



Public Utility Excise Tax

Ohio's public utility excise tax is a tax on the privilege of doing business in Ohio, measured by gross receipts, which dates back to 1894.

Classes of utilities liable for the tax include natural gas, heating, pipeline, telegraph, water transportation and water works companies. Companies liable for this excise tax do not pay the commercial activity tax.

Gross receipts comprise the tax base for the utility classes, with rates of 6.75 percent for pipeline companies and 4.75 percent for all other taxpayers.

Close to \$98.8 million in public utility excise tax liabilities were reported during the 2013 tax year. Of this, natural gas companies accounted for about 94 percent of total tax reported.

Total revenue collected from the public utility tax amounted to almost \$106.0 million in fiscal year 2014. All of this revenue was distributed to the General Revenue Fund.

Taxpayer

Taxpayers with public utilities excise tax liability include heating, pipeline, water transportation, water works, and natural gas companies. Although Ohio no longer has telegraph companies, such companies would also be subject to the tax.

Public utilities owned by municipal corporations are exempt from the tax. So are all telephone companies, inter-exchange telecommunications companies, electric companies, rural electric companies, nonprofit water companies and railroads.

Tax Base

(Ohio Revised Code 5727.01)

The tax is measured by taxable gross receipts.

Rates

(R.C. 5727.25 and 5727.38)

The tax rate is 6.75 percent for pipeline companies and 4.75 percent for all other taxpayers. A minimum tax of \$50 applies each tax year.

Exemptions and Deductions

(R.C. 5727.05, 5727.33)

All companies receive a standard annual deduction of \$25,000. Since May 1, 2000, natural gas companies that pay quarterly have instead received a \$6,250 deduction on each quarterly return.

Additionally, the following gross receipts are exempt from the tax:

- amounts attributable to sales of merchandise.
- receipts derived wholly from interstate business.
- sales to other public utilities for resale.
- receipts from business done for the federal government.
- amounts billed on behalf of other entities by natural gas companies.

Credits

(R.C. 5727.29, 5727.241)

Natural gas companies that pay quarterly are able to take a refundable credit against their quarterly payments equal to one-sixtieth of their total estimated payments made in October 1999, March 2000, and June 2000. This credit could first be claimed on the return due Nov. 15, 2001. It will expire when the entire amount of the estimated payments is taken as the credit or in 15 years, whichever comes first.

Also, natural gas companies may claim a refundable or nonrefundable venture capital credit against the excise tax due. The credit amount and tax year in which the venture capital credit may be claimed shall be listed on a tax credit certificate issued by the Ohio Venture Capital Authority.

Filing and Payment Dates

Annual statements – Company annual statements (returns) are due to the Tax Commissioner by Aug. 1 for the tax year ending April 30 (June 30 for telegraph companies). Taxpayers may request an extension of up to 60 days.

Tax certifications – By the first Monday in November, the Tax Commissioner assesses the amount of tax due for the year and certifies that amount both to the company and to the Treasurer of State.

Advance payments (R.C. 5727.25 and R.C. 5727.31) – Companies with a tax liability of \$1,000 or more during the preceding year are required to make three advance pay-

ments, each in an amount equal to one-third of the previous year’s certified tax liability. These advance payments are due to the Treasurer of State on Oct. 15, March 1, and June 1.

Final payments (R.C. 5727.42) – When the current year’s total tax liability exceeds the sum of the three advance payments, a final payment is due for the difference. Bills are generally issued in November, within 20 days of certification by the Tax Commissioner, and are due 30 days after their mailing by the Treasurer of State. A refund is issued if advance payments exceed the total liability certified by the Tax Commissioner.

Natural gas companies – Beginning May 1, 2000, natural gas companies that exceeded \$325,000 in annual liability began paying the excise tax quarterly. Quarterly payments are due 45 days after the end of each calendar quarter.

Natural gas companies below the \$325,000 threshold pay annually, with payment due 45 days after the last day of the fourth quarter.

Disposition of Revenue

(R.C. 5727.45)

Traditionally, by statute, the bulk of public utility excise tax revenue was distributed to the General Revenue Fund, and the remainder was divided among the local government funds. However, House Bill 119, the fiscal year 2008-09 operating budget bill enacted in 2007, revised the structure, formula and the revenue accounting associated with the local government funds.

Beginning in January 2008, all revenues from the public utility excise tax were directed to the General Revenue Fund. For details on the local government fund changes, see the **Revenue Sharing** section of this book.

Administration

The Tax Commissioner administers the tax and certifies to the Treasurer of State the amounts to be collected.

Ohio Revised Code Citations

Chapters 5703 and 5727.

History of Major Changes

1894	Legislature enacts public utility excise tax.
1911	Current tax structure is established.
1935	A 1 percent rate increase is applied to certain utilities.
1938	Rates increased for certain utilities.
1963	Advance payment systems begins.

