MARYLAND COMMUNICATIONS TAX REFORM COMMISSION

Senator Nancy J. King
Delegate Carolyn J.B. Howard
Co-Chairs

June 30, 2013

Honorable Martin O'Malley
Governor of Maryland
State House
Annapolis MD 21401

Honorable Thomas V. "Mike" Miller, Jr.
President, Senate of Maryland
State House
Annapolis MD 21401

Honorable Michael E. Busch
Speaker, Maryland House of Delegates
State House
Annapolis MD 21401

Dear Governor, President and Speaker:

The Maryland Communications Tax Reform Commission has completed its work and is forwarding to you its findings. Created by Chapters 261 and 262 of the General Assembly of Maryland's 2012 legislative session, the Commission was charged with assessing the implications of instituting "...a modernized, competitively neutral communications tax and fee system....", and potential avenues to "...encourage investment in broadband networks and emerging technologies." Any findings and recommendations found through this assessment were to be reported to aid consideration of communications tax and fee restructuring in future sessions of Maryland's General Assembly.

After thoughtful consideration and lengthy deliberations, the Commission did not arrive at any consensus recommendations for restructuring Maryland's communications tax and fee structure; however, findings did emerge from this process, including:

- the identification of the taxes and fees levied on communications services in Maryland;
- the quantification of the communications revenue received by the State and local governments in fiscal year 2012;
- the estimated revenue implications of implementing certain reform proposals;
- the difficulties implicit in building-out broadband capacity to rural areas;
- that a multitude of opinions on the benefits of, and optimal course for, reform existed among the Commission members; and
- the identification of obstacles that complicate the prediction of communications revenues under any tax and fee structure.

Attached is the final report of the Commission, as well as appended staff reports on the:

- current communications taxes and fees levied in Maryland;
- communications tax and fee revenue received by the State and local governments in fiscal year 2012; and
- fiscal implications of three reform scenarios offered by Commission members.

The information presented in this document is supplemented by the Commission's Web site, **www.ctrc.maryland.gov**, which contains all presentations, testimony, meeting minutes, and other relevant material. Though no formal recommendations were adopted by the Commission, we believe the information compiled will aid thoughtful deliberation on the implications of communications tax and fee reform in future legislative sessions.

We would also like to take this opportunity to thank the members of the Commission who spent many long hours in meetings reviewing the issues. In addition, we would like to thank the staff of the Comptroller's Office and the State Department of Assessments and Taxation who worked hard to provide quality information.

We hope that you find our work helpful, and would be pleased to make ourselves available if you should have any questions.

Sincerely,

Nancy J. King

Senator Nancy J. King
Chair

Carolyn J.B. Howard

Delegate Carolyn J.B. Howard
Chair

Report

Of

The

Maryland
Communications Tax Reform Commission

Senator Nancy J. King
Chair

Delegate Carolyn J.B. Howard
Chair

Table of Contents

Introduction

The Maryland Communications Tax Reform Commission was created by Chapters 261 and 262, Communications Taxes – Reform Commission, during the 2012 Regular Session of the General Assembly. The 22-member Commission included legislators, State officials, and representatives of the business community, local governments, and the public (**Appendix 7**). The Commission was charged with assessing the "feasibility and fiscal implications for the State and local governments of a modernized, competitively neutral communications tax and fee system that eliminates disparate treatment of similar communications service providers" and the "efficacy of tax and other incentives to encourage investment in broadband networks and emerging technologies." The Commission was explicitly directed to include an examination of the following taxes and fees as they relate to consumers and providers of communications services:

- State and local property taxes;
- the public service company franchise tax;
- sales and use taxes;
- the corporate income tax;
- local communications taxes and fees; and
- any other communications tax or fee that the Commission determines is relevant.

The Commission first met on October 3, 2012, and met an additional four times since. Testimony was presented by a variety of experts on the communications industry and tax policy, including tax policy analysts, technology experts, tax administrators, and Commission members, themselves. Detailed information, including all presentations, expert testimony, meeting minutes, public testimony, and other relevant material is available on the Maryland Communications Tax Reform Commission Web site, **www.ctrc.maryland.gov**.

This document serves as the Commission's final report of its findings and recommendations, statutorily required to be delivered by June 30, 2013, to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly. Though the Commission did not adopt any consensus recommendations, through its work, a multitude of information was compiled. This information, along with the three reformatory scenarios proposed by the wireless industry and reform guidelines put forth by the local governments, is contained in this report and on the Commission's website to assist interested parties form conclusions in regards to communications tax and fee restructuring.

