

HOUSE BILL 1347

Q7
HB 171/06 – W&M

71r0004

By: **Chair, Ways and Means Committee (By Request – Departmental – Assessments and Taxation)**

Introduced and read first time: March 1, 2007

Assigned to: Rules and Executive Nominations

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 company
4 franchise tax that results from certain federal adjustments under certain
5 circumstances; authorizing certain penalties 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 2006 Supplement)

16 BY adding to
17 Article – Tax – General
18 Section 13–1001(f)
19 Annotated Code of Maryland
20 (2004 Replacement Volume and 2006 Supplement)

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **Article - Tax - General**

2 13-409.

3 (a) If the Internal Revenue Service issues a final determination that
4 increases federal taxable income, federal estate, or federal generation-skipping
5 transfer tax reported on a federal return, the tax collector shall assess the financial
6 institution franchise tax, **PUBLIC SERVICE COMPANY FRANCHISE TAX**, income tax,
7 Maryland estate tax, or Maryland generation-skipping transfer tax on the increase in
8 the taxable net earnings, **GROSS RECEIPTS**, Maryland taxable income, federal credit
9 for 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**
21 **ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$5,000 OR**
22 **IMPRISONMENT NOT EXCEEDING 5 YEARS OR BOTH.**

23 13-1002.

24 (a) A person who willfully files a false alcoholic beverage tax return is guilty
25 of 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.

1 (c) Subsections (a) and (b) of this section apply to the alcoholic beverage,
2 financial institution franchise, **PUBLIC SERVICE COMPANY FRANCHISE TAX**, and
3 income taxes.

4 13–1101.

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

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

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

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

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

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

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

16 (4) an amended estate tax return is not filed as required under Title 7
17 of this article;

18 (5) an incomplete return is filed; or

19 (6) a report of federal adjustment is not filed within the period
20 required under § 13–409 of this title.

21 (c) If a report of federal adjustment is filed within the time required under §
22 13–409 of this title, the tax collector shall assess the financial institution franchise
23 tax, **PUBLIC SERVICE COMPANY FRANCHISE TAX**, income tax, or estate tax within 1
24 year after the date on which the tax collector receives the report.

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

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

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
4 July 1, 2007.