1966	Starting July 1, 1966, all revenue is allocated to the state’s general revenue fund. Previously, close to half of the revenue was distributed to counties and cities for poor relief and other welfare programs.
1971	Rates are increased from 3 percent to 4 percent for most utilities.
1980	For 1981, rates are temporarily increased from 4 percent to 5 percent for most utilities.
1981	For 1982, rates are temporarily increased from 4 percent to 4.5 percent for most utilities. In addition, a 5.55 percent surtax is imposed on utilities’ 1982 liability.
1982	For 1983, rates are temporarily increased from 4.25 percent to 4.5 percent for most utilities. In addition, a 5.55 percent surtax is imposed on utilities 1983 liability.
1983	For 1983, rates are temporarily increased from 4.5 percent to 5 percent for most utilities. For 1984 and thereafter, rates are permanently increased from 4.25 percent to 4.75 percent for most utilities.
1987	Long-distance telephone companies are exempted from the public utility excise tax.
1991	In response to a 1987 federal district court decision (<i>General American Transportation Corp. v. Limbach</i>), the legislature enacts Senate Bill 156, repealing the tax for freightline and equipment companies as well as interstate toll bridge, artificial gas, union depot, cooling, express and messenger companies, starting with the 1990 tax year.
1999	Legislature enacts Senate Bill 3, which shifts electric and rural electric companies to the kilowatt-hour tax, effective May 1, 2001. Final public utility excise tax payments for such companies are due June 2011.
2003	Legislature enacts House Bill 95, shifting telephone companies from the public utilities excise tax to the corporation franchise tax, effective after the 2004 tax year.

Comparisons with Other States

Indiana	A 1.4% excise tax is imposed on the gross receipts from the sale of electricity, natural gas, water, steam, sewage, or telecommunications services within the state. A 1.4% use tax is imposed on the consumption of utility services purchased from out-of-state providers.
Georgia	All electric, railroad, water, steam, and natural gas companies are subjected to the state's corporate income tax and franchise tax in the same manner as other non-utility corporations. The state charges specific assessments on telecommunication companies to ensure basic services as well as a surcharge on natural gas customers to help pay for services to low-income customers.
Kentucky	Public utilities pay a utility gross receipts license tax for schools of up to 3%. In addition, telecommunications providers pay a 3% telecommunications tax on multichannel video programming (MVP) services, a 2.4% gross revenue tax on MVP services, and a 1.3% gross revenue tax on communications services. ¹
Michigan	The state does not levy a specific public utility excise tax. Utilities organized as C corporations are subject to Michigan corporate income tax. Cities that are organized as corporations with a population over 600,000 may levy a "utility users tax" on utility and intrastate communications service. Detroit levies such a tax at a 5% rate.
North Carolina	Major changes to the state's utility taxes became effective on July 1, 2014. The state repealed its franchise taxes on electric power, water, and public sewerage companies, as well as piped natural gas. Sales of electricity and piped natural gas in the state are subject to the state sales tax (4.75%) and local sales taxes (in most counties, the combined rates amount to 6.75% or 7%). Telecommunication, railroad, transportation, and water and sewerage companies are subject to the state's corporate income tax and general business franchise tax.

Pennsylvania	Electric companies pay a rate of 4.4% on gross receipts, plus a "revenue-neutral reconciliation" rate of 1.5%, for a total rate of 5.9%. Transportation, telecommunications, and telegraph companies pay a rate of 5% on gross receipts comprised of a base rate of 4.5% and a surtax of 0.5%.
Tennessee	Gas, water, and electric utilities pay a utility gross receipts tax rate of 3% on gross receipts from intrastate commerce. Telecommunication companies and oil companies are exempt from that tax. A separate gross receipts tax is imposed at a 3% rate on the gross receipts of other "public utilities." Companies that manufacture or distribute manufactured or natural gas pay a rate of 1.5% on gross receipts. A credit is allowed against liability for franchise and excise taxes paid by the utility.
Texas	Three utility classes (gas, electric, and water) pay utility gross receipts tax rates ranging from 0.581% to 1.997% of gross receipts from business done in incorporated cities or towns, depending upon the population of the incorporated city or town in which the utility operates.
West Virginia	West Virginia levies business and occupation taxes measured by gross receipts on public utilities. Water companies pay tax at a rate of 4.4%. Natural gas companies and toll bridges pay tax at a rate of 4.29%. Other public service/utility businesses pay tax at a rate of 2.86%. Street, inter-urban and electric railways pay at a rate of 1.4%. Electric power companies (producers) pay a rate based on the generating capacity of their electric generating facilities.

¹ The telecommunications tax is being challenged in Kentucky's court system on state constitutional grounds.

Table 1

Public Utility Excise Tax Revenue Fiscal Years 2010-2014.			
Fiscal Year	General Revenue Fund	Refunds	Total
2010	\$136.7	< \$0.1	\$136.7
2011	124.8	0.3	125.1
2012	113.9	2.6	116.5
2013	96.7	0.2	96.9
2014	106.0	< 0.1	106.0

Source: Treasurer of State

Table 2

Public Utility Excise Tax Levied by Class of Utility Tax Years 2009 - 2013							
Class of Utility	Number of Taxpayers	Tax Rate	2009	2010	2011	2012	2013
Natural Gas	31	4.75%	\$158,960,642	\$127,582,454	\$117,578,649	\$92,037,145	\$93,148,668
Waterworks	9	4.75%	3,663,672	2,076,123	1,312,944	3,944,237	4,048,664
Pipeline	11	6.75%	1,108,047	1,000,979	123,570	380,200	246,087
Other ¹	3	4.75%	2,592,214	959,161	537,328	1,537,402	1,305,216
Total	54		\$166,324,574	\$131,618,718	\$119,552,491	\$97,898,984	\$98,748,636

Source: Treasurer of State

¹ Includes water transportation and heating.