Kilowatt-Hour Tax

The kilowatt-hour tax (kWh) was created by the Ohio General Assembly in 2001 as part of a broader legislative effort to deregulate electric utilities. The tax, effective May 1, 2001, replaced the public utility excise tax on electric and rural electric companies. It was also designed to replace revenues lost from the reduction of assessment rates on electric and rural electric tangible personal property.

The kilowatt-hour tax is levied on electric distribution companies with end users in this state. The tax has tiered rates that vary according to the kilowatt-hour consumption of individual end users of electricity. For certain large consumers of electricity, a self-assessor option exists that 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. During fiscal year 2015, the tax generated approximately $539.8 million in total revenue.

Taxpayer

(Ohio Revised Code 5727.80, 5727.81)

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 (self-assessing purchasers) that consume more than 45 million kilowatt-hours of electricity during a calendar year. Self-assessing purchasers must qualify and register to self-assess the tax.

Tax Base

(R.C. 5727.81)

The kilowatt-hour tax has two bases with payment determined by the number of kilowatt hours (kWh) distributed to end users in Ohio.

Rates

(R.C. 5727.81)

Electric distribution companies pay rates based on their monthly distribution to each end user. The rates are tiered according to the amount of kilowatt-hours the individual end user consumes, as shown in the following schedule:

Monthly Distribution	Rate per kWh
The first 0 – 2,000 kWh	0.465 cents
The next 2,001 – 15,000 kWh	0.419 cents
For 15,001 kWh and above	0.363 cents

End users above 45 million kWh in annual consumption may register to self-assess the tax.

Self-assessors pay 0.257 cents per kWh on the first 500 million kWh and 0.1832 cents per kWh for each kWh in excess of 500 million.

Exemptions

(R.C.5727.80, 5727.81)

The kWh tax does not apply to:

- the federal government;
- end users located at a federal facility that uses electricity for the enrichment of uranium;
- qualified use of electricity by qualified end users in qualified manufacturing processes; and
- qualified regeneration meters.

Credits

None.

Special Provisions

(R.C.5727.81)

In cases where self-assessing purchasers are served by a municipal electric utility and are located within that municipality, the tax is remitted to the municipality rather than the state.

Filing and Payment Dates

(R.C. 5727.82)

For kilowatt-hour and self-assessing taxpayers, the filing date is the 20th day of each month. Payments reflect the amount of electricity distributed to the end users during the preceding month. To register as a sell-assessing purchaser, end users must submit an application and pay a $500 fee before May 1. The registration year begins on May 1 and ends on the following April 30.

Disposition of Revenue
(R.C. 5727.84)

General Revenue Fund	88%
School District Property Tax Replacement Fund	9%
Local Government Property Tax Replacement Fund	3%
Total Distribution	**100%**

Administration
The Tax Commissioner administers the kilowatt-hour tax.

Ohio Revised Code Citations
R.C. 5727.80.

Recent Legislation
House Bill 492, 130th General Assembly, interest on refund claims, effective Sept. 17, 2014.

Amended R.C. 5727.91 to require the payment of interest on all kWh tax refunds. Under prior law, interest was only authorized on refunds of taxes paid on an illegal or erroneous assessment.

House Bill 64, 131st General Assembly (FY 2016-2017 Biennal Budget Bill; budget provisions effective July 1, 2015).

Amended R.C. 5727 so that the disposition of revenue is in R.C. 5727.81. All revenue arising from the tax shall be credited to the General Revenue Fund.

Comparisons with Other States
(As of July 1, 2015)

Georgia, Indiana, Kentucky, Michigan, North Carolina, Pennsylvania, Tennessee, Texas and West Virginia do not have specific taxes on the volume of electricity consumed or distributed. In these states, electric companies may be subject to public utilities gross receipts taxes or general business taxes.

History of Major Changes

1999	SB 3 established the kilowatt-hour tax effective May 1, 2001.
2000	SB 287 enacted the following changes: • lowers the self-assessor tax threshold from 120 million kWh of annual consumption to 45 million kWh. • caps the consumption portion of the self-assessor tax formula to 504 million kWh of annual consumption. • establishes an exemption for "qualified regeneration facilities." • allows businesses to declare that they will have enough electricity consumption in the upcoming year to self-assess and provides for a "recapture" tax if the taxpayer fails to meet the self-assessor threshold. • requires self-assessors served by a municipal electric company and located within the municipal boundary to remit the self-assessor tax to the municipality.
2002	Effective June 2, 2002, HB 129 reduced the School District Property Tax Replacement Fund's share from 25.9 percent to 25.4 percent and increased the Local Government Property Tax Replacement Fund's share from 11.1 percent to 11.6 percent.
2007	Under HB 119, the General Revenue Fund's share of the kilowatt-hour tax is changed to 63 percent. Also, the General Assembly reduced the price component for the tax paid by self-assessing purchasers from 4.0 percent to 3.5 percent effective July 1, 2008.
2009	HB 1 eliminated the price-based component of the self-assessment calculation effective Jan. 1, 2011 in favor of a flat rate of 0.257 cents per kWh on the first 500 million kWh and 0.1832 cents per kWh for each kWh in excess of 500 million.
2011	HB 153 changed the percentage of distribution to 88 percent to the General Revenue Fund, 9 percent to the School District Property Tax Replacement Fund and 3 percent to the Local Government Property Tax Replacement Fund.

Table 1

Kilowatt-Hour Tax Collections and Distributions: Fiscal Years 2011-2015

Fiscal Year	Total Collections	State General Revenue Fund	Public Library Fund	School District Property Tax Replacement Fund	Local Government Property Tax Replacement Fund
2011	$535,988,378	$153,874,661	$183,798,018	$136,141,048	$62,174,652
2012	537,948,994	294,828,747	178,565,617	48,415,333	16,139,298
2013	547,544,113	307,230,703	174,608,117	49,278,970	16,426,323
2014	544,630,705	306,293,706	172,981,314	49,016,763	16,338,921
2015	539,837,424	292,327,323	182,729,611	48,585,368	16,195,123

Source: Office of Budget and Management monthly accounting report (GL070).