

PUBLIC UTILITY TAX

STATUTORY PROVISION: Title 30, Delaware Code, Chapters 33, 41, and 55.

COLLECTION/ADMINISTRATIVE AGENCY: Public utility taxes are administered by the Department of Finance, Division of Revenue.

GENERAL LIABILITY: Taxes are imposed on certain receipts earned by various public utilities -- gas and electric companies, telephone and telegraph companies, and cable television companies. A tax is imposed on the gross receipts of any distributor of gas, electricity, telephone, telegraph or cable television commodities and services. Electricity and gas delivered for consumption in Delaware from an out-of-state distributor is also subject to tax. The cable television tax base includes non-residential and residential consumption. All other commodities and services are taxed on non-residential customers only. A separate gross receipts tax is imposed on the production of gas or electricity (for sale) by a business. Co-generation is not subject to this tax if such utility is consumed by the co-generator. A tax is also imposed on the owners or operators of telephone and telegraph lines.

TAX RATES AND PAYMENT DATES

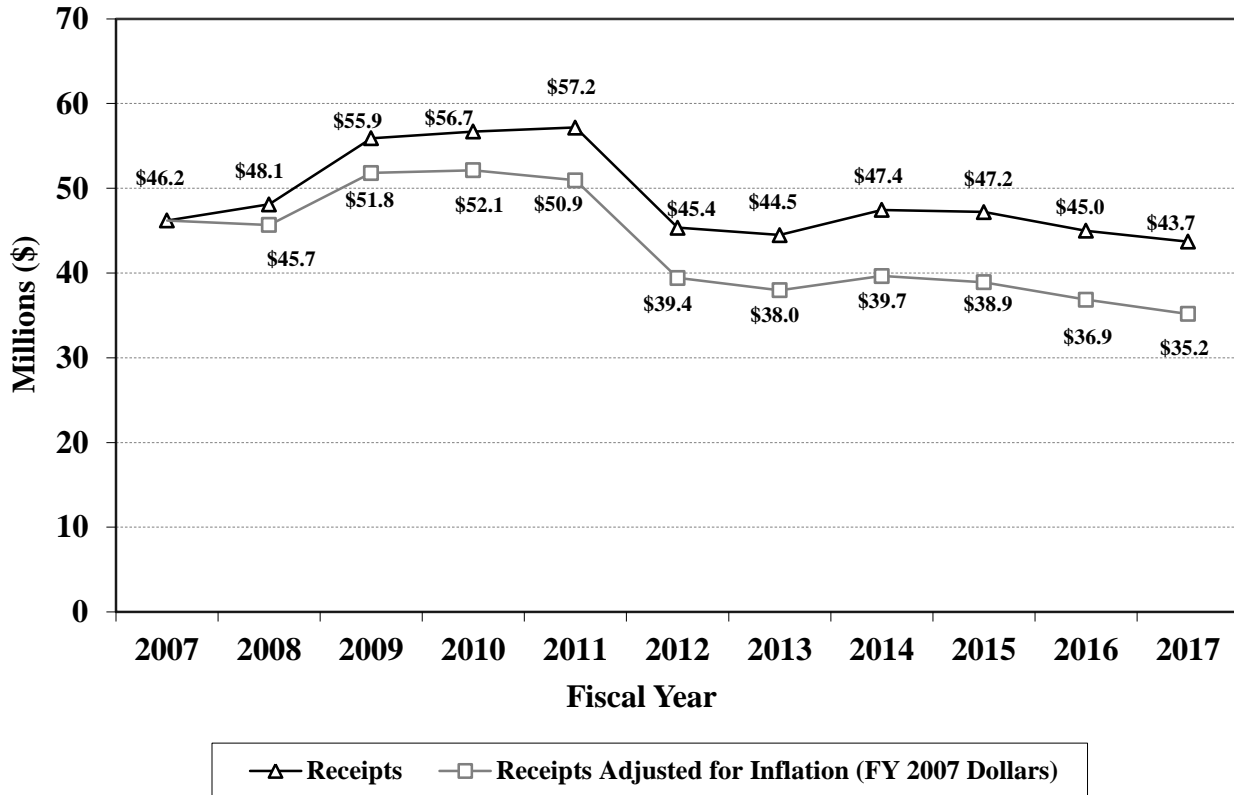
UTILITY	TAX RATE	PAYMENT DATES
Electricity Distribution	4.25% of gross receipts from non-residential users. 2.0% of gross receipts from manufacturers, food processors, and agribusinesses. Sales to automobile and certain other types of manufacturers are exempt.	Returns and payment due on or before the 20th day after the end of each calendar month
Gas Distribution	4.25% of gross receipts from non-residential users. 2.0% of gross receipts from manufacturers, food processors, and agribusinesses for deliveries or distributions. Sales to automobile manufacturers are exempt.	Returns and payment due on or before the 20th day after the end of each calendar month
Intrastate Telephone & Telegraph(1) Services	5.00% of gross receipts from non-residential users	Returns and payment due on or before the 20th day after the end of each calendar month
Telegraph	\$ 0.60 per mile of the longest wire in DE \$ 0.30 per mile of the next longest wire in DE \$ 0.20 per mile for every other wire owned, maintained or operated within DE.	Returns and reporting the number of miles of wire and transmitters are due June 1st and tax payments are due by June 15 th
Telephone	\$ 0.60 per mile of the longest wire in DE \$ 0.30 per mile of the next longest wire in DE \$ 0.20 per mile for every other wire owned, maintained or operated within DE. \$ 0.25 for each telephone transmitter within DE	Returns and reporting the number of miles of wire and transmitters are due June 1st and tax payments are due by June 15 th
Cable & Satellite Television Distribution	2.125% of gross receipts	Returns and payment due on or before the 20th day after the end of each calendar month
Electricity and Gas Manufacturing and Production	0.1 % (one mill) on each dollar of gross receipts from the production of gas or electricity. Municipalities are exempt.	Returns and payments are due on the first Monday of May.

