

# Public Utility Excise Tax

The public utility excise tax, a tax for the privilege of doing business in Ohio, is payable by most companies that are classified by statute as public utilities. Companies liable for this tax do not pay the corporation franchise tax. Utilities owned by municipal corporations are exempt from the public utility excise 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 others.

Companies with a preceding year's tax liability of \$1,000 or more (except natural gas companies) are liable during each calendar year for three advance payments – each in an amount equal to one-third of the previous year's certified tax liability. When the current year's total tax liability exceeds the sum of the three advance payments, a final payment is due in November for the difference. A refund is issued if the advance payments exceed the total liability.

Natural gas companies whose annual tax liability exceeds \$325,000 file on a quarterly basis, while natural gas companies whose tax liability is less than \$325,000 file annually.

A total of \$269 million in public utility excise taxes was levied for tax year 2002. Telephone companies accounted for about 45.8 percent of total taxes levied, while natural gas companies accounted for about 53.1 percent. These two main public utility classes were responsible for nearly 99 percent of the total excise tax on public utilities.

Of the amounts collected, 1.8 percent was distributed to the Local Government Fund, 12.6 percent was distributed to the Local Government Revenue Assistance Fund and 85.6 percent was distributed to the General Revenue Fund.

H.B. 283, 123rd General Assembly, effective June 30, 1999, created many changes to the public utility excise tax as it applies to the natural gas industry. Since May 1, 2000, some natural gas companies have been paying the excise tax quarterly based upon the previous quarter's gross receipts. The first payment on this new tax schedule was November 15, 2000, and was based on receipts from May 1, 2000 to September 30, 2000. Since then, the payments have been based upon the previous quarter's receipts.

Companies that have an annual tax liability of at least \$325,000 have been paying on this quarterly basis. Natural gas companies below this threshold have been paying annually, with the tax due 45 days from the last day of the fourth quarter of the previous year (with first payment due February 14, 2001). Companies that provide both natural gas and electric services must separate the services from each other so the applicable tax applies. Natural gas companies are also subject to the Mcf (1,000 cubic feet) tax (see **Natural Gas Consumption Tax** chapter).

Am. Sub. S.B. 3, 123rd General Assembly, effective October 3, 1999, was the Electric Utility Deregulation Bill that made numerous tax changes to the industry. A utility company's gross receipts of electric services were no longer subject to the public utility excise tax, effective April 30, 2001. Their last payment under the excise tax schedule was November 2001. The excise tax was replaced by the kilowatt-hour tax (see **Kilowatt-Hour Tax** chapter). The kilowatt-hour tax is remitted monthly, with the first payment made in June 2001, based upon May 2001's liabilities. Electric utilities were subject to the corporation franchise tax, beginning January 2002. Companies that provide both natural gas and electric services must separate the services from each other so the applicable tax applies.

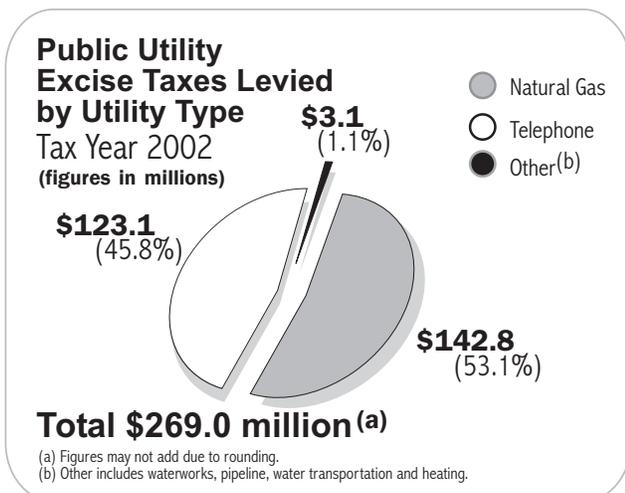
## TAX BASE (R.C. 5727.01):

Gross receipts for all utilities.

## RATES:

Utility Class	Tax Base	Tax Rate
Heating, telegraph, telephone, water transportation, waterworks (R.C.5727.38)	Gross receipts	4.75%
Natural Gas (R.C. 5727.25)	Gross receipts	4.75%
Pipeline (R.C. 5727.38)	Gross receipts	6.75%

There is a minimum tax of \$50 for each tax year (R.C. 5727.25, 5727.38).



