effective January 1, 2003.** Transfers functions previously assigned to the Treasurer of State (particularly tax payment functions) to the Tax Commissioner.

**R.C. 5727.81** – Clarifies the cap on the consumption portion of the self-assessor tax. Also, clarifies the annual application process for the self-assessors.

**R.C. 5727.84-5727.87** – Provides for several technical and administrative changes to the method of school district property tax replacement and local government property tax replacement fund operations.

**Section 140 (Temporary Law)** – Provides for a temporary freeze on the distributions of the local government and local government revenue assistance funds. No kilowatt-hour tax revenue is to be distributed to these funds during FY 2002 and FY 2003.

**Am. Sub. Senate Bill 287, Effective December 21, 2000.**

**R.C. 5727.81** – Lowered the self-assessor threshold from 120 million kilowatt-hours of annual consumption to 45 million kilowatt-hours. Capped the consumption portion of the self-assessor tax formula at 504 million kilowatt-hours of annual consumption. Allows businesses to declare that they will have enough electricity consumption in the upcoming year so they may self-assess. Provides for a “re-capture” tax if the taxpayer fails to meet the self-assessor threshold.

**R.C. 5727.81 and 5727.82** – Provides that the qualified end-user will remit tax (either as a self-assessor or via its electricity distributor under the kilowatt-hour tax) on the non-qualified portion of their electricity consumption.

**R.C. 5727.81** – Provides for an exemption from the tax for qualified re-generation facilities.

**R.C. 5727.81** – If a self-assessor is served by a municipal electric company and is within the municipal boundary, the taxpayer will remit the self-assessor tax to the municipality.

**R.C. 5727.81** – Requires that electric distribution companies “un-bundle” the charges for electricity from other services provided for self-assessor tax purposes.

**Substitute Senate Bill 3, Effective October 5, 1999 (Electric Restructuring Bill).**

**R.C. 5727.38** – Among the many provisions of this bill, removes electric and rural electric companies from the public utility excise tax effective with the June 2001 payment.

**R.C. 5727.80 – 5727.99 – Effective May 1, 2001.** The kilowatt-hour tax enacted.

**Table 45  
Kilowatt-Hour Tax Collections and Distributions for FY 2001<sup>1</sup>  
(in millions)**

Fiscal Year	Total Collections	State General Revenue	Local Government Fund	Local Government Revenue Replacement Fund	School District Property Tax Assistance Fund	Local Government Property Tax Replacement Fund
2001	\$38,026,260	\$22,806,630	\$1,006,175	\$143,739	\$9,848,801	\$4,220,915

<sup>(1)</sup> This tax was in effect starting May 1, 2001. Only one months' collection occurred in FY 2001.