

# KILOWATT - HOUR TAX

The kilowatt-hour tax and its companion self-assessor option tax were created by Substitute Senate Bill 3, 123<sup>rd</sup> General Assembly, as part of electric utility deregulation. 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 Fiscal Year 2006, the tax generated approximately \$557.2 million in total revenue.

Amended 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 regeneration 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 the **Municipal Income Tax for Electric Light Companies and Telephone Companies** chapter).

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. 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 the local government funds.

The freeze on the local government funds was continued in FY 2004 and FY 2005 under the provisions of H.B. 95, the FY 2004-2005 biennium budget bill.

This freeze was continued again in FY 2006 and FY 2007 under the provisions of H.B. 66, 126<sup>th</sup> General Assembly, the FY 2006-2007 biennium budget bill. During FY 2006 and FY 2007, the amounts of the kilowatt-hour tax going to the local government funds are designated in the budget bill.

## TAXPAYER:

Electric distribution companies with end users in Ohio are subject to the kilowatt-hour tax. The tax is also paid by certain large commercial and industrial end users ("qualified end users") that consume more than 45 million kilowatt-hours of electricity during a calendar year. Qualified end users can register to self-assess the tax.

## TAX BASE (OHIO REVISED CODE 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, it 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 during each registration year.

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

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

Exempt end users of electricity are:

- the federal government;
- end users located at a federal facility that uses electricity to process uranium;
- qualified use of electricity by a qualified end user; and
- qualified regeneration facilities.

## CREDITS:

None.

## 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 Com-

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missioner. The registration year begins on May 1 and ends on the following April 30. Persons may apply after May 1 for the remainder of the registration year.

**ADMINISTRATION:**

The Tax Commissioner administers the kilowatt-hour tax and makes revenue payments to the various funds.

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

Fund	Percentage
(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>100.0%</b>

\*H.B. 94, 124th 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.

This freeze was continued in FY 2004 and FY 2005 under H.B. 95, 125th General Assembly. The freeze was continued again in FY 2006 and FY 2007 by H.B. 66. Revenue going to the local government funds during these years is based on amounts specified in the budget bill.

**OHIO REVISED CODE CITATIONS:**

Chapter 5727.



**Amended Sub. H.B. 66, 126th General Assembly (FY 2006-2007 biennium budget bill; this provision effective September 29, 2005). R.C. 5727.84 (C) (3):**

Provided that revenues from the kilowatt-hour tax are paid into a fund that is then divided between the General Revenue Fund and several other funds. Prior law provided that if the revenues raised by the tax fell below certain amounts, the amount of tax payable into the General Revenue Fund would be decreased in order to make up the lost revenue in the other funds. This law was repealed and there will be no reduction in the amount of tax credited to the General Revenue Fund.

TABLE  
KILOWATT-HOUR TAX COLLECTIONS AND DISTRIBUTIONS  
FISCAL YEARS 2002-2006

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
2002	\$513,251,495	\$323,348,442	0	0	\$132,741,040	\$57,162,014
2003	539,448,630	339,852,637	0	0	137,019,952	62,576,041
2004	538,044,462	338,961,216	0	0	136,668,104	62,415,142
2005	539,354,909	339,793,592	0	0	136,996,147	62,565,170
2006	557,166,445	325,307,962	\$22,493,535	\$3,213,362	141,520,356	64,631,229