

## Kilowatt-Hour Tax

The kilowatt-hour tax, and its companion self-assessor option tax, was created by Sub. S.B. 3, 123<sup>rd</sup> General Assembly, as part of electric utility de-regulation. This tax, effective May 1, 2001, replaced the public utility excise tax on electric and rural electric companies. It also replaced 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 levies one of three rates depending on the kilowatt-hour consumption of the 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 provide both electric and other services must separate the charges for electricity 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. In FY 2003, the tax generated approximately \$538.8 million in total revenue.

Am. Sub. S.B. 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 nonqualified portion of the electricity consumption. An exemption was enacted for qualified re-generation facilities. It also allowed 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 the municipality (see **Municipal Income Tax for Electric Light Companies and Telephone Companies** chapter).

H.B. 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. S.B. 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 operations of the School District Property Tax Replacement Fund and the Local Government Property Tax Replacement Fund. H.B. 94 also “froze” the Local Government Fund and the Local Government Revenue Assistance Fund. In general, these funds were frozen at their FY 2001 level for the FY 2002 and FY 2003 monthly distributions. However, since the kilowatt-hour tax was not in effect for the whole of FY 2001, there were no distributions from the revenue to either of these two funds.

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

1. For end-users that do not self-assess, the base is on the amount of the 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):

Exempt end-users of electricity:

- Federal government;
- End-users located at a federal facility that uses electricity to process uranium;
- The qualified use of electricity used by a qualified end-user; and
- 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
2001 – 15,000 kilowatt-hours	\$0.00419
Over 15,000 kilowatt-hours	\$0.00363

2. 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 percent of the total price plus \$.00075 per kilowatt-hour on the first 504 million kilowatt-hours of annual consumption.

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

For kilowatt-hour and self-assessing taxpayers, the filing date is the 20<sup>th</sup> 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 on a form prescribed by the Tax Commissioner. The registration year begins on the first day of May and ends on the following 30<sup>th</sup> 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):**

<b>Fund</b>	<b>Percentage</b>
a) General Revenue Fund	59.976%
b) Local Government Fund*	2.646
c) Local Government Revenue Assistance Fund*	0.378
d) School District Property Tax Replacement Fund	25.400
e) Local Government Property Tax Replacement Fund	11.600
<b>Total Distribution</b>	<b>100%</b>

\*H.B. 94, 124<sup>th</sup> General Assembly, temporarily froze the Local Government and Local Government Revenue Assistance Funds (see the **Local Government Funds, State and County** chapter). In general, the funds were 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 from the tax were made to those two funds during the FY 2002 and FY 2003 periods.

**OHIO REVISED CODE CITATIONS:**

Chapter 5727.

**RECENT LEGISLATION:**

**Am. Sub. H.B. 95, 125<sup>th</sup> General Assembly (effective July 1, 2003, FY 2004-2005 Biennial Budget Bill).**

**Section 139 –**

For the period July 1, 2003, through June 30, 2005, no amounts shall be credited to the Local Government Fund or the Local Government Revenue Assistance Fund. Such amounts shall be credited to the General Revenue Fund.

**Sub. H.B. 129, 124<sup>th</sup> General Assembly (effective June 3, 2002).**

**R.C. 5727.84 –**

Reduced the distribution to the School District Property Tax Replacement Fund from 25.9 percent to 25.4 percent and increased the distribution to the Local Government Property Tax Replacement Fund from 11.1 percent to 11.6 percent.

**Am. Sub. H. B. 94, 124<sup>th</sup> General Assembly (effective September 6, 2001, FY 2002-2003 Biennial Budget Bill).**

**R.C. 5727.81, 5727.82, et al. –**

Effective January 1, 2003, transferred functions previously assigned to the Treasurer of State (particularly tax payment functions) to the Tax Commissioner.

**R.C. 5727.81 –**

Clarified the cap on the consumption portion of the self-assessor tax and the annual application process for the self-assessors.

**R.C. 5727.84 - 5727.87 –**

Provided for several technical and administrative changes to the method of School District Property Tax Replacement Fund and Local Government Property Tax Replacement Fund operations.

**Section 140 (Temporary Law) –**

Provided for a temporary freeze on the distributions of the Local Government Fund and Local Government Revenue Assistance Fund. No kilowatt-hour tax revenue was distributed to these funds during FY 2002 and FY 2003.

**Am. Sub. S.B. 287, 123<sup>rd</sup> General Assembly (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. Allowed businesses to declare that they will have enough electricity consumption in the upcoming year so they may self-assess. Provided for a recapture tax if the taxpayer fails to meet the self-assessor threshold.

**R.C. 5727.81 and 5727.82 –**

Provided 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 nonqualified portion of their electricity consumption.

**R.C. 5727.81 –**

Provided for an exemption from the tax for qualified re-generation facilities.

**R.C. 5727.81 –**

Provided that 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 –**

Required that electric distribution companies “un-bundle” the charges for electricity, from other services provided, for self-assessor tax purposes.

**Table**  
**Kilowatt-Hour Tax Collections and Distributions**  
**Fiscal Years 2001 – 2003**

Fiscal Year	Total Collections	State General Revenue Fund	Local Government Fund	Local Government Revenue Assistance Fund	School District Property Tax Replacement Fund	Local Government Property Tax Replacement Fund
2003 <sup>(a)</sup>	\$538,798,600	\$339,443,118	0 <sup>(a)</sup>	0 <sup>(a)</sup>	\$136,854,845 <sup>(b)</sup>	\$62,500,637 <sup>(b)</sup>
2002 <sup>(a)</sup>	513,846,350	323,723,200	0 <sup>(a)</sup>	0 <sup>(a)</sup>	132,893,346	57,229,804
2001 <sup>(c)</sup>	38,026,260	22,806,630	1,006,175	143,739	9,848,801	4,220,915

(a) There were no distributions made to the Local Government or Local Government Revenue Assistance Funds. See **Local Government Funds, State and County** chapter for further information.

(b) Distribution rates changed June 3, 2002.

(c) This tax became effective starting May 1, 2001. Only one months' collection occurred in Fiscal Year 2001.

Source: Department of Taxation, as reported on tax returns.

