

PUBLIC UTILITY DISTRICT PRIVILEGE TAX
Chapter 54.28 RCW

Tax Base

The tax applies to electric generating facilities of public utility districts (PUDs) for the privilege of operating. As described in the following section, the tax is measured by gross income derived from the sale of electric energy, the number of kilowatt hours of self-generated energy which is either distributed to consumers or resold to other utilities, and the wholesale value of energy produced in thermal plants.

Tax Rate

HYDROELECTRIC DAMS AND OTHER GENERATING FACILITIES:

- 2.14 percent of gross revenue from the sale of power to consumers that is distributed through the district's own distribution system; plus
- 5.35 percent of the first 4 mills (i.e., $.004 \times .0535 = .000214$) per kilowatt-hour of:
 - the wholesale value of self-generated energy distributed to its own customers, and
 - revenue from the sale for resale of self-generated energy.

THERMAL GENERATING FACILITIES: (Plants with a design capacity of 250,000 kilowatts or more located on a federal reservation which utilize steam derived from fossil or nuclear fuels and which became operational after September 21, 1977. This rate applies only to WNP #2 operated on the Hanford reservation by the Washington Public Power Supply System.)

- 1.605 percent of wholesale value of energy produced for sale or use.

Levied by

State (receipts shared with local taxing districts).

Cities. RCW 54.28.070 allows municipalities to tax PUD facilities located within the city. The tax is based on gross revenues from the sale of electricity to consumers within the city. The maximum tax rate is not specified, but presumably the maximum 6 percent limit for municipal utility taxes also applies to this tax.

Administration

Department of Revenue. PUDs file an annual return by March 15 which contains the necessary information pertaining to their income and production data on power generated or sold by the district during the previous calendar year. The Department calculates the amount of tax due and notifies the district of its liability by May 1. Payment is due by the district on June 1. Upon receipt of the tax, the Department instructs the State Treasurer to disburse the receipts to the proper funds and local jurisdictions.

Distribution of State Tax Receipts

HYDROELECTRIC FACILITIES:

(1) Basic tax rate (i.e., 2 percent of gross revenue and 5 percent of first 4 mills)

4% state general fund, and

96% is further distributed as follows:

37.6% state general fund for public schools;

62.4% counties to be further allocated as follows:

receipts from the 2% tax on gross revenue go to those counties from which the sales to customers were made in the same proportion, and

receipts from the 5% tax on the first 4 mills for both self-generated power and sales for resale are distributed based on the location of the dams and the reservoirs they create. In instances where the dams and reservoirs are located in more than one county, RCW 54.28.050 provides a complex distribution mechanism based on the total cost of the facilities to allocate the receipts among these counties.

The county treasurer shall further distribute amounts received under this distribution to all local taxing districts, except schools, in the most equitable manner (in most instances to approximate the distribution of property tax levies). Cities shall receive a minimum amount equal to 0.75 percent of the gross revenue derived by the PUD from the sale of energy within the city.

(2) Surtax (7 percent surtax which increases the basic rates to 2.14 percent and 5.35 percent)

100% state general fund.

THERMAL GENERATING FACILITIES:

(1) Basic rate (1.5 percent of wholesale value)

4% state general fund, and

96% is further distributed as follows:

50% state general fund for public schools;

50% local taxing districts based on their population to the total population within the "impacted area" which is defined in RCW 54.28.010(7) to mean the area within 35 miles of the southern entrance to the Hanford reservation. The 50 percent share for local taxing districts within the impact area is divided among the following districts:

- 22% counties
- 23% cities
- 3% fire districts
- 2% certain library districts.

(2) Surtax rate (7 percent surtax which raises the rate to 1.605 percent)

100% state general fund.

Recent Distributions (\$000)

<u>Fiscal Year</u>	<u>Distribution of State Tax</u>		<u>% Change*</u>	<u>% of All State Taxes*</u>
	<u>State</u>	<u>Local</u>		
2009	\$19,073	\$23,288	1.6%	0.3%
2008	18,702	22,975	4.7	0.2
2007	17,846	21,953	2.7	0.2
2006	17,349	21,411	1.9	0.3
2005	17,063	20,986	3.9	0.3
2004	16,402	20,220	(1.0)	0.3
2003	16,609	20,390	17.4	0.3
2002	14,176	17,333	5.4	0.3
2001	13,496	16,411	3.5	0.3
2000	13,043	15,851	7.5	0.2

*combined state/local total

Exemptions, Deductions and Credits

There are no statutory exemptions. However, pursuant to opinion by the Attorney General, the Department allows net uncollectible amounts to be deducted. Also, an administrative rule issued by the Department - WAC 458-20-192 (7, b) – extends exemption from the public utility privilege tax to Indian tribes and tribal members.

History

The PUD privilege tax was established in 1941 at an initial rate of 2 percent of gross revenue. The rate structure was modified in 1949 when the tax on self-generated energy was included and again in 1959 with the addition of the millage rate on the first 4 mills. In 1977 the 1.5 percent rate on wholesale value of power for nuclear generating plants at Hanford was established. Surtaxes totaling 7 percent were added to PUD tax rates during 1982, resulting in the current tax rates; the surtaxes were made permanent the following year.

Legislation in 2004 clarified that when public utility districts provide wholesale telecommunications services they must separately account for those revenues. Thus, the revenues attributable from these services will not become a part of the PUD tax base.

Discussion/Major Issues

There are 24 public utility districts which currently pay the PUD privilege tax.

Although not stated in the statute, the tax is intended to be in lieu of property tax, since public utility districts are governmental entities and do not pay property taxes. This allows schools and other taxing districts to receive revenues from the large investment in PUD generating facilities.

Public utility districts also pay the state public utility tax in the same manner as do privately-owned electric power companies. This business tax is measured by gross receipts, and the rate that applies to the generation of electric power is 3.873 percent.