

Department of Legislative Services
 Maryland General Assembly
 2013 Session

FISCAL AND POLICY NOTE

House Bill 1374 (Delegate Carr)
 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 residential property.

The bill takes effect July 1, 2013.

Fiscal Summary

State Effect: General fund revenues decrease by \$1.7 million in FY 2014 and by \$1.8 million annually beginning in FY 2016. Future year revenue estimates assume constant Montgomery County energy tax rates. Expenditures are not affected.

(\$ in millions)	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018
GF Revenue	(\$1.7)	(\$1.7)	(\$1.8)	(\$1.8)	(\$1.8)
Expenditure	0	0	0	0	0
Net Effect	(\$1.7)	(\$1.7)	(\$1.8)	(\$1.8)	(\$1.8)

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 on 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 and 2012, the rate charged to residential electric customers was set at \$0.01335 per kilowatt-hour (kWh) and the rate charged to residential natural gas customers was \$0.11493 per therm. Effective July 1, 2012 (fiscal 2013), the energy tax for residential electricity was decreased to \$0.01255 and the tax for natural gas was decreased to \$0.10802 per therm.

Exhibit 1 shows Montgomery County energy tax revenues for fiscal 2010 through 2013 (budgeted). The exhibit also shows the portion of county energy taxes attributed to residential electric and natural gas customers.

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

<u>Local Energy Tax</u>	<u>Fiscal 2010</u>	<u>Fiscal 2011</u>	<u>Fiscal 2012</u>	<u>Fiscal 2013</u>
Residential Electric	\$24.6	\$62.4	\$59.3	\$59.2
Residential Natural Gas	9.3	30.1	19.6	23.9
Other Fuel	123.1	140.9	147.2	136.0
Total Fuel Energy Tax	\$156.9	\$233.4	\$226.1	\$219.1

Source: Montgomery County; Maryland Association of Counties; Department of Legislative Services

State Fiscal Effect: General fund revenues from the public service company franchise tax will decrease by approximately \$1.7 million in fiscal 2014 and \$1.8 million in fiscal 2016 and each year thereafter. 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;
- Montgomery County energy tax rates for residential electricity and residential natural gas remain constant; and
- energy usage remains relatively constant.

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. Based on current residential energy tax rates, annual electricity costs are reduced by \$3.01 for a residential customer using 1,000 kWh per month and annual natural gas costs are reduced by \$1.30 for a residential customer using 50 therms per month.

Additional Information

Prior Introductions: HB 692 of 2011 received a hearing in the House Ways and Means Committee, but no further action was taken. Its cross file, SB 553, received a hearing in the Senate Budget and Taxation Committee, but no further action was taken.

Cross File: None.

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

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mc/jrb

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