



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 pre-ceding 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 \$268 million in public utility excise taxes was levied during tax year 2004. Telephone companies accounted for about 43.8 percent of total tax revenue, while natural gas companies accounted for about 54.3 percent. These two main public utility classes were responsible for over 98 percent of the total excise tax on public utilities.

Of the amounts collected, 12.2 percent was distributed to the Local Government Fund, 1.7 percent was distributed to the Local Government Revenue Assistance Fund, and

86.1 percent was distributed to the General Revenue Fund.

House Bill 283, 123rd General Assembly, 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 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

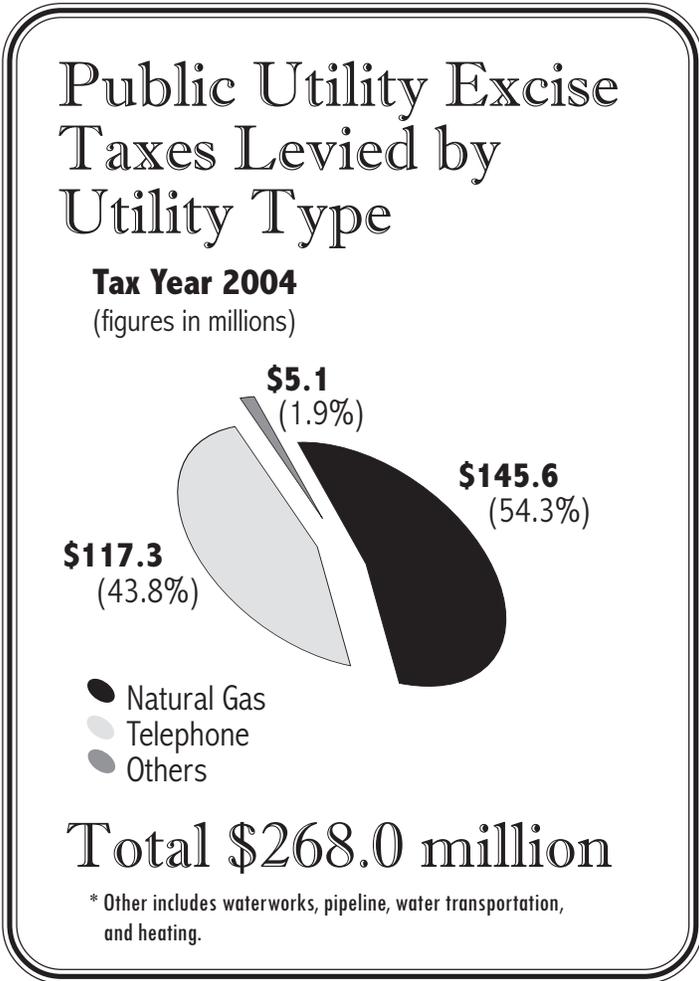
least \$325,000 have been paying annually, with the tax due 45 days from the last day of the fourth quarter of the previous year (with first payment due February 14, 2001). Companies that provide both natural gas and electric services must separate the services from each other so the applicable tax applies.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

Amended Substitute Senate Bill 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 the **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.

Taxpayer:

Most public utilities in Ohio, except those public utilities that are owned by municipal corporations, as well as inter-exchange telecommunications companies, electric companies, rural electric companies, and railroads.



least \$325,000 have been paying on this quarterly basis. Natural gas companies below this

Tax Base (Ohio Revised Code 5727.01):
Gross receipts for all utilities.

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).		

Rates:
Exemptions and Deductions (R.C. 5709.35, 5727.05, 5727.33):

- Exempt utilities:
 - municipally-owned utilities;
 - nonprofit water companies;
 - inter-exchange telecommunications; and
 - electric companies, rural electric companies, and railroads.
- Deduction for all companies is \$25,000. Since May 1, 2000, natural gas companies that pay quarterly have had a \$6,250 deduction on each quarterly return.
- 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.
- Receipts from facilities used to convert coal to gaseous, liquid, or solid fuels, for a period of 30 years.
- Amounts billed on behalf of other entities by telephone companies.
- Receipts of telephone companies from sales to other telephone companies for resale.
- 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.