Proceedings of the Communications Tax Reform Commission

On October 3, 2012, the Commission met for the first time. The charge of the Commission was reviewed and an initial overview of the existing communications taxation structure in Maryland was provided to Commission members through both a report and a presentation provided by staff. This report is appended to the final report as **Appendix 1.**

A second Commission meeting was held on November 7, 2012. During this meeting, separate representatives for the local governments and cable television industry led a discussion on franchise fees as well as Public, Educational, and Governmental fees. Following discussions, two presentations were made on communications tax reform efforts in other states; one focused on the Virginia reform effort and the other a synopsis of different reforms employed by other states. A final presentation was made on the current state of broadband deployment throughout the State, incentives offered by Maryland counties to encourage the expansion of broadband networks, and impediments to further broadband expansion.

On December 5, 2012, the Commission met for a third time. Two presentations were provided, one on emerging technologies in the communications industry and another by the satellite television industry on franchise fees and Public, Educational, and Governmental fees. Following these presentations, Commission member Scott Mackey of the wireless industry presented two reform proposals and the Maryland Association of Counties presented general guidelines for reform in concert with the Maryland Municipal League (full document available on Commission's Web site, **www.ctrc.maryland.gov**). Lastly, staff shared the status of the ongoing data collection from local governments and businesses, as required through the aforementioned legislation.

At the Commission's fourth meeting, on May 16, 2013, staff presented a report which provided analysis on the fiscal year 2012 communications tax and fee revenue received by the State and local governments (**Appendix 2)**. The data used in this analysis was collected through two separate surveys developed, disseminated, collected, and compiled by the Comptroller's Office. One survey was sent to local governments and the other was sent to communications companies. Additionally, this report provided fiscal estimates for the two reforms which had been proposed by Commission members to date (**Appendices 3-A and 4-A**), noting that the implementation of either reform scenario would reduce revenue. Following the presentation of this report, Commission members were given the opportunity to make five minute presentations on topics of their choosing, and two members made such presentations. Through open discussion following the presentations, many members expressed desire to form a proposal which would not reduce revenue to the State or local governments. A deadline of June 5, 2013, a week before the next scheduled Commission meeting, was set for member introductions of new proposals.

The wireless industry presented a new reform proposal on June 5, 2013. Staff estimated the fiscal impact of implementing the proposed reform (**Appendix 5-A**) and distributed it to Commission members on the same day. On June 12, 2013, the Commission met for a fifth, and final, time. At this meeting, members discussed the proposals, the proceedings of the Commission, and the information to be included in the final report.

Findings

Though no consensus recommendation was formed, the Commission's work yielded many findings, including:

- the identification of the taxes and fees levied on communications services in Maryland;

- the quantification of the communications revenue received by the State and local governments in fiscal year 2012;
- the estimated revenue implications of implementing certain reform proposals;
- the difficulties implicit in building-out broadband capacity to rural areas;
- that a multitude of opinions on the benefits of, and optimal course for, reform existed among the Commission members; and
- the identification of obstacles that complicated the prediction of communications revenues under any tax and fee structure.

Current Tax Structure and Revenues

Maryland consumers and providers of the communications services cited in the aforementioned legislation—local exchange, interexchange, wireless telephone, cable television, and satellite television—incur taxes and fees which differ by service type. The complete communications tax and fee structure is outlined in **Appendix 1**. In fiscal year 2012, approximately 87.4% of the $555.0 million in tax and fee revenues collected was itemized on the service bill and levied directly on the consumer. The remaining communications revenue was from property, income, and sales taxes incurred by the business (though these taxes are at least partially passed on to the consumer in the form of higher prices for communications services). The revenue received by tax or fee type, communications service, and government recipient is detailed in **Appendix 2**.

Members did not form consensus regarding the degree to which the above communications services are similar; however, if these communications services are similar, Maryland's current tax and fee structure disparately treats similar communications service providers. Some of these taxes and fees on the respective services include:

- **Local Exchange and Interexchange Telephone:** The 2.0% public service company franchise tax is levied on gross receipts by the State government. Additionally, five counties—Montgomery County, Prince George's County, Baltimore City, Baltimore County, and Anne Arundel County—levy a local sales or excise tax on this landline telephone service;
- **Wireless Telephone:** The 6.0% State sales tax applies to general wireless telephone service. Additionally, three counties— Baltimore City, Prince George's and Montgomery Counties—levy a local telecommunications tax or fee on the consumption of wireless telephone service;
- **Cable Television:** Local governments levy franchise and Public, Governmental, and Educational fees of differing rates on cable television, ranging from rates of 0.0% to 8.0% for the use of public rights of way; and,
- **Satellite Television:** There are currently no State or local taxes or fees levied on the provision or purchase of general television service via satellite. Satellite television does not access the public rights of way.

