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MULTISTATE INDIRECT TAX

Virginia enacts new Data Center Electricity Consumption Tax

Tax Alert

Overview

Effective July 1, 2026, Virginia enacted a new “Data Center Electricity Consumption Tax” as part of the state’s fiscal year 2027-2028 biennial budget bill, House Bill 30 (“H.B. 30”). The Tax is effective for two years, beginning on and after July 1, 2026, through June 30, 2028.

This Tax Alert summarizes the statutory provisions of the Data Center Electricity Consumption Tax, including key definitions, collection and remittance mechanics, the revenue cap and refund framework, and related administration, penalty, and rulemaking provisions.

Imposition of the Data Center Electricity Consumption Tax

The Data Center Electricity Consumption Tax (“Tax”) is governed by Chapter 29 of Title 58.1 of the Code of Virginia (Section 58.1-2900 et seq.), which also governs the existing electricity utility consumption tax imposed on consumers in the Commonwealth. The Tax is imposed on every data center operator at a rate of $0.011 per kilowatt-hour (“kWh”) on all electricity consumed at a data center in the Commonwealth of Virginia, in addition to all other taxes and fees of every kind imposed by law. The Tax applies regardless of how the electricity is sourced, including utility-supplied power, competitive service provider-supplied power, cooperative-supplied power, or self-supplied power. Accordingly, the Data Center Electricity Consumption Tax may be relevant to industries such as technology/hyperscale cloud operators; data center and digital infrastructure real estate investment trusts; colocation providers; and power/utility and competitive retail suppliers.

Key definitions

H.B. 30 defines several terms that establish the scope of the Data Center Electricity Consumption Tax:

- "Data center" means a facility whose primary services are to centralize the storage, management, and processing of digital data, housing computer and network systems, monitoring and managing infrastructure, electrical power and cooling equipment (at least one megawatt of capacity), internet-related equipment, data communications, environmental controls, fire protection, and security systems. A facility whose primary function is to facilitate internet access service or communication service as defined in Section 58.1-647 is excluded.
- "Data center operator" means any person who owns, operates, or occupies a data center in the Commonwealth, or who owns or operates a data center that utilizes self-supplied electricity generation. Where multiple persons qualify as data center operators with respect to a single data center, the person responsible for payment of the

electric utility account for the applicable service point is liable for the tax on electricity delivered through that account, and the person responsible for self-supplied generation is liable for the tax on self-supplied electricity.
- "Electricity consumption tax" means the amount each data center operator shall pay for each kWh used, regardless of whether the electricity is provided through an incumbent electric utility, an incumbent electric cooperative, a competitive service provider ("CSP"), or is self-supplied. For self-supplied electricity, the data center operator must report usage quarterly to the Department of Environmental Quality ("DEQ"), which verifies the usage with the State Corporation Commission ("SCC").
- "Self-supplied" means electricity that is (i) generated at a data center, for use at such data center, and not provided through a utility, cooperative, or CSP, or (ii) otherwise generated for use at a data center and capable of lawful delivery to such data center without a utility, cooperative, or CSP. This definition captures not only on-site generation but also behind-the-fence or nearby generation delivered directly to the data center without passing through a regulated provider.

Compliance timing and obligations

The first collection of the Data Center Electricity Consumption Tax occurs in September 2026 and includes all taxes owed for the period beginning July 1, 2026 through September 1, 2026. Following the initial collection, the Tax is collected monthly pursuant to the standard provisions of the statute.

The collection and remittance obligations depend on the source of the electricity:

- For utility, cooperative, or CSP-supplied power: the electricity provider collects the Tax from the data center operator and remits it monthly to the SCC.
- For self-supplied power: the data center operator remits the Tax directly to the SCC on a monthly return, in the form and manner prescribed by the Commission, due on or before the last day of the month following the month in which the electricity was consumed. The operator must also report usage quarterly to the DEQ for verification.

Revenue cap and refunds

During any fiscal year, no more than $600 million of the revenues from the Data Center Electricity Consumption Tax may be deposited to the general fund. Any revenues in excess of $600 million, less the SCC's administrative costs, are deposited to a special, non-reverting fund administered by the SCC. Moneys remaining in the non-reverting fund at the end of each fiscal year do not revert to the general fund and interest earned on moneys in the fund accrues to the general fund, not to operators.

Beginning in every fiscal year on and after July 1, 2027, the SCC allocates and distributes refunds from excess revenue collections deposited in the prior fiscal year. Each data center operator's refund is determined by its pro rata share of total Tax collections in the fiscal year for which the refund is made. Refunds for operators paying through a utility, cooperative, or CSP are credited to the operator's account by the provider. Refunds for self-supplied electricity are paid directly to the operator by the SCC. No interest is paid on any refund by the Commonwealth, any utility, cooperative, or CSP.

Administration, penalties, and rulemaking

H.B. 30 incorporates the full administrative and enforcement framework of Chapter 29 of Title 58.1, including provisions governing assessment, collection, audit, interest, penalties, and appeal. These provisions apply mutatis mutandis to the new Data Center Electricity Consumption Tax.

In addition to the existing Chapter 29 framework, the SCC is granted authority to issue such additional rules and guidelines as it finds necessary to administer the Tax. The SCC is required to issue guidelines to effectuate the provisions of the statute within 60 days of passage. As of the date of this Tax Alert, those guidelines have not yet been released. Key areas where guidance is expected include:

- The form and manner of monthly returns for self-supplied electricity operators.
- The mechanics of the refund process for excess collections above the $600 million cap.
- The process by which utilities, cooperatives, and competitive service providers identify and classify data center accounts.
- Coordination between the SCC and the DEQ for quarterly usage verification of self-supplied electricity.
- Any additional reporting or documentation requirements for the special non-reverting fund.

Sales and use tax data center exemption

The existing Virginia sales and use tax exemption for data centers was not altered by H.B. 30. The new Data Center Electricity Consumption Tax is a separate obligation imposed under Chapter 29 and does not affect the sales and use tax exemption framework.

Observation

In addition to H.B. 30, Virginia enacted H.B. 921, which, effective July 1, 2026, removed the 1% cap on competitive retail participation in Virginia and lowered the eligibility threshold to 5 megawatts. This may expand the ability of data center operators to procure competitive supply. For operators evaluating a switch from an incumbent utility to a competitive service provider, note that the Data Center Electricity Consumption Tax collection obligation transfers with the change in provider.

Get in touch

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