

## Utility, Franchise and Video Programming Distribution

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### Distribution of Franchise Tax on Electricity (G.S. 105-116.1)

The Secretary must distribute to the cities part of the taxes collected under the Article 3 on electric power companies. The amount to be distributed to a city for a calendar quarter is 3.09% of the gross receipts derived by electric power companies from sales within the city for that quarter, minus the city's holdback amount, hold-harmless adjustment, and proportionate share of the cost to the Department for administering the distribution. The sum of the holdback amounts and hold-harmless adjustments of all cities is the amount of the freeze deduction (old holdback), which is the total that was withheld from the distribution to all cities combined in fiscal year 1995-96. The total old holdback of \$19,573,458.00 per year, and \$4,893,364.50 per quarter, is deducted from distributions of electricity franchise taxes to cities on a quarterly basis, and the following steps determine the holdback amount and hold-harmless adjustment for each city.

- The quarterly holdback amount for a city is obtained by comparing the amounts of gross receipts taxes on electric power companies and natural gas companies that the city received during fiscal years 1990-1991, 1995-1996 and 1999-2000. For each city, the holdback is a fixed amount that is deducted from every distribution of franchise taxes on electricity.
  - For a city that, in fiscal year 1995-96, received at least 95% of the franchise and excise taxes it received in fiscal year 1990-91, the amount withheld from the distribution is the amount of the old holdback.
  - For a city that, in fiscal year 1995-96, received at least 60% but less than 95% of the franchise and excise taxes it received in fiscal year 1990-91, the amount of the city's old holdback is added to the 1995-96 distribution for that city to obtain the adjusted 1995-96 distribution amount. If this adjusted amount is less than or equal to the 1990-91 amount, the city does not have any holdback withheld from their distribution, and the amount of the old holdback for this city is recovered through the hold-harmless adjustment. New holdback is established for a city whose adjusted 1995-96 amount exceeds their 1990-91 distribution. The amount of the new holdback is the old holdback minus the difference between the 1995-96 and 1990-91 distributions, and the difference between the new and the old holdback amounts becomes a part of the total hold-harmless to be recovered.
  - For a city that, in fiscal year 1995-96, received less than 60% of the franchise and excise taxes it received in 1990-91, the holdback amount is adjusted by comparing fiscal years 1990-1991 and 1999-2000, and any decrease in the old holdback is added to the hold-harmless to be recovered.
- From the total quarterly holdback of \$4,893,364.50, \$4,827,098.00 is the sum of the old and the new holdbacks, and \$66,266.50 is the total hold-harmless adjustment that is recovered from cities whose 1995-96 distribution amounts are at least 95% of the 1990-91 amounts. For these cities, the share of the hold-harmless adjustment is the quotient of their distribution amount minus their holdback and the sum of all distribution amounts minus their holdbacks. This percentage share multiplied by the total hold-harmless amount of \$66,266.50 is the city's applicable hold-harmless deduction for a given quarter.

### **Distribution of Excise Tax on Piped Natural Gas (G.S. 105-187.44)**

The Secretary must distribute to the cities part of the tax proceeds collected under the Article 5E. The amount to be distributed to a city for a quarter is one-half of the tax amount attributed to that city for that quarter under G.S.105-187.44(a).

### **Distribution of Sales Tax on Telecommunications to Cities (G.S. 105-164.44F)**

Effective July 1, 2011, 18.70% of the net proceeds of the taxes on telecommunications and ancillary services collected during the quarter under G.S. 105-164.4(a)(4c), minus a freeze deduction of \$2,620,948 is designated for distribution to cities. The freeze deduction is one-fourth of the annual amount by which the distribution to cities of the gross receipts franchise tax on telephone companies, imposed by former G.S. 105-20, was reduced beginning in fiscal year 1995-1996.

