



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 public 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 \$112.3 million in public utility excise tax liabilities were reported during the 2014 tax year. Of this, natural gas companies accounted for about 92 percent of total tax reported.

Total net revenue collected from the public utility tax amounted to almost \$97.5 million in fiscal year 2015, all of which went to the General Revenue Fund.

Taxpayer

(Ohio Revised Code 5727.01, 5727.02)

Taxpayers include heating, pipeline (excluding businesses primarily consisting of producing or gathering natural gas or producing, refining, or marketing petroleum products), water transportation, water works and natural gas companies.

Tax Base

(R.C. 5727.01, 5727.24, 5727.30)

The tax is measured by taxable gross receipts.

Rates

(R.C. 5727.24, 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)

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

All companies receive a standard annual deduction of \$25,000. Natural gas companies paying quarterly receive a \$6,250 deduction on each return.

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

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

Credits

(R.C. 5727.29, 5727.241)

Natural gas and combined electric and natural gas companies are entitled to a refundable credit equal to the sum of the three estimated payments under the old public utility excise tax made on or before Oct. 15, 1999, and on or before the first day of March and June 2000. For such combined companies, the sum of the three estimated payments is multiplied by an apportionment factor, the numerator of which is taxable gross receipts from operating as a natural gas company and the denominator of which is entire taxable gross receipts, for the period ending April 30, 2000. One-sixtieth of the credit must be claimed on each quarterly tax return filed until the full amount of the credit is claimed. This credit could first be claimed on the return due on or before Nov. 15, 2001.

Also, natural gas and combined electric and natural gas companies may claim a refundable venture capital investment credit against the tax imposed. The credit amount and tax year in which the credit may be claimed must be listed on a tax credit certificate issued by the Ohio Venture Capital Authority.

Filing and Payment Dates

(R.C. 5727.25, 5727.31, 5727.38, 5727.42, 5727.48)

Annual statements - Company annual statements (returns) are due to the tax commissioner by August 1 for the tax year ending April 30. 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 - Companies with a tax liability of \$1,000 or more during the preceding year are required to make three advance payments, 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 - When the current year's total tax liability exceeds the sum of the three advance payments, there is a deficiency. Tax bills are generally issued in November, within 20 days of certification by the tax commissioner, and are due 30 days after mailing by the treasurer of state. A refund is issued when advance payments exceed the total liability certified by the tax commissioner.

Natural gas and combined electric and gas companies - Beginning May 1, 2000, companies that exceeded \$325,000 in annual liability pay the excise tax quarterly. Quarterly payments are due 45 days after the end of each calendar quarter.

Companies below the \$325,000 threshold for the preceding calendar year pay 45 days after the thirty-first day of December.

Disposition of Revenue

(R.C. 5727.45)

All revenues from the public utility excise tax are deposited into the General Revenue Fund.

Administration

The Tax Commissioner administers the tax and certifies to the treasurer of state the amounts to be collected.

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 court decision (General American Transportation Corp. v. Limbach), the legislature repealed 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	Electric and rural electric companies shifted to the kilowatt-hour tax, effective May 1, 2001. Final public utility excise tax payments for such companies are due June 2001.
2000	Large natural gas companies required to begin paying the excise tax on a quarterly basis.
2003	Telephone companies shifted from the public utilities excise tax to the corporation franchise tax, effective after the 2004 tax year.

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 begin.
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.

Comparisons with Other States

(as of July 1, 2015)

Indiana	A 1.4% tax is imposed on 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 retail consumption of utility services purchased from out-of-state providers. Public utilities also are generally subject to the Indiana adjusted gross income tax.
Georgia	All electric, railroad, water, steam and natural gas companies are subject to the state's corporate income tax and franchise tax in the same manner as other non-utility corporations.
Kentucky	Public utility corporations are subject to the Kentucky corporation income tax, except for rural electric and rural telephone cooperative corporations. Public utilities pay a utility gross receipts license tax of up to 3% of the gross receipts from furnishing utility services within a school district. In addition, a 3% tax is levied on the retail purchase of multichannel video programming (MVP) services, a 2.4% gross revenue tax on MVP services provided to a person whose place of primary use is in Kentucky, and a 1.3% gross revenue tax for the provision of communications services. ¹
Michigan	The state does not levy a specific public utility excise tax. Utilities organized as C corporations are subject to Michigan's corporate income tax. Cities with a population of 600,000 or more may levy a "utility users tax." 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 combined rate of 4.4% on gross receipts, plus a "revenue neutral reconciliation" rate of 1.5%, for a combined rate of 5.9%. Transportation and telecommunications companies pay a combined rate of 5% on gross receipts comprised of a base rate of 4.5% and a surtax of 0.5%. All corporations, including public utilities, are subject to the Pennsylvania corporate net income tax unless specifically exempt.
Tennessee	Public generally utilities pay a utility gross receipts tax at the rate of 3%. Companies that manufacture or distribute manufactured or natural gas pay a rate of 1.5% on gross receipts. Public utilities are subject to the Tennessee corporate excise/franchise tax, and a credit is allowed against liability for utility gross receipts taxes paid.
Texas	Three utility classes (gas works, electric and water) pay 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 is located. Public utilities also are generally subject to Texas excise/franchise taxes like other non-public utility companies.
West Virginia	West Virginia levies business and occupation taxes measured by gross receipts. Water companies pay at a rate of 4.4%. Natural gas companies and toll bridges pay tax at a rate of 4.29%. Street, interurban and electric railways pay at a rate of 1.4%. Other public utilities pay tax a rate of 2.86%. Certain entities may be exempt. Electric power companies (producers) pay a rate based on the generating capacity of their electric generating facilities. Public utilities also may be subject to the West Virginia corporate license tax, corporate net income tax, and business franchise tax.

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 2011 - 2015.			
Fiscal Year	General Revenue Fund	Refunds	Total
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
2015	97.5	17.0	114.5

Source: Office of Budget and Management state financial report (GL070).

Table 2							
Public Utility Excise Tax Levied by Class of Utility Tax Years 2010 - 2014							
Class of Utility	Number of Taxpayers	Tax Rate	2010	2011	2012	2013	2014
Natural Gas	33	4.75%	\$127,582,454	\$117,578,649	\$92,037,145	\$93,148,668	\$103,355,955
Waterworks	13	4.75%	2,076,123	1,312,944	3,944,237	4,048,664	6,279,007
Pipeline	19	6.75%	1,000,979	123,570	380,200	246,087	1,154,568
Other ¹	3	4.75%	959,161	537,328	1,537,402	1,305,216	1,481,935
Totals	68		\$131,618,718	\$119,552,491	\$97,898,984	\$98,748,636	\$112,271,465

Source: Treasurer of State

¹ Includes water transportation and heating.