All three reform proposals offered by Commission members proposed equalizing the combined tax and fee rates across the different services, to varying degrees.

Commission Member Policy Proposals

Two reform proposals were presented by Commission member Scott Mackey at the meeting of December 5, 2012, and a third proposal was presented by the wireless industry on June 5, 2013. While none of the proposals carried the consensus approval of the Commission, these proposals, along with general outlines for reform presented by the Maryland Association of Counties and the Maryland Municipal League, are summarized below (full document available on Commission's Web site, **www.ctrc.maryland.gov**). Additionally, analysis was performed on the fiscal effects of implementing each of the three reform proposals on fiscal year 2012 revenue.

The first proposal, entitled '*Option 1: Comprehensive State–Local Communications Tax Reform,*' suggested reforming the telecommunications and pay-television tax and fee structure, by:

- repealing the public service company franchise tax levied on landline telecommunications services;
- reducing the State and local tax rate on telecommunications real property to the rate of other communications real property;
- exempting the purchase of communications network equipment from the State sales tax; and
- phasing out all local communications taxes and fees over a four-year period.

It proposed implementing the 6.0% State sales tax on all communications services and expanding the revenue base to satellite and other communications services, such as internet-streamed television and movies, which are currently not taxable under State law. Staff analysis, provided to Commission members on May 7, 2013, showed that State and local government communications revenue would have been reduced by approximately $73.6 million under the proposed tax structure (**Appendix 3-A)**.

The second proposal, entitled *'Option 2: Reform Discriminatory Telecommunications Taxes,'* exclusively would reform the telecommunications industry. This plan included:

- repealing the public service company franchise tax levied on landline phone services;
- reducing the State and local property tax rate applicable to telecommunications real property to the rate of other communications real property;
- exempting the purchase of telecommunications network equipment from the sales tax; and
- phasing out all local telecommunications taxes and fees over a four-year period.

It proposed implementing the 6.0% State sales tax on all telecommunications services. Staff analysis, provided to Commission members on May 7, 2013, showed that State and local government communications revenue would have been reduced by approximately $106.3 million under the proposed tax structure (**Appendix 4-A)**.

Staff estimated the revenue effects from implementing both options 1 and 2 in more detail in a staff report presented to the Commission at the meeting of May 16, 2013 (**Appendix 2**). In response to the potential revenue losses these options would generate, members expressed a desire to provide new proposals that would be revenue neutral. A third proposal, entitled '*State-Level Communications Tax Reform Proposal*,' was presented by the wireless industry on June 5, 2012. As its title suggests, this proposal was largely focused on reforming the State's tax and fee structure on communications services, while leaving the local government structure alone (with the exception of eliminating the elevated local tax rate against communications property). The third proposal included:

- repealing the public service company franchise tax levied on landline telecommunications services;
- reducing the tax rate on public utility telecommunications real property to the rate of non-public utility real property; and
- exempting the purchase of communications network equipment from the State sales tax.

In their stead, a new 4.0% State sales tax would be instituted against all communications services, including reducing the sales tax rate on wireless telephone service from 6.0% to 4.0%. The proposal indicated that additional State revenue—analysis showed this amount would equate to $21.6 million—would be used to replenish local property tax revenues and to establish funding for broadband development in rural areas. **Appendix 5-A** shows this proposal along with staff analysis, as provided to Commission members on June 5, 2013.

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The staff analysis of the proposals was largely fiscal in substance, serving as a first step toward consideration of restructuring the communications tax and fee structure. As the Commission was unable to form consensus on a proposal, progression to certain administrative, legal, or fairness concerns remained out of the scope of the analysis presented by staff. Commission members stated their desire that additional information be provided to the General Assembly for review, including: the effect of reform on businesses, distinctions between taxes and fees, implications of moving away from the unit-valuation property assessment method, and a cost-benefit analysis of governmentally incentivizing the expansion of broadband networks. This information, which may be implicitly subjective or anecdotal, is touched on to varying degrees through the materials provided on the Commission's Web site.

