
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

Committee Report: Favorable with amendments

House action: Adopted

Read second time: February 21, 2006

CHAPTER _____

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~~ certain penalties for willful failure to
 6 file a public service company franchise tax return under certain circumstances;
 7 authorizing the penalty of perjury for the willful filing of a false public service
 8 company franchise tax return; establishing certain time limits for the
 9 assessment of public service company franchise tax under certain
 10 circumstances; and generally relating to the public service company franchise
 11 tax.

12 BY repealing and reenacting, with amendments,
 13 Article - Tax - General
 14 Section 13-409, 13-1002, and 13-1101
 15 Annotated Code of Maryland
 16 (2004 Replacement Volume and 2005 Supplement)

17 BY adding to
 18 Article - Tax - General
 19 Section 13-1001(f)
 20 Annotated Code of Maryland
 21 (2004 Replacement Volume and 2005 Supplement)

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

1

Article - Tax - General

2 13-409.

3 (a) If the Internal Revenue Service issues a final determination that increases
4 federal taxable income, federal estate, or federal generation-skipping transfer tax
5 reported on a federal return, the tax collector shall assess the financial institution
6 franchise tax, PUBLIC SERVICE COMPANY FRANCHISE TAX, income tax, Maryland
7 estate tax, or Maryland generation-skipping transfer tax on the increase in the
8 taxable net earnings, GROSS RECEIPTS, Maryland taxable income, federal credit for
9 State death tax, or federal credit for State generation-skipping transfer tax that
10 results from the federal adjustment.

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

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

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

17 13-1001.

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

23 13-1002.

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

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

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

34 13-1101.

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

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

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

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

5 (1) a false return is filed with the intent to evade the tax;

6 (2) a willful attempt is made to evade the tax;

7 (3) a return is not filed as required under Title 8 or Title 10 of this
8 article;

9 (4) an incomplete return is filed; or

10 (5) a report of federal adjustment is not filed within the period required
11 under § 13-409 of this title.

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

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

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

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