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.

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 Ohio 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

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 ⁽¹⁾ (R.C. 5727.31, 5727.32, 5727.33, 5727.38)	August 1 ⁽²⁾	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.
<p>(1) Except natural gas companies. (2) 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).</p>		

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:

Natural gas companies that exceed \$325,000 in annual liability have payments 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.

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, the Fiscal Year 2002-2003 Biennial Budget Bill, temporarily replaced the revenue distribution described in the above paragraph. 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. This freeze on local government funds was continued in FY 2004 (see **Recent Legislation**).

Administration:

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

Ohio Revised Code Citations: Chapters 5703 and 5727.

Recent Legislation:

Am. Sub. H.B. 95, 125th General Assembly (effective September 26, 2003). R.C. 5727.30, 5727.32, 5727.33:

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

Section 139:

Continues the freeze on deposits to and distributions from the LGF and LGRAF through FY 2004 and FY 2005. The bill dictates that each month during August 2003 through July 2005 each county will receive the same amount it received during August 2002 through July 2003. June 2004 and June 2005 distributions are reduced by the July 2003 H.B. 405 adjustment (\$31.4 million). However, this amount was added back to the July 2004 distribution and will be added back to the July 2005 distribution. Monthly distributions were also reduced in August 2003 through July 2004 by transfers to the Ohio Public Library Information

Network Technology Fund. The monthly transfers totaled \$5.0 million in fiscal year 2004. The July 2004 and July 2005 distributions are also subject to a reduction if freeze deposits exceed the amount of deposits that would have been made under permanent law.

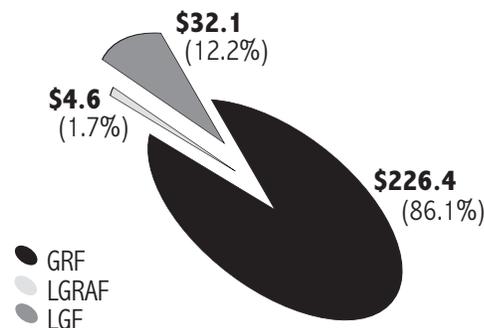
Sub. S.B. 200, 124th General Assembly (effective September 6, 2002). R.C. 3317.026, 5703.37, 5703.60, 5703.70, 5727.26, 5727.28, 5727.39, 5727.47, 5727.471:

Made general changes to the assessment correction notice and refund language for 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.

Distribution of Revenue Public Utility Excise Tax Collections

Fiscal Year 2004

(figures in millions)



Total \$263.0 million*

*The total includes \$151,351 of Attorney General collections.

Table
Public Utility Excise Taxes Levied By Class of Utility
Tax Years 1999-2003^(a)

Class of Utility	Number of Utilities in 2003	Tax Rate 2003	Tax Year				
			1999	2000 ^(d)	2001 ^(d)	2002 ^(e)	2003
Electric	0	-	\$441,075,733	\$448,574,349	\$417,378,610	\$0	\$0
Natural Gas ^(b)	28	4.75 %	97,098,365	119,050,766	146,357,385	142,793,886	145,553,831
Telephone	94	4.75	115,496,646	119,030,209	122,746,743	123,114,681	117,333,061
Rural Electric	0	-	18,220,554	18,778,490	20,347,758	0	0
Waterworks	19	4.75	2,918,562	2,926,060	3,007,909	2,895,320	3,182,696
Pipe Line	17	6.75	732,449	277,701	313,530	233,487	278,723
Other ^(c)	8	4.75	1,383,869	1,618,159	1,676,351	1,707,891	1,657,460
Total	166		\$676,926,173	\$710,255,734	\$711,828,286	\$270,745,265	\$268,005,771

(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, 2002, and 2003 figures represent payments made during fiscal years 2001, 2002, and 2003, 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.