**EXEMPTIONS AND DEDUCTIONS (R.C. 5709.35, 5727.05, 5727.33):**

1. Exempt utilities:
  - a) Municipally-owned utilities;
  - b) Nonprofit water companies;
  - c) Inter-exchange telecommunications; and
  - d) Electric companies, rural electric companies, and railroads.
2. For all companies, \$25,000. Since May 1, 2000, natural gas companies that pay quarterly have had a \$6,250 deduction on each quarterly return.
3. Amounts attributable to sales of merchandise.
4. Receipts derived wholly from interstate business.
5. Sales to other public utilities for resale.
6. Receipts from business done for the federal government.
7. Receipts from facilities used to convert coal to gaseous, liquid, or solid fuels, for a period of 30 years.
8. Amounts billed on behalf of other entities by telephone companies.
9. Receipts of telephone companies from sales to other telephone companies for resale.
10. Amounts billed on behalf of other entities by natural gas companies.

**CREDITS (R.C. 5727.29, 5727.39, 5727.391, 5727.44):**

Telephone companies are allowed a credit against the public utility excise tax equal to the non-recurring (start-up) costs of a 9-1-1 telephone system (emergency service telephone system). The credit must be claimed in the year that the system becomes available for use. Any excess credit may be carried over to following years until completely used. The total amount of the credit that may be taken (for all companies combined) is limited to 25 percent of the total excise tax levied on telephone companies in 1984. This credit ceiling is adjusted annually for increases in the consumer price index. Once the total credits allowed equal the credit ceiling, no additional credits will be allowed.

A telephone company that provides telephone service to aid the communicatively impaired in accessing the telephone network is allowed a credit against the tax for the cost of providing such service.

Beginning in tax year 1995, electric companies that installed qualified pollution control devices after tax year 1991 were allowed a credit of \$1

per ton of Ohio coal used to generate electric power at that plant. Effective January 1, 2000, this credit was increased to \$3 per ton.

Natural gas companies that pay quarterly are able to take a credit against their quarterly payments equal to 1/60 of their total estimated payments made in October 1999, March 2000, and June 2000. The credit is to expire when the entire amount of the estimated payments is taken as the credit or in 15 years, whichever is first.

**TAX REPORTING AND CERTIFICATION DEADLINES:**

The following deadlines apply to all utility companies, except for natural gas companies:

Utility Class	Deadline	For
All public utilities <sup>1</sup> (R.C. 5727.31, 5727.32, 5727.33, 5727.38)	August 1 <sup>2</sup>	Company's annual statement to the Tax Commissioner for year ending April 30 (June 30 for telephone and telegraph companies).
	First Monday in November	Tax Commissioner assesses tax and certifies amount to company and Treasurer of State.

<sup>1</sup> Except natural gas companies.  
<sup>2</sup> Subject to extension up to 60 days (R.C.5727.48). A public utility that fails to file a report by the due date is subject to a penalty of \$50 per month for each month or fraction thereafter late, up to \$500 maximum (R.C. 5727.60).

**ADVANCE AND FINAL PAYMENT DATES:**

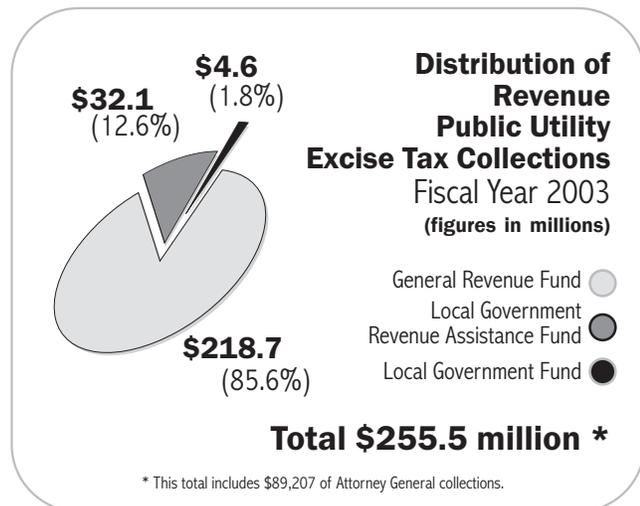
(Except Natural Gas):

**Advance Payments — October 15, March 1, and June 1 (R.C. 5727.25 and R.C. 5727.31):**

All advance reports and payments are due to the Treasurer of State on the dates specified. These payments will be applied to the tax liability certified to the Treasurer on the first Monday in November. Each advance payment is equal to one-third of the previous year's liability. These reports and payments are due from each utility with an excise tax liability for the previous year in excess of \$1,000.

**Final Payment — 20-30 days from date tax bill is mailed (R.C. 5727.42):**

The final payment is equal to total tax certified to the Treasurer of State, less advance payments made (refund is made if advance payments exceed assessment).



**FILING AND PAYMENT DATES, NATURAL GAS:**

Beginning May 1, 2000, natural gas companies that exceeded \$325,000 in annual liability began paying the excise tax quarterly. The first payment was based upon receipts from May 1, 2000 to September 30, 2000 and was paid on November 15, 2000. Thereafter, the payments are due 45 days after the end of each calendar quarter. Natural gas companies below the \$325,000 threshold pay annually, with payment made 45 days after the last day of the fourth quarter. The annual filer's first payment was due February 14, 2001.

