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By: **Chairman, Ways and Means Committee (By Request - Departmental - Assessments and Taxation)**

Introduced and read first time: January 19, 2006

Assigned to: Ways and Means

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A BILL ENTITLED

1 AN ACT concerning

2 **Public Service Company Franchise Tax - Returns and Collection**

3 FOR the purpose of requiring the tax collector to assess certain public service  
4 company franchise tax that results from certain federal adjustments under  
5 certain circumstances; authorizing a fine for willful failure to file a public  
6 service company franchise tax return under certain circumstances; authorizing  
7 the penalty of perjury for the willful filing of a false public service company  
8 franchise tax return; establishing certain time limits for the assessment of  
9 public service company franchise tax under certain circumstances; and  
10 generally relating to the public service company franchise tax.

11 BY repealing and reenacting, with amendments,  
12 Article - Tax - General  
13 Section 13-409, 13-1002, and 13-1101  
14 Annotated Code of Maryland  
15 (2004 Replacement Volume and 2005 Supplement)

16 BY adding to  
17 Article - Tax - General  
18 Section 13-1001(f)  
19 Annotated Code of Maryland  
20 (2004 Replacement Volume and 2005 Supplement)

21 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
22 MARYLAND, That the Laws of Maryland read as follows:

23 **Article - Tax - General**

24 13-409.

25 (a) If the Internal Revenue Service issues a final determination that increases  
26 federal taxable income, federal estate, or federal generation-skipping transfer tax  
27 reported on a federal return, the tax collector shall assess the financial institution

1 franchise tax, PUBLIC SERVICE COMPANY FRANCHISE TAX, income tax, Maryland  
2 estate tax, or Maryland generation-skipping transfer tax on the increase in the  
3 taxable net earnings, GROSS RECEIPTS, Maryland taxable income, federal credit for  
4 State death tax, or federal credit for State generation-skipping transfer tax that  
5 results from the federal adjustment.

6 (b) Within 90 days after the Internal Revenue Service issues to a person the  
7 final determination to which subsection (a) of this section refers, the person shall  
8 submit to the tax collector a report of federal adjustment that includes:

9 (1) a statement of the amount of the increase; and

10 (2) if the person contends that the final federal determination is  
11 erroneous, an explanation of the reasons for the contention.

12 13-1001.

13 (F) A PERSON WHO IS REQUIRED TO FILE A PUBLIC SERVICE COMPANY  
14 FRANCHISE TAX RETURN AND WHO WILLFULLY FAILS TO FILE THE RETURN AS  
15 REQUIRED UNDER TITLE 8 OF THIS ARTICLE IS GUILTY OF A MISDEMEANOR AND ON  
16 CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$5,000 OR IMPRISONMENT NOT  
17 EXCEEDING 5 YEARS OR BOTH.

18 13-1002.

19 (a) A person who willfully files a false alcoholic beverage tax return is guilty of  
20 perjury and, on conviction, is subject to the penalty for perjury.

21 (b) A person, including an officer of a corporation, who willfully files a false  
22 financial institution franchise tax return, A FALSE PUBLIC SERVICE COMPANY  
23 FRANCHISE TAX RETURN, or a false income tax return with the intent to evade the  
24 payment of tax due under this article is guilty of perjury and, on conviction, is subject  
25 to the penalty for perjury.

26 (c) Subsections (a) and (b) of this section apply to the alcoholic beverage,  
27 financial institution franchise, PUBLIC SERVICE COMPANY FRANCHISE TAX, and  
28 income taxes.

29 13-1101.

30 (a) Except as otherwise provided in this section, an assessment of financial  
31 institution franchise tax, PUBLIC SERVICE COMPANY FRANCHISE TAX, or income tax  
32 may not be made after 3 years from the later of:

33 (1) the date that the return is filed; or

34 (2) the date that the return is due.

35 (b) An assessment of financial institution franchise tax, PUBLIC SERVICE  
36 COMPANY FRANCHISE TAX, or income tax may be made at any time if:

- 1 (1) a false return is filed with the intent to evade the tax;
- 2 (2) a willful attempt is made to evade the tax;
- 3 (3) a return is not filed as required under Title 8 or Title 10 of this  
4 article;
- 5 (4) an incomplete return is filed; or
- 6 (5) a report of federal adjustment is not filed within the period required  
7 under § 13-409 of this title.

8 (c) If a report of federal adjustment is filed within the time required under §  
9 13-409 of this title, the tax collector shall assess the financial institution franchise  
10 tax, PUBLIC SERVICE COMPANY FRANCHISE TAX, or income tax within 1 year after  
11 the date on which the tax collector receives the report.

12 (d) (1) Subject to the provisions of paragraph (2) of this subsection, an  
13 assessment of income tax arising out of an amended return shall be made within 3  
14 years after the date that the amended return is filed.

15 (2) An assessment of income tax under paragraph (1) of this subsection  
16 shall be related to changes made by the amended items in the return.

17 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take  
18 effect July 1, 2006.