(1) Unlike telephone services, in the case of telegraph services, there is no exclusion of interstate receipts.

PUBLIC UTILITY TAX

TAX RECEIPTS

Public Utility Tax



LEGISLATIVE HISTORY

Approved Date	Effective Date	Description of Changes
7/31/71	8/1/71	Instituted a 5% tax on gross receipts earned by electric and gas companies, telephone and telegraph companies, and cable television companies (59 Del. Laws c 301).
6/28/74	6/28/74	Increased the Public Service Commission's assessment to two mills, from one mill, and exempted utilities having sales of less than \$10,000 (59 Del. Laws c 397).
4/3/75	7/1/75	Exempted from the tax any receipts from sales to residential consumers and users. Stipulated that distributors of electricity, gas, or telegraph commodities are not to pass on the tax to the consumer (60 Del. Laws c 35).
7/7/76	7/1/76	Changed due date for returns to the 20th day of the month (was the 15th) (60 Del. Laws c 547; HB 869).
8/13/84	1/1/85	Lowered the rate for electricity and gas to 4.5% (was 5%). Permitted tax refunds to be claimed by users who obtain corporate income tax credits under the new/expanded business credit program (64 Del. Laws c 460; HS 1 for HB 698).

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Approved Date	Effective Date	<u>Description of Changes</u>
6/15/85	1/1/85	Exempted, for up to 36 months, corporations that filed in good faith under the reorganization provisions of the Bankruptcy Code (65 Del. Laws c 17; SB 183).
7/2/86	1/1/87	Reduced the rate to 4.25% and repealed the rebate for qualified users (65 Del. Laws c 387; SB 456).
7/8/87	7/8/87	Established administrative procedures relating to the public utility tax (66 Del. Laws c 113; HB 201).
7/10/87	7/10/87	Enacted negligence, fraud, and failure-to-file penalties (66 Del. Laws c 130; HB 266).
7/15/88	7/15/88	Exempted from tax any receipts from electricity sold for use in electrolytic, electroarcthermal, or air separation manufacturing processes (66 Del. Laws c 412; HB 269).
7/17/89	7/17/89	Extended "Blue Collar" credits to January 1, 1991 (67 Del. Laws c 120; SB 294).
2/8/91	1/1/91	Extended "Blue Collar" job credits to January 1, 1992 (68 Del. Laws c 6; HB 96).
2/6/92	1/1/92	Extended "Blue Collar" job credits to 1997. Expanded the scope of activities eligible for "Blue Collar" credits to include computer processing, engineering services, and consumer credit reporting services (68 Del. Laws c 202; HB 415).
7/1/94	9/30/94	Reduced to 2% (from 4.25%) the tax rate on receipts received from the sale of electricity to facilities used primarily for the manufacture of goods within the state of Delaware (69 Del. Laws c 290; SB 447).
7/1/95	7/1/95	Exempted from tax receipts received from the sale of electricity used in the manufacture of automobiles (70 Del. Laws c 120; HB 234).
2/3/95	1/1/95	Reduced to 2% (from 4.25%) the tax rate on receipts received from the sale of electricity to food processors and agribusinesses (70 Del. Laws c 1; SB 1).
7/11/96	10/1/96	Reduced to 2.125% (from 4.25%) the tax rate on receipts received from the distribution of cable television services (70 Del. Laws c 485; HB 712).
7/11/96	7/1/96	Extended "Blue Collar Jobs" credits through 2001. Expanded scope of activities eligible to include aviation services, non-custom computer software, and telecommunications services (70 Del. Laws c 487; SB 484).
7/12/96	1/1/97	Exempted from tax receipts received from the sale of all services or commodities to the State of Delaware and the United States, or instrumentalities, agencies or political subdivisions of either (70 Del. Laws 507; HB 714).
7/23/97	7/23/97	Repealed the requirement that, in order to qualify for "Blue Collar" Tax Credit, the taxpayer must make the qualified investment and employ the requisite number of employees during the same taxable year and instead requires that the two events occur during the same consecutive 12 months (71 Del. Laws c 217; HB 257).