For a city incorporated on or after January 1, 2001, the distribution amount is its per capita share of the total distributed to all cities incorporated on or after this date, and the portion of the total that is designated for distribution to these cities is the same as the portion of the population of all cities incorporated on or after January 1, 2001 compared to the population of all cities. In making this distribution, the Secretary must use the most recent annual population estimates certified to the Secretary by the State Budget Officer.

The amount to be distributed to all cities incorporated before January 1, 2001 is the total designated for distribution, minus the amount distributed to all cities incorporated on or after January 1, 2001. A city's proportionate share for a quarter is based on the amount of telephone gross receipts franchise taxes attributed to a city during the last quarter in which taxes were imposed under repealed G.S. 105-120.

### **Distribution of Sales Tax on Telecommunications Service and Video Programming Service to Counties and Cities, Supplemental PEG Channel Support (G.S. 105-164.44F, G.S. 105-164.44I)**

The Secretary must distribute to counties and cities part of the taxes imposed by G.S. 105-164.4(a)(4c) on telecommunications service and G.S. 105-164.4(a)(6) on video programming service. The revenue to be distributed to counties and cities consists of four parts and the following are portions of the net proceeds on telecommunications and ancillary services, direct-to-home satellite services, and video programming other than direct-to-home satellite services designated for distribution to local governments:

- Counties and cities receive 7.70% of the net proceeds of taxes collected during the quarter on telecommunications and ancillary services, minus the portion of \$1,000,000 designated for the supplemental PEG channel support.
- Counties and cities receive 37.10% of the net proceeds of taxes collected during the quarter on direct-to-home satellite services, minus the portion of \$1,000,000 designated for the supplemental PEG channel support.

- Counties and cities receive 23.60% of the net proceeds of taxes collected during the quarter on video programming other than direct-to-home satellite services, minus the portion of \$1,000,000 designated for the supplemental PEG channel support.
- Local governments with qualified PEG channels receive a portion of the supplemental PEG channel support amount. Effective July 1, 2011, the yearly amount designated for this support is the sum of \$4,000,000, and the applicable portion of this total is included in each quarterly distribution. The quarterly share that a county or city receives per each certified PEG channel is the quarterly amount of \$1,000,000 divided by the number of certified PEG channels.
  - A county or city may not certify and receive funds for more than three qualifying PEG channels.
  - If a county or city receives funds for a PEG channel that it certified in error, funds distributed as a result of this error must be returned and added to the total amount of supplemental PEG channel support funds for allocation in the following fiscal year.

### **Distribution Percentage**

The percentage share of proceeds available for distribution of telecommunications, satellite, and video programming that each local government receives is based on certifications that were submitted to the Secretary by counties and municipalities on or before March 15, 2007. These certifications provided the amounts of cable franchise taxes and subscriber fee revenues that were imposed by counties or cities during the first six months of fiscal year 2006-2007. These taxes and fees set a base amount that determined the proportionate share of a county or city as the base amount for a county or city to the base amounts for all counties and cities. The base amount for a local government that did not impose cable franchise taxes before July 1, 2006 was obtained as \$2.00 times the population estimate. Revised certifications of cable franchise taxes and subscriber fees imposed during the first six months of the fiscal year 2006-2007 were due on April 1, 2008, and certifications submitted after that date may not be used to adjust a county's or city's base amount. A county or city that does not submit information is excluded from the distribution, but if the county or city later submits the required information, the Secretary must include the county or city in the distribution for the quarter that begins after the date the information is received.

Beginning with distribution for fiscal year 2008-2009, the distribution percentage is determined by multiplying the county's or city's base amount by the percentage change in its population for that fiscal year. This result added to the base amount for the previous fiscal year is the adjusted amount, and the portion that each county or city receives is the quotient of the county's or city's adjusted amount and the sum of adjusted amounts for all counties and cities.

***The distribution of franchise tax on electricity, excise tax on piped natural gas, sales tax on telecommunications to cities, and sales tax on telecommunications and video programming to counties and cities must be made within 75 days after the end of each calendar quarter.***

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