

Department of Legislative Services  
 Maryland General Assembly  
 2011 Session

FISCAL AND POLICY NOTE

House Bill 692 (Delegate Carr, *et al.*)  
 Ways and Means and Economic Matters

Public Service Company Franchise Tax - Gross Receipts - Definition

This bill alters the definition of gross receipts for purposes of calculating the public service company franchise tax by excluding any revenue that the public service company collects to offset a tax imposed on the public service company by a local government that is based on electricity or natural gas delivered to a residential property.

The bill takes effect July 1, 2011.

Fiscal Summary

**State Effect:** General fund revenues decrease by \$1.8 million in FY 2012 and by \$0.7 million annually beginning in FY 2013. Future year revenues reflect a reduction in Montgomery County energy tax rates. Expenditures are not affected.

(in dollars)	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
GF Revenue	(\$1,811,500)	(\$707,300)	(\$703,700)	(\$703,400)	(\$705,000)
Expenditure	0	0	0	0	0
Net Effect	(\$1,811,500)	(\$707,300)	(\$703,700)	(\$703,400)	(\$705,000)

*Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect*

**Local Effect:** None.

**Small Business Effect:** None.

Analysis

**Current Law:** Persons engaged in a telephone business in Maryland or the delivery, transmission, or distribution of electricity or natural gas in Maryland must pay the public

service company franchise tax. For telephone, electric, and natural gas companies, a tax of 2% is imposed on the company's gross receipts. Gross receipts are defined as the total operating revenues of the public service companies, excluding revenue derived from an activity other than a telephone, electric, or natural gas business. Gross receipts do not include uncollectible revenue, receipts from a service or product resold by another public service company that is subject to the tax, or gross receipts from the sale of electricity or natural gas.

For electric and natural gas companies, a second tax is imposed measured by the kilowatt-hours of electricity or therms of natural gas delivered for final consumption in the State. The rate of the distribution tax imposed on electric and natural gas companies is \$0.062 cents per kilowatt-hour for electricity delivered for final consumption and \$0.402 cents per therm for natural gas delivered for final consumption.

The gross receipts component of the tax does not apply to a public service company that is a county, municipal, or nonprofit electric cooperative. Counties and municipalities are exempt from the distribution component of the tax with respect to natural gas only.

Local governments do not have the authority to levy a franchise or gross receipts tax, although several jurisdictions have been granted authority to levy a sales tax on the sales of selected public service companies. Baltimore City and St. Mary's and Prince George's counties impose an energy tax on electricity and natural gas consumed by residential customers. For these three jurisdictions local energy taxes are explicitly stated not to be considered operating revenue of the vendor. In Montgomery County, the energy tax is levied and imposed on every person transmitting, distributing, manufacturing, producing, or supplying electricity or natural gas. Thus, local energy tax revenues are considered gross receipts of electric and natural gas utilities when calculating the franchise tax.

**Background:** Montgomery County is the only jurisdiction that imposes an energy tax on the persons supplying electricity and natural gas. The public service company imposes a surcharge from customers to offset the cost of the tax. In May 2010, the county increased energy tax rates charged to both residential and commercial electric and natural gas customers. For fiscal 2011, the rate charged to residential electric customers was increased to \$0.01335 per kilowatt-hour (kWh) and rate charged to residential natural gas customers increased to \$0.11493 per therm. Effective January 1, 2012, the energy tax for residential electricity is scheduled to decrease to \$0.00522 and the tax for natural gas is scheduled to be reduced to \$0.04499 per therm.

**Exhibit 1** shows Montgomery County energy tax revenues for fiscal 2008 through 2011 (budgeted). The exhibit also shows the portion of county energy taxes attributed to residential electric and natural gas customers.

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**Exhibit 1**  
**Montgomery County Energy Tax Revenues**  
(\$ in Millions)

<u>Local Energy Tax</u>	<u>Fiscal</u> <u>2008</u>	<u>Fiscal</u> <u>2009</u>	<u>Fiscal</u> <u>2010</u>	<u>Fiscal</u> <u>2011</u>
Residential Electric	\$23.1	\$24.9	\$24.6	\$62.4
Residential Natural Gas	8.8	9.0	9.3	30.1
Other Fuel	86.4	95.4	123.1	92.5
<b>Total Fuel Energy Tax</b>	<b>\$118.3</b>	<b>\$129.3</b>	<b>\$156.9</b>	<b>\$185.1</b>

Source: Montgomery County, Maryland Association of Counties

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**State Fiscal Effect:** General fund revenues from the public service company franchise tax will decrease by \$1.8 million in fiscal 2012. The information and assumptions used in calculating the estimate are stated below:

- Montgomery County is the only jurisdiction where local energy taxes are imposed on an electric or natural gas company; and where the company imposes a surcharge directly on customers to offset the local tax;
- under current law, the 2% franchise tax is calculated based upon gross receipts which include the local energy tax in Montgomery County. Under the bill, the local energy tax collected in Montgomery County is excluded from the gross receipts calculation;
- energy tax rates in Montgomery County are reduced in fiscal 2013 (\$.00522 per kWh for residential electricity and \$.04499 per therm for residential natural gas);
- annual electricity consumption is based on long-term energy estimates by the U.S. Department of Energy, Energy Information Administration and assumes normal weather patterns.

**Additional Comments:** The bill will reduce the amount of franchise taxes paid by each residential electric and natural gas customer in Montgomery County by 2% of the amount of the locally imposed energy taxes. In other jurisdictions where a local energy tax is imposed, the franchise tax is already exempted and not collected on locally imposed energy taxes. **Exhibit 2** shows the annual reduction in franchise tax for residential electric customers, based on energy usage. Fiscal 2013 reflects a reduction in tax rates

effective July 1, 2012. For a residential customer using 1,000 kWh per month, electricity costs are reduced by \$3.20 in fiscal 2012. **Exhibit 3** shows the annual reduction in franchise tax for residential natural gas customers, based on energy usage. For a residential customer using 50 therms per month natural gas costs are reduced by \$1.38 in fiscal 2012. Fiscal 2013 reflects a reduction of county energy taxes effective July 1, 2012.

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**Exhibit 2**  
**Annual Reduction in Electricity Costs per Residential Customer**

<b>Average Monthly Use (kWh)</b>	<b>Fiscal 2012 Reduction in Franchise Tax</b>	<b>Fiscal 2013 Reduction in Franchise Tax</b>
500	(\$1.60)	(\$0.63)
1,000	(3.20)	(1.25)
1,500	(4.81)	(1.88)
2,000	(6.41)	(2.51)

Source: Department of Legislative Services

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**Exhibit 3**  
**Annual Reduction in Natural Gas Costs per Residential Customer**

<b>Average Monthly Use (therms)</b>	<b>Fiscal 2012 Reduction in Franchise Tax</b>	<b>Fiscal 2013 Reduction in Franchise Tax</b>
30	(\$0.83)	(\$0.32)
40	(1.10)	(0.43)
50	(1.38)	(0.54)
60	(1.65)	(0.65)
70	(1.93)	(0.76)

Source: Department of Legislative Services

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## **Additional Information**

**Prior Introductions:** None.

**Cross File:** SB 553 (Senator Madaleno) - Budget and Taxation.

**Information Source(s):** Comptroller's Office; State Department of Assessments and Taxation; Montgomery County; Maryland Association of Counties; Maryland Municipal League; Public Service Commission; U.S. Department of Energy, Energy Information Administration; Department of Legislative Services

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