**DISPOSITION OF REVENUE (R.C. 5727.45):**

The Local Government Fund receives 4.2 percent, the Local Government Revenue Assistance Fund 0.6 percent, and the General Revenue Fund 95.2 percent of public utility excise tax collections.

H.B. 94, 124th General Assembly, FY 2002-2003 Biennial Budget Bill, temporarily replaced the revenue distribution as described above. During each month of the July 2001-May 2002 period and the July 2002-May 2003 period, the Local Government Fund and Local Government Revenue Assistance Fund received the same amount they received during the corresponding month of the July 2000-May 2001 period. In June 2002 and June 2003, the funds received the same amount they received in June 2000.

**OHIO REVISED CODE CITATIONS:**

Chapters 5703 and 5727.

**RECENT LEGISLATION:**

**Am. Sub. H.B. 95, 125<sup>th</sup> General Assembly (effective September 26, 2003, FY 2004-2005 Biennial Budget Bill).**

**R.C. 5727.30, 5727.32, 5727.33 –**

Telephone companies are removed from the public utility excise tax effective after the 2004 tax year.

**Sub. S.B. 200, 124<sup>th</sup> General Assembly (effective September 6, 2002).**

**R.C. 3317.026, 5703.37, 5703.60, 5703.70, 5727.26, 5727.28, 5727.39, 5727.47, 5727.471 –**

Made general changes to the assessment correction notice and refund language for the natural gas gross receipts; modified language to recapture overpayments of school aid reimbursements when a petition for reassessment is filed; and standardized all indexing done by the Tax Commissioner, including the 9-1-1 credit.

**Am. Sub. H.B. 94, 124<sup>th</sup> General Assembly (effective September 6, 2001, FY 2002-2003 Biennial Budget Bill).**

**R.C. 5727.25-5727.26, et al., effective January 1, 2003 –**

Transferred previous responsibilities regarding tax filing and payments of natural gas companies from the Treasurer of State to the Tax Commissioner.

**Section 140 (Temporary Law) –**

Temporarily froze the revenue distribution to the Local Government Fund and Local Government Revenue Assistance Fund.

**H.B. 9, 124<sup>th</sup> General Assembly (effective June 6, 2001).**

**R.C. 5727.01-5727.02 –**

Subjected natural gas suppliers and governmental aggregators to Public Utility Commission certification, and authorized certain competitive services.

**S.B. 235, 123<sup>rd</sup> General Assembly (effective May 5, 2001).**

**R.C. 4927.01 –**

Changed the definition of "basic local exchange service" under alternative telephone regulation law, and also under telephone company merger law, which relies on the same definition.

**Sub. S.B. 152, 123<sup>rd</sup> General Assembly (effective September 21, 2000).**

**R.C. 4931 –**

Provided additional funding methods for 9-1-1 services in certain areas that previously lacked funding.

**Table  
Public Utility Excise Taxes Levied By Class of Utility, Tax Years 1998-2002<sup>(a)</sup>**

Class of Utility	Number of Utilities in 2002	Tax Rate 2002	Tax Year				
			1998	1999	2000 <sup>(d)</sup>	2001 <sup>(d)</sup>	2002 <sup>(e)</sup>
Electric	0	4.75%	\$432,592,127	\$441,075,733	\$448,574,349	\$417,378,610	\$0
Natural Gas <sup>(b)</sup>	31	4.75	115,770,927	97,098,365	119,050,766	146,357,385	142,793,886
Telephone	90	4.75	107,667,967	115,496,646	119,030,209	122,746,743	123,114,681
Rural Electric	0	4.75	17,409,371	18,220,554	18,778,490	20,347,758	0
Waterworks	18	4.75	2,724,205	2,918,562	2,926,060	3,007,909	2,895,320
Pipe Line	18	6.75	495,472	732,449	277,701	313,530	233,487
Other	8 <sup>(c)</sup>	4.75	1,363,388	1,383,869	1,618,159	1,676,351	1,707,891
<b>Total</b>	<b>165</b>		<b>\$678,023,457</b>	<b>\$676,926,173</b>	<b>\$710,255,734</b>	<b>\$711,828,286</b>	<b>\$270,745,265</b>

(a) Amount of tax certified for collection (except for natural gas companies beginning in 2001).

(b) Beginning in 2001, natural gas companies now use a current payment schedule and measurement period; the 2001 and 2002 figures represent payments made during fiscal years 2001 and 2002, respectively.

(c) Includes water transportation and heating.

(d) There are two combined electric-natural gas companies for 2000 and one combined company for 2001. Taxes levied on these entities are separated by utility type in 2000 and 2001.

(e) Beginning in 2002 electric and rural electric companies are no longer subject to the public utility excise tax.