A consensus reform proposal was not put forth by the Maryland Association of Counties (MACo) nor the Maryland Municipal League (MML), rather guidelines for communications reform were jointly assembled by the two groups and disseminated to Commission members at the meeting of December 5, 2012. These general principles are maintaining tax and fee distinction, current local government revenues, flexible taxation authority, local franchising and rights-of-way management, as well as that comparable services should be treated equitably and tax policy can be an incentivizing tool (full document available on Commission's Web site, **www.ctrc.maryland.gov**).

Rural Broadband Expansion

Largely due to the costs associated with building-out broadband networks, expansion into rural areas where populations, and potential customers, are less dense has not occurred in certain areas of Maryland. Though many members of the Commission expressed belief that further broadband expansion would positively benefit the State, implicit difficulties exist in government funding to encourage such activity. One such difficulty is that not all communications companies offer services through broadband networks; thus, government funding of broadband expansion may be conceived as industry favoritism.

Lack of Member Consensus

The differences between member positions seemed irreconcilable, making a consensus reformatory recommendation untenable. Commission members disagreed on, among other things, the purpose of current taxes and fees, differences and similarities between the communications services, the scope of the Commission's charge, whether other states' communications reform efforts accomplished the desired goals, and potential distinctions between taxes and fees. This lack of any common philosophical basis between Commission members made impossible any attempt to devise a "…system that eliminates the disparate treatment of similar communications service providers" in this Commission, but may serve as a finding in regards to the feasibility of implementing communications tax and fee reform that is desired by all stakeholders.

Outlook Complications

The adoption of new technologies and forthcoming federal Congressional decisions could alter Maryland's communications revenue base in future years by a currently indeterminable, but potentially significant, amount. While the adoption of new taxable technologies which are currently not codified as taxable, such as internet-streamed television, may cannibalize the existing communications revenue base, it is uncertain how quickly, if at all, consumers will embrace these new technologies and replace their existing means for acquiring these services. Furthermore, even if Maryland law is altered to include these services as taxable, without Congress acting to overturn the existing prohibition on obligating out-of-State sellers to collect and remit the sales tax, much of this potential revenue could remain unrealized.

Another pending federal determination is the current prohibition on taxing internet access services, known as the "internet tax moratorium". If Congress does not extend this prohibition, and the moratorium expires in November of 2014, data plans, which are increasingly becoming a larger part of consumers' wireless telecommunications bill, may become subject to sales tax collections by the State and certain local governments. Along with many other complicating factors, these unforeseeable future developments lead to a wide variance in potential total communications revenue collected under any tax structure, confounding the ability to accurately forecast the overall effect of reform until the course of these future outcomes becomes more transparent.

Conclusion

The Communications Tax Reform Commission performed an assessment of the "feasibility and fiscal implications for the State and local governments of a modernized, competitively neutral communications tax and fee system that eliminates disparate treatment of similar communications service providers" and the "efficacy of tax and other incentives to encourage investment in broadband networks and emerging technologies" as charged. While no recommendations emerged through these analytical deliberations, a wealth of findings have been commingled and presented for future analysis on the costs and benefits of restructuring Maryland's communications tax and fee structure.

COMMUNICATIONS TAX STRUCTURE

Presented to
COMMUNICATIONS TAX REFORM COMMISSION

Bureau of Revenue Estimates
Comptroller of Maryland
October 3, 2012

Table of Contents

Introduction

The Commission is explicitly directed to include an examination of the following taxes and fees as they relate to consumers and providers of communications services:

- State and local property taxes;
- the public service company franchise tax;
- sales and use taxes;
- corporate income tax;
- local communications taxes and fees; and
- any other communications tax or fee that the Commission determines is relevant.

This report, submitted for the Commission's consideration, identifies the current taxes and fees levied on communications services in Maryland. All revenue estimates are preliminary and subject to revision after the receipt of data from the communications companies and the local governments.

Communications

In this report, communications services are separated into telecommunications services and pay-television services. Telecommunications services include long distance (interexchange), local exchange, wireless (cellular), and Voice-over-Internet-Protocol (VoIP) services. Pay-television services include cable and satellite services. These grouping are used for organizational purposes, rather than to suggest the different services in each group are perfect substitutes. In fact, many of the services discussed in this report are not distinct from one another and a number of providers offer more than one of these services.

Definitions

Long Distance (Interexchange)

Two-way voice communication that does not originate and terminate in the same local calling area and that is transmitted via the public switched telephone network. Long distance does not include VoIP service.

Local Exchange

Two-way voice communication that originates and terminates in the same local calling area and that is transmitted via the public switched telephone network. Local exchange does not include VoIP service.

