

B. Electric Power, Water and Sewerage Companies (G.S. 105-116)

1. Basis for Taxation

Every person, firm or corporation, domestic or foreign, and jointly owned and operated municipal electric projects established under Chapter 159B, engaged in the business of furnishing electricity, electric lights, current or power are subject to a franchise or privilege tax at the rate of 3.22% of the total gross receipts derived from such business within this state, less certain statutory deductions. Public sewerage companies are subject to a 6% franchise or privilege tax on total revenues derived from within this state. Water systems are subject to a 4% franchise or privilege tax on total revenues derived from within this state. Receipts received as contributions in aid of construction are not subject to tax.

Companies subject to the 3.22% franchise tax and municipal corporations purchasing power for resale are required to collect and remit to the state a sales tax at the rate of 3% of total billings. Any excess sales tax collected by the vendor is to be remitted to the state.

Electric power companies are not subject to any additional franchise or privilege tax imposed upon it by any city or county as long as the company remits the State franchise tax to the Secretary. (Effective September 24, 2002.)

2. Due Date of the Return and Tax

The returns are due quarterly and should contain, in addition to the other information, the total gross receipts from such business in North Carolina for the preceding calendar quarter. The return is due by the last day of the month that follows the quarter covered by the return. Payments by EFT are required if the company is required to pay tax semi-monthly. Payments are due as follows:

a. Electric Power Companies

Effective January 1, 2002, electric power companies must pay their gross receipts franchise tax in accordance with the same schedule by which they pay sales and use taxes on electricity.

A company that consistently remits at least \$10,000 a month in sales and use tax must pay the taxes twice a month. G.S. 105-241(b)(2) requires semi-monthly payments be made by electronic funds transfer.

Companies that remit between \$100 and \$10,000 a month in sales tax pay on a monthly basis, and all other companies pay on a quarterly basis.

The semi-monthly payment that covers the period from the first of the month to the 15th day of the month is due by the 25th of that month. The semi-monthly payment that covers the period from the 16th day to the end of the month is due by the 10th day of the following month.

Monthly payments are due by the 15th day of the month that follows the month the tax accrues.

A company is not subject to interest and penalty on an underpayment for a semi-monthly or monthly payment period if it timely pays at least ninety-five percent (95%) of the amount due for each period and includes the underpayment with the quarterly return for those semi-monthly or monthly payment periods.

b. Water & Sewerage Companies

Companies pay tax quarterly when filing the quarterly return, which is due by the last day of the month that follows the quarter covered by the report.

3. Forms to be Used for Filing

Form CD-310 is to be used by electric companies. Form CD-318 is to be used by water and sewerage companies.

4. Special Exemption

Municipal corporations are not required to remit a franchise or privilege tax directly to the State, but are required to file returns and remit the utility sales tax of 3%. The total receipts of the vendor subject to franchise tax include sales made to a municipal corporation.

5. Distribution to Municipalities

An amount equal to a tax of 3.09% of local service revenues subject to the franchise tax levied by this Section on electric power companies derived from within a legally incorporated municipality having either elected officials or interim officials appointed by the Legislature and from within Urban Service Districts as defined by the governing board in Chapter 160B, Article 2 is distributed to such municipality within 75 days after the end of the calendar quarter.