

Utility Business and Occupation Taxes

Utility taxes may be levied on the gross operating revenues earned by private utilities from operations within the boundaries of a city and by a city's own municipal utilities. Utilities on which taxes may be levied include electric, water, sewer, stormwater, garbage, gas, telephone, and cable TV. Note that utilities will often break out the amount of the tax on the bill, the tax is legally levied on the utility, not the customer and must be paid from utility revenues.

What Are the Limits on the Tax Rate?

Legislation passed in 1982 limits the tax rate that a legislative body may impose on electric, gas, and telephone utility services to six percent. Cellular telephone and pager services may be taxed at the same rate as other telephone services. A city may ask the voters to approve a rate of higher than six percent on these utilities.

There are no restrictions on the tax rates for water, sewer, and stormwater utilities. The rate on cable TV is governed by the Cable Communications Policy Act of 1984. It requires that the rate not be "unduly discriminatory against cable operators and subscribers." If a city has set all its tax rates at six percent, the rate on cable TV should probably be no higher than that. However, if rates on utilities other than electric, gas, or telephone are higher than six percent, an argument can be made that the tax on cable TV can be higher than six percent also without being "unduly discriminatory," because all the rates over which the jurisdiction's legislative body has control are higher than six percent. Direct broadcast satellite television services are preempted from all local government taxation except for the sales of equipment, such as satellite reception dishes.

Effective July 1, 2008, cities may no longer tax Internet access due to the passage of the federal Internet Tax Freedom Act Amendments Act of 2007, Public Law 110-108, the federal moratorium against the imposition of state and local taxes on Internet access. Prior to this time, a grandfathering provision allowed cities to levy their service B&O tax on Internet access charges and their telephone utility tax on telecommunications service purchased, used, or sold by a provider of Internet access.

60-Day Waiting Period for Changes

Any tax changes for electric, telephone, and gas utilities cannot take effect until the end of 60 days after enactment of the ordinance. If the utilities are private utilities, they need this time to apply to the Washington Utilities and Transportation Commission for a rate adjustment to reflect the tax change, RCW 35.21.865.

West Richland Utility Taxes

The tax rates vary by type of utility. Electric, telephone, gas and to a certain extent cable TV have statutorily prescribed maximum rates of 6%. Voters can approve higher taxes. West Richland voters have approved an additional 2.5% on telephone, electric and gas utilities to fund library operations. These additional tax levies are accounted for within the Library Services Fund 121.

Water/sewer, stormwater and garbage do not have statutorily prescribed limitations on rates. Current rates are:

- Water Utility: 15% with 1% to be used for transportation purposes (and accounted for within the Streets Fund 101). 1.5% of the General Fund portion is dedicated to the City's fire hydrant maintenance program.
- Sewer Utility: 13.5% with 1% to be used for transportation purposes (and accounted for within the Streets Fund 101).
- Stormwater Utility: 6%
- Garbage Utility: 8.5%

West Richland's Current Utility Tax Rates	
Utility	Tax Rate
Telephone	8.5%
Electric	8.5%
Gas	8.5%
Cable	6%
Water	15%
Sewer	13.5%
Stormwater	6%
Garbage	8.5%