

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

Re-referred to: Ways and Means, March 5, 2007

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 21, 2007

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 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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Section 13-1001(f)
2 Annotated Code of Maryland
3 (2004 Replacement Volume and 2006 Supplement)

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

6 **Article - Tax - General**

7 13-409.

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

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

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

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

22 13-1001.

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

28 13-1002.

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

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

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

9 13–1101.

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

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

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

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

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

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

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

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

23 (5) an incomplete return is filed; or

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

26 (c) If a report of federal adjustment is filed within the time required under §
27 13–409 of this title, the tax collector shall assess the financial institution franchise
28 tax, **PUBLIC SERVICE COMPANY FRANCHISE TAX**, income tax, or estate tax within 1
29 year after the date on which the tax collector receives the report.

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

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

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

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.