Wireless (Cellular)

Communications services through a mobile phone, which connects to a cellular network or satellite via a radio link.

Voice-over-Internet-Protocol (VoIP)

Any two-way voice communication that originates from or terminates to the subscriber end user's location requiring Internet protocol or any successor protocol to Internet protocol and requiring a broadband connection from the user's location.

Cable Television

Television services distributed to subscribers via radio frequency signals transmitted through coaxial cables or digital light pulses through hybrid fiber coaxial networks.

Satellite Television

Television services delivered to consumers by means of a communications satellite and received by an outdoor antenna, referred to as a satellite dish.

Current Telecommunications Tax and Fee Structure

The long distance and local exchange industries (landline services) are taxed similarly in Maryland, and, as a result, are grouped together in this paper. The remaining two telecommunications services examined in this report, wireless and Voice-over-Internet-Protocol (VoIP), are taxed or regulated differently from both each other and the more traditional landline services.

Public Service Company Franchise Tax

A 2% public service company franchise tax is applied to the gross receipts of long and local distance telephone, telegraph, electric, common carrier, and gas companies in Maryland. The tax is levied on public service companies for the privilege of doing business in the State. Currently, the tax base of gross receipts is defined as including:

- Gross or total earnings and total receipts;
- The full amount, minus a certain discount, of approved and applicable federal and State tariff charges for telephone lifeline service; and
- For a telecommunications company providing interstate long distance telecommunications service, the gross charges from the sale of long distance telecommunications service that originates or terminates in the State and for which a charge is made to a service address located in the State, regardless of where the amount is billed or paid.

Gross receipts do not include:

- Any revenue derived from an activity not related to the telephone business;
- Net uncollectible revenue;
- Gross charges from the sale by the public service company to another public service company subject to the tax imposed by this subtitle of a service or product for resale
- Gross charges from the sale by the public service company of Internet access service by which a connection is provided between a computer and the Internet; or
- Gross charges from the sale of telecommunications service obtained by using a prepaid telephone calling arrangement.

In 1992, the General Assembly made a significant change to the application of the public service company franchise tax to interstate long distance carriers. The sourcing method for interstate service was changed from a method of using “circuit mileage” to determine the state to which a service was credited for taxation purposes to a “service site charged” method. It was believed that this method would be able to accommodate future technological developments while generating a significant revenue increase to the State of Maryland. For unlimited calling packages, the state of taxation is determined according to the location of the service address.

Gross charges by a public service company from the sale of Internet access service were exempted from the gross receipts base in 1998. This exemption matches federal legislation passed in 1998 that blocked the federal, state, and local governments from imposing taxes on Internet access. The moratorium on Internet access taxation has been extended three times, and currently extends until November 1, 2014. The federal exclusion of tax on Internet access does not apply to a tax that was imposed and collected before October 1, 1998.

A tariff is, essentially, a common name for a schedule of rates filed with or approved by the Public Service Commission (PSC) which the customer pays for public utility service. Federal and State tariff charges for telephone lifeline service are included in the gross receipts tax base. This lifeline service exists to provide low income households with local telephone service. Local telephone companies with over 10,000 customers are required to provide this service. In Maryland, 50% of the lowest rate as allowed by the federal and State government is charged to the customer for limited and basic telephone service. The telephone company is required to add 100% of the rate to the gross receipts base, but is entitled to a credit against the public service company franchise tax equal to the total amount not collected from the customer. The customer is charged all applicable federal, State, and local taxes and fees.

Prepaid calling arrangements became exempt from the public service company franchise tax in 2000 and, instead, became subject to the State sales tax.

Long Distance and Local Exchange Telephone Service

The public service company franchise tax is levied upon companies which are categorized as public service companies because they are, or originally were, in natural monopoly industries: industries which require very large start-up costs to enter the market but very small marginal costs to deliver each additional product after the pre-requisite infrastructure has been established. These market conditions were characteristic to the long distance and local exchange telephone industries: the poles and wires were very expensive to initially erect but, once this infrastructure had been formed, it was relatively inexpensive to add a new customer to the network. In these markets the most efficient level of production can be provided by one firm rather than many competing firms, leading governments to allow the formation of regulated monopolies.

American Telephone and Telegraph (AT&T) held a monopoly on virtually the entire long distance and local telecommunications markets into the latter half of the 20th century. To regulate the prices and quality of service delivered, interstate service became regulated at the federal level by the Interstate Commerce Commission (ICC) in 1910. The ICC controlled entry to the market, as well as minimum and maximum rates. In 1934, regulation of the interstate market was transferred to the newly created Federal Communications Commission (FCC). Intrastate service regulation was primarily left to the states, provided that such activity was performed by a state commission.

