

# Public Utility Excise Tax

## Taxpayer

The tax is paid by the following types of public utilities: Natural gas companies, water works companies, pipeline companies, heating companies, and water transportation companies.

## Tax Base

The tax applies to gross receipts from the intrastate business of public utilities.

## Rates

All utility classes are taxed at a rate of 4.75 percent except pipelines, which are taxed at a rate of 6.75 percent. There is a minimum tax of \$50.

## Major Exemptions

The tax does not apply to:

- Municipally-owned utilities.
- Nonprofit water works.
- Gross receipts from interstate business, sales to other public utilities for resale, sales of merchandise, and business done with the federal government.
- The first \$25,000 of gross receipts.
- Electric, inter-exchange telecommunications, railroad and rural electric companies.

## Revenue

(In Millions)

Fiscal Year	General Revenue Fund	Revenue Sharing <sup>1</sup>	Total
2006	\$176.2	\$11.0	\$187.2
2007	160.2	11.0	171.2
2008	157.7	3.1	160.8
2009	184.5	0.0	184.5
2010	136.7	0.0	136.7

<sup>1</sup> Before January, 2008, a portion of public utility excise tax was shared with the Local Government Fund and the old Local Government Revenue Assistance Fund.

## Disposition of Revenue

Since January 2008, all revenues from the public utility excise tax have been deposited in the General Revenue Fund.

## Payment Dates

With the exception of natural gas companies, advance payments are required of all public utilities for which tax liability exceeded \$1,000 during the previous tax year. Payments equal to one-third of the previous tax year's liability are due on Oct. 15, March 1, and June 1. Final payment of any remaining balance, based on the current year's certification in November, is due within 30 days of billing.

For natural gas companies, quarterly payments are required when annual liability is at least \$325,000. Natural gas company payment dates are the 45th day following the last day of March, June, September, and December. Each natural gas company whose annual liability is less than \$325,000 can pay annually in February.

## Special Provisions/Credits

Qualifying natural gas companies may take a refundable credit against their quarterly payments equal to one-sixtieth of their total estimated tax payments made in October 1999, March 2000 and June 2000. The credit could first be claimed on the returns 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, the venture capital tax credit is available to natural gas companies.

## Sections of Ohio Revised Code

Chapters 150, 5703 and 5727.

## Responsibility for Administration

Tax Commissioner.

## History of Major Changes

**1894** General Assembly enacts public utility excise tax.

**1911** Current tax structure is established.

- 1935** A 1 percent rate increase is applied to certain utilities.
- 1938** Rates increase for certain utilities.
- 1963** Advance payment system begins.
- 1966** Starting on July 1, 1966, all revenue is allocated to the General Revenue Fund. Previously, close to half of the revenue was distributed to counties and cities for poor relief and other welfare purposes.
- 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 public utilities' 1982 liability.
- 1982** For 1983, rates are temporarily increased from 4.25 percent to 4.5 percent for most utilities. Also, a 5.55 percent surtax is imposed on 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.
- 1989** In response to a 1987 federal district court decision (*General American Transportation Corp. v. Limbach*), the General Assembly enacts Senate Bill 156, repealing the tax for freightline and equipment companies as well as intrastate toll bridge, artificial gas, union depot, cooling, express and messenger companies, starting with the 1990 tax year.
- 1991** In response to a 1991 federal district court decision (*Cuyahoga Valley Railway Co. v. Limbach*), the General Assembly enacts House Bill 904, exempting railroads from the tax starting with the 1992 tax year.
- 1999** Senate Bill 3 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 2001.
- 2003** House Bill 95 shifts telephone companies from the public utility excise tax to the corporation franchise tax, effective after the 2004 tax year.

## Comparisons with Other States

(As of August, 2010)

### California

California has no general public utility excise tax, but intrastate telephone service is subject to a 0.5 percent surcharge based on sales.

### Florida

Gas and electric companies pay a tax of 2.5 percent on gross receipts. Those who import electricity or natural gas into the state for their own use are subject to a use tax at the same rate. Also, a tax of 9.17 percent (6.8 percent of the sale price plus 2.37 percent on gross receipts) is levied on retail communications services, including cable services. Tax on residential telephone services is 2.37 percent. Local taxing jurisdictions may impose an additional communications services levy. A tax of 13.17 percent (10.8 percent of the sale price plus 2.37 percent on gross receipts) is levied on direct-to-home satellite services. Satellite services are exempt from any local communication services levy. Use tax provisions also apply to communication services.

### Illinois

Telecommunications companies pay 7 percent tax on gross charges plus 0.5 percent for telecommunications infrastructure maintenance fees. Municipalities may impose an additional tax not to exceed 6 percent. (See also **Comparisons with Other States in Kilowatt-Hour Tax and Natural Gas Distribution Tax.**)

### Indiana

A 1.4 percent 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 percent use tax is imposed on the consumption of utility services purchased from out-of-state providers.

### Kentucky

Public utilities pay a utility gross receipts license tax for schools of up to 3 percent. In addition, telecommunications providers pay a tax of 1.3 percent of gross revenues for providing telecommunications services or 2.4 percent of gross revenues for providing multi-channel video programming services in the state.

### Massachusetts

A 6.5 percent utility franchise tax is levied on the entire net income of completely intrastate utility companies and the allocated net income of interstate utility companies.

**Michigan**

The state does not levy a specific public utility excise tax. Utilities are subject to the Michigan business tax.

**New Jersey**

New Jersey has no general public utility excise tax. Sewage and water corporations are subject to a tax of 2 percent or 5 percent of gross receipts (depending on the amount of gross receipts), plus 7.5 percent of gross receipts from New Jersey business for the previous calendar year, plus a surcharge of 0.25 percent to 0.9375 percent of prior year gross receipts.

**New York**

All utilities selling utility services to New York consumers pay a tax of 2 percent on gross income earned in the state on regulated revenue sources. The telecommunications services tax rate is 2.5 percent on gross receipts. Other cities and villages in New York may impose selective gross receipts taxes on sales of utility services. The maximum rate is 1 percent except for Buffalo, Rochester and Yonkers, which are authorized to impose a 3 percent tax rate. New York City levies a 2.35 percent tax on the gross income of utilities and the gross utility income of vendors of utility services.

**Pennsylvania**

Electric companies pay a rate of 4.4 percent on gross receipts, plus a "revenue-neutral reconciliation" rate of 1.5 percent, for a total rate of 5.9 percent.

Transportation, telecommunications, and telegraph companies pay a rate of 5 percent on gross receipts. No tax is imposed on natural gas companies.

**Ohio**

**Natural gas companies, water works companies, pipeline companies, heating companies, and water transportation companies pay tax on their intrastate gross receipts. The rate for all utilities except pipeline companies is 4.75 percent; the rate for pipelines is 6.75 percent. A minimum tax of \$50 applies.**

**Texas**

Three utility classes (gas, electric, and water) pay rates ranging from 0.581 percent to 1.997 percent of gross receipts from business done in incorporated villages and towns, depending upon class of utility and population of the town in which the utility operates. Gross receipts from the sale of electricity generated

by an advanced clean energy product are exempt.

**West Virginia**

Telephone, telegraph, or other telecommunications companies pay a 4 percent tax on gross income from telecommunications activities apportioned to the state. Natural gas and toll bridge companies pay a tax of 4.29 percent on gross receipts. Water companies pay a tax of 4.4 percent. Electric power companies (producers) pay a tax based on the generating capacity of their electric generating facilities. Other public utilities pay a tax of 2.86 percent.