

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

An Act to amend and reenact § 58.1-2901 of the Code of Virginia, relating to electric utility consumption tax.

[H 1202]

Approved

Be it enacted by the General Assembly of Virginia:

1. That § 58.1-2901 of the Code of Virginia is amended and reenacted as follows:

§ 58.1-2901. Collection and remittance of tax.

A. The provider of billing services shall collect the tax from the consumer by adding it as a separate charge to the consumer's monthly statement. Until the consumer pays the tax to such provider of billing services, the tax shall constitute a debt of the consumer to the Commonwealth, localities, and the State Corporation Commission. If any consumer receives and pays for electricity but refuses to pay the tax on the bill that is imposed by § 58.1-2900, the provider of billing services shall notify the State Corporation Commission of the name and address of such consumer. If any consumer fails to pay a bill issued by a provider of billing services including the tax that is imposed by § 58.1-2900, the provider of billing services shall follow its normal collection procedures with respect to the charge for electric service and the tax, and upon collection of the bill or any part thereof shall (i) apportion the net amount collected between the charge for electric service and the tax and (ii) remit the tax portion to the State Corporation Commission and the appropriate locality. After the consumer pays the tax to the provider of billing services, the taxes collected shall be deemed to be held in trust by such provider until remitted to the State Corporation Commission and the appropriate locality.

When determining the amount of tax to collect from consumers of an electric utility that is a cooperative which purchases, for the purpose of resale within the Commonwealth, electricity from a federal entity that made payments during such taxable period to the Commonwealth in lieu of taxes in accordance with a federal law requiring such payments to be calculated on the basis of such federal entity's gross proceeds from the sale of electricity, the provider of billing services shall deduct from each of the respective tax amounts calculated in accordance with § 58.1-2900 an amount equal to the calculated tax amounts multiplied by the ratio that the total cost of the power, including facilities rental, supplied by said federal entity to said cooperative for resale within the Commonwealth bears to said cooperative's total operating revenue within the Commonwealth for the taxable period. The State Corporation Commission may audit the records and books of said cooperative to verify that the tax imposed by this chapter has been correctly determined and properly remitted.

B. A provider of billing services shall remit monthly to the Commission the amount of tax paid during the preceding month by the provider of billing services' consumers, except for (i) amounts added on the bills to utilities owned and operated by municipalities which are collected by the entity providing transmission directly to such utilities (or an association or agency of which the municipality is a member), which they shall remit directly to the Commission and (ii) the portion which represents the local consumption tax, which portion shall be remitted to the locality in which the electricity was consumed and shall be based on such locality's license fee rate which it imposed. Amounts of the tax that are added on the bills to utilities owned and operated by municipalities, which are collected by the entity providing transmission directly to such utilities (or an association or agency of which the municipality is a member), shall be remitted monthly by such entity to the Commission, except that the portion which represents the local consumption tax shall be remitted to the locality in which the electricity was consumed and shall be based on such locality's license fee rate which it imposed.

C. The electric utility consumption tax shall be remitted monthly, on or before the last day of the succeeding month of collection. Those portions of the electric utility consumption tax that relate to the state consumption tax and the special regulatory tax shall be remitted to the Commission; the portion that relates to the local consumption tax shall be remitted to the localities. Failure to remit timely will result in a ten percent penalty.

D. Taxes on electricity sales in the year ending December 31, 2000, relating to the local license tax, shall be paid in accordance with § 58.1-3731. Monthly payments in accordance with subsection C shall commence on February 28, 2001.

E. For purposes of this section, "service provider" means the person who delivers electricity to the consumer and "provider of billing services" means the person who bills a consumer for electric services rendered. If both the service provider and another person separately and directly bill a consumer for electricity service, then the service provider shall be considered the "provider of billing services."

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57 F. The portion of the electric utility consumption tax relating to the local consumption tax replaces
58 and precludes localities from imposing a license tax in accordance with § 58.1-3731 and the business,
59 professional, occupation and license tax in accordance with Chapter 37 (§ 58.1-3700 et seq.) on electric
60 suppliers subsequent to December 31, 2000, except as provided in subsection D. If the license fee rate
61 imposed by a locality is less than the equivalent of the local consumption tax rate component of the
62 consumption tax paid under subsection A of § 58.1-2900, the excess collected by the Commission shall
63 constitute additional state consumption tax revenue and shall be remitted by the Commission to the state
64 treasury. *However, effective January 1, 2003, any locality that failed to comply with the requirements of*
65 *this subsection by December 31, 2000, regarding the local license tax, shall receive the revenues*
66 *generated on or after January 1, 2003, by the local consumption tax component paid under subsection A*
67 *by the citizens of such locality. Such locality shall be entitled to the maximum amount as if the locality*
68 *had imposed the license tax, in accordance with the provisions of § 58.1-3731 at the maximum rate*
69 *allowed, provided that the governing body of such locality adopts an ordinance electing to receive such*
70 *amounts.*

71 G. The Department of Taxation may audit the books and records of any electric utility owned and
72 operated by a municipality (or an association or agency of which the municipality is a member) to
73 verify that the tax imposed by this chapter has been correctly determined and properly remitted to the
74 Commission.

75 **2. That no locality by virtue of this act shall be entitled to receive payment for any tax revenue**
76 **collected prior to January 1, 2003.**