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7/9/97	1/1/98	Extended the public utility tax to out-of-state gas providers. Lowered the rate of tax from 4.25% to 2.00% on gas consumed by manufacturers (71 Del. Laws c 170; HB 320).
6/25/98	6/25/98	Allowed facilities acquired through the purchase of assets or a corporate reorganization to continue to qualify as a 'qualified facility' for the purpose of the credits provided under the Blue Collar Jobs Act (71 Del. Laws c 314; HB 605).
3/31/99	10/1/99	Restructured and deregulated the industrial, commercial and residential customers markets within the service territories of Delmarva Power & Light Company and Delaware Electric Cooperative by eliminating their exclusive franchise for the supply of electricity (72 Del. Laws c 10, HB 10 as amended).
5/18/99	10/1/99	Extended the tax to the use of electricity that has been "wheeled" into Delaware from another state (72 Del. Laws c 39; HB 18).
7/1/99	7/1/99	Codified the Division of Revenue's 1992 ruling which resolved that cellular phones are subject to the public utility tax. Excluded electronic pager services from the tax (72 Del. Laws c 101; HB 215).
7/1/99	1/1/00	Clarified that public utility companies are not exempt from obtaining occupational licenses and paying gross receipts taxes on their nontraditional services which are not taxable to them as a public utility (72 Del. Laws c 176, HB 216).
8/4/99	1/1/00	Exempted gas consumption by automobile manufacturers from the public utility tax (72 Del. Laws c 249; SB 247).
7/18/00	1/1/00	Extended the "Blue Collar Jobs" credit program for an additional five years (72 Del. Laws c 442; SB 304).
7/9/02	8/1/02	Conformed Delaware Law to the Federal Act regarding sourcing of tax revenues from charges for mobile telecommunications service (73 Del. Laws c 399; HB 492).
2/7/05	1/1/05	Exempted charges for internet access from the public utility tax and defined "Internet access" to include telecommunications, wireless and cable services to the extent they are purchased, used, or sold by a provider of Internet access to provide Internet access (75 Del. Laws c 5; HB 11).
7/10/06	7/10/06	Required the Division of Revenue to publish, on its website, the top 100 delinquent taxpayers owing (i) personal income tax and (ii) business tax liabilities under Title 30 of the Delaware Code. Overdue liabilities subject to posting are limited to those taxes administered by the Department of Finance (75 Del. Laws c 406; HS 1 for HB 118).
7/10/06	1/1/07	Decreased the rate of interest assessed on overdue tax liabilities and paid on outstanding tax refunds from 1% to 0.5% and increased the penalties assessed on overdue liabilities from 0.5% to 1% (75 Del. Laws c 411; HB 397).

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Approved Date	Effective Date	<u>Description of Changes</u>
7/1/09	8/1/09	Added direct-to-home satellite services to the public utility tax base and increased tax rates, generally from 4.25% to 5.00%, on public utilities other than cable television. (77 Del. Laws c 82; HB 288).
7/1/11	7/31/11	Reduced tax rate on electricity and gas from 5.00% to 4.25%. Reduce the rate on electricity and gas distributed to manufacturers, food processors and other agribusinesses from 2.35% to 2.00%. Earmarks the first \$5 million in proceeds generated each year by the public utility tax to the new Energy Efficiency Investment Fund. (78 Del. Laws c 75; HB 129).
6/22/11	7/1/11	Updated the State's primary economic development tax incentive program (Blue Collar Jobs). Specifically, the Act: 1) made the program permanent by eliminating a sunset provision; 2) established a three-year application deadline; 3) increased the amount of the corporate or personal income tax credits; and 4) included provisions designed to attract manufacturers of advanced clean energy technology power generating devices and systems. (78 Del. Laws c 47; SB 40).
7/5/12	7/5/12	Provides a credit against the tax on telephone lines and transmitters that is measured as a percentage of the capital investment made in Delaware by a taxpayer and its affiliates, and provides the credit shall not be treated as an unforeseen change in a service provider's costs of providing telecommunications services. The Act also repeals the tax on telephone lines and transmitters after 2013. (78 Del. Laws c 294; HB 181).
7/1/13	7/1/13	Required state to transfer \$3,400,000 from the General Fund to the Energy Efficiency Investment Fund during Fiscal Year 2014. (79 Del. Laws c 79; SB 145).
7/1/14	7/1/14	Reduced from \$3.4 million to \$1 million the FY 2015 earmark for the Energy Efficiency Investment Fund (79 Del. Laws c 292; HB 425, Section 19).
7/21/14	1/1/15	Expanded the E911 surcharge to include retail purchases of prepaid wireless telecommunications service. (79 Del. Laws c 332; HB 289).
7/1/15	7/1/15	Suspended the FY 2016 earmark for the Energy Efficiency Investment Fund. (80 Del. Laws c 78; SB 160, Section 18).
7/1/16	7/1/16	Suspended the FY 2017 earmark for the Energy Efficiency Investment Fund. (80 Del. Laws c 299; HB 450, Section 14).
7/3/17	7/3/17	Suspended the FY 2018 earmark for the Energy Efficiency Investment Fund. (81 Del. Laws c 59; SB 125, Section 12).