

Chapter 655

(Senate Bill 98)

AN ACT concerning

Property Tax – Public Utilities – Assessment Apportionment

FOR the purpose of requiring the State Department of Assessments and Taxation to apportion the assessment of operating property of a public utility among the counties and municipal corporations where the operating property is located; repealing certain requirements for apportioning the assessment of operating personal property of a domestic public utility placed into service before a certain date; and generally relating to apportioning the assessment of operating property of a public utility.

BY repealing and reenacting, with amendments,
Article – Tax – Property
Section 8–109
Annotated Code of Maryland
(2012 Replacement Volume and 2017 Supplement)

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

Article – Tax – Property

8–109.

(a) The Department shall annually value the operating unit of a public utility on the basis of the value of the operating property of the public utility, by considering:

- (1) the earning capacity of the operating unit; and
- (2) all other factors relevant to a determination of value of the operating unit.

(b) The Department shall allocate to this State the value of that part of the operating unit that is reasonably attributable to the part located in this State.

(c) (1) From the value allocated to this State under subsection (b) of this section, the Department shall deduct:

- (i) the fair average value of fuel that represents the percentage reduction or exemption authorized by §§ 7–108, 7–222, and 7–226 of this article; and
- (ii) the assessment of operating property, if any, that is exempt by law from property tax.

(2) (i) The value remaining after making the deductions shall be divided into an operating real property value and an operating personal property value, as determined by the Department.

(ii) The value of operating real property is the assessment of operating real property of a public utility.

(iii) The value of operating personal property is the assessment of operating personal property of a public utility.

(3) Operating land of a public utility is valued and assessed by the Department as part of the operating unit and is not valued and assessed by the supervisor.

(4) The provisions of this subsection are not intended to alter the law as codified in former Article 81 of the Code that was in effect as of January 31, 1986.

(5) Returns, notices, and appeals of operating property assessments shall be administered pursuant to the sections of this article governing personal property assessments.

(d) [(1)] For operating [real] property of a [domestic] public utility, the Department shall apportion the assessment of that operating property among the counties and municipal corporations where the operating property is located.

[(2)] For operating personal property of a domestic public utility placed into service before January 1, 1968, the Department shall apportion the assessment of that operating property on the basis of the ownership of shares of stock, among the counties and municipal corporations where the owners of the shares of stock reside, or if an owner is a nonresident of this State, to the county and any municipal corporation, where the principal office of a domestic corporation is located. The equitable owner of shares held in trust by a resident trustee shall be deemed the owner of the shares and the residence determined as of the date of finality.

(3) For operating personal property of a domestic public utility placed into service after December 31, 1967, the Department shall apportion the assessment of that operating property among the counties and municipal corporations, where the operating property is located.

(4) For operating property of a foreign public utility, the Department shall apportion the assessment of that operating property among the counties and municipal corporations where the operating property is located.

(e) If there is only 1 class of stock, the allocation of the operating personal property assessment under subsection (d)(2) of this section is based on the per share value attributed to each share that is determined by dividing the assessment by the number of

outstanding shares of stock.

(f) If there is more than 1 class of stock, the allocation of the operating personal property assessment under subsection (d)(2) of this section is made by:

(1) multiplying the total assessment of all operating personal property to be allocated by the percentage of value that each class of stock bears to the total value of all classes of stock; and

(2) then dividing the product determined for each class in item (1) of this subsection by the number of outstanding shares of stock in that class to produce the assessment allocated to each share of stock.

(g) The Department may adopt regulations to carry out the provisions of this section.]

[(h)] (E) (1) In determining whether to classify a company as a public utility, the Department shall consider and evaluate whether the company:

(i) is subject to the authority of a regulatory body of the State or the federal government, such as the Maryland Public Service Commission, the Federal Communications Commission, or the Federal Energy Regulatory Commission;

(ii) uses a significant portion of the real and personal property used in its business operations as an integrated whole or unit;

(iii) provides a basic service to the public; and

(iv) owns or uses assets that are most appropriately appraised using the unit valuation method.

(2) Notwithstanding a company's failure to meet all of the criteria under paragraph (1) of this subsection, the Department may classify the company as a public utility if the Department determines that the company predominantly meets the criteria.

(F) THE DEPARTMENT MAY ADOPT REGULATIONS TO CARRY OUT THE PROVISIONS OF THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2018.

Approved by the Governor, May 15, 2018.