Appendix 1

Maryland chose to regulate both the intrastate long distance and local exchange industries via the PSC. This commission was given the authority to set a “just and reasonable rate” that AT&T could charge. The State Department of Assessments and Taxation (SDAT) was given the authority to administer the primary State tax levied on long distance and local exchange telecommunications: the 2% public service company franchise tax on gross receipts.

The public service company franchise tax was deemed a superior form of taxation than the more traditional profit-based corporate income tax for two reasons. First, the 2% tax could be easily passed directly to the consumer through higher service rates, thereby simplifying the PSC’s maintenance of an equitable rate of profit for the company. Second, for a public service company whose profit is guaranteed, a tax based on overall activity (such as a gross receipts tax) may be better suited to finance the actual cost of governmental resources used by the company compared to a profit based tax. This second point is made even more pertinent when considering that losses in other states decrease corporate tax liability to Maryland; even if the profitability of the company’s Maryland operations remain constant.

AT&T’s monopoly culminated in the 1982 antitrust case brought against them by the United States Justice Department. This case forced AT&T to sever its connections with twenty-two local operating companies, thereby isolating AT&T to the long distance market. AT&T retained Western Electric, its manufacturing division, Bell Labs, its research and development division, and its long distance operations. Local operations were split between seven independent companies, commonly referred to as the “Baby Bells.”

Though federal legislation broke up the AT&T monopoly and created more competition in the telecommunications industry, long distance and local exchange are still categorized as public utilities and are regulated by the Public Service Commission. Traditional telephone companies such as AT&T and Verizon as well as new competitive long and local distance carriers, and resellers of long and local distance service are subject to the public service company franchise tax. The public service company franchise tax is charged directly to the consumer. By law, since 1997, companies must itemize the tax separately on the telephone bill, rather than include the tax in the rate charged to the customer.

Recent Maryland legislation, HB 1182 of the 2009 regular session, proposed replacing the 2% public service company franchise tax on long distance and local exchange telecommunications with the 6% sales tax. This legislation would seem to indicate the belief that the public service company franchise tax, when levied on long and local distance communications, serves as a substitute for the sales tax. This belief may be true, as both taxes are levied on gross receipts; however, the public service company gross receipts tax applies to a different base than the receipts tax levied on sales. For example, receipts from sales to non-profits and to the State or political subdivisions are exempt from the sales tax but are not exempt from the public service company franchise tax. Specified services have become taxable in Maryland since 1992. Prior to this, only tangible personal property was subject to the sales tax. Perhaps the increased taxation of services has fueled consideration of levying the sales tax on long and local distance telecommunications services.

Wireless Telephone

Cellular telephone companies are explicitly excluded from the definition of a telephone company and are therefore not considered a public service company. As only public service companies are under the jurisdiction of the PSC and subject to the public service company franchise tax, wireless is both exempt from State regulation and from the tax. Wireless companies are not required to provide telephone lifeline services; thus, they are not deprived of the credit claimed against the public service company franchise tax for providing the service.

Voice-over-Internet-Protocol (VoIP)

The definition of a telephone company includes companies which lease, license, or sell telephone or teletype communications; therefore, a company offering VoIP service can be classified as a telephone company and defined as a public service company. As a result, the State has the authority to levy the public service company franchise tax on VoIP companies. The PSC is prohibited from regulating VoIP service, including requiring the filing of tariffs to provide VoIP service; however, currently, a VoIP company is only subject to the public service company franchise tax if they file an approved tariff with the Public Service Commission. This contradiction can be explained by the fact that VoIP companies may still file a tariff with the PSC for various reasons. Essentially, the business structure of a VoIP company determines whether the company is required to file a tariff, and, if the company files a tariff, it is liable to collect and remit the public service company franchise tax.

Some companies which are not usually thought of as public service companies, such as Comcast, pay the public service company franchise tax on VoIP service. Comcast offers the "Triple Play" service which combines VoIP phone, internet, and cable services; with a different tax structure applicable to each service. Comcast pays the public service company franchise tax exclusively on the VoIP services they provide. VoIP companies are required to provide telephone lifeline services.

State Sales Tax

Sales of tangible personal property made to Maryland consumers are, generally, subject to the 6% State sales tax or, in those instances in which the seller cannot be obligated by the State to collect the sales tax, the customer is subject to the use tax. The sