



Utility Tax

Who Can Impose the Tax?

Any city or town. The authority of cities and towns to impose the tax derives from their general authority to impose excise taxes on businesses doing business within their boundaries. See RCW [35A.82.020](#) (code cities); RCW [35.22.195](#) (first class cities); RCW [35.23.440\(8\)](#) (second class cities); RCW [35.27.370\(9\)](#) (towns).

Whom Can the Tax Be Levied Upon?

Utility Tax *Maybe* Levied Upon

- Cable TV
- Electricity
- Gas
- Sewer/Stormwater
- Solid waste
- Steam
- Telephone (including cell and pager)
- Water

Utility Tax *May Not* be Levied Upon

- Broadcast Satellite TV
- Internet Services

Imposing Utility Taxes on Other Municipalities

A 2014 court of appeals decision, [*City of Wenatchee v. Chelan Pub. Util. Dist.*](#), holds that code cities may impose the tax on other municipalities providing utility service within their boundaries, on revenues derived from their proprietary activities. [More Information](#). The reasoning of that court decision should apply equally to other classes of cities and to towns.

What are the limits on the rate?

Limit of 6.0% (without voter approval)

- Electricity
- Gas
- Steam
- Telephone

RCW [35.21.870\(1\)](#). Cities may impose a higher rate with voter approval (majority vote). Id.

No Limit

- Sewer/Stormwater
- Solid waste
- Water
- Cable TV - may not be "unduly discriminatory"; i.e., must be imposed at the same or a similar rate as is imposed on other utilities. Cable Communications Policy Act of 1984, [47 U.S.C. §542\(g\)\(2\)\(A\)](#).

Referendum Clause in Rate Changes

A city that imposes a utility tax for the first time or that increases a tax rate may be required to include a referendum clause in the ordinance. From its placement in the text, it is unclear whether [RCW 35.21.706](#), which definitely requires a referendum clause for a gross receipts business and occupation tax, applies to utility taxes. MRSC recommends a cautious approach of including referendum language in any increase. We note that a number of cities have not included a referendum clause. A court decision or legislative amendment would be needed to clarify this matter.

How Can Revenues Be Used?

There are no limits on how cities use utility tax revenues. Most cities use these revenues for general fund purposes. However, when voter approval is asked for rates higher than 6 percent, cities often dedicate the additional revenue to specific uses such as roads or public safety. You can see more voter approved utility tax increases in our [elections database](#).

Additional Requirements

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 the enactment of the ordinance. RCW [35.21.865](#). 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.

See Also

[MRSC Inquiries - Public Works](#)

Examples

- Bellevue Municipal Code [Ch. 4.10](#) - General utility tax with provisions for tax relief for qualified individuals.
- Stanwood Municipal Code [Ch. 5.01](#) - General utility tax.
- Battleground Municipal Code [Ch. 3.12](#) and [Ch. 3.32](#) - Separate utility tax provisions for electricity and water/sewer.
- Ilwaco Municipal Code [Ch. 3.19](#) - General utility tax.

Tax Rebates/Discounts

- Zillah Municipal Code [Ch. 13.34](#) - Provision for utility tax discount for low income seniors and disabled citizens.
- Federal Way [Utility Tax Rebate Form](#) - A rebate program for very low-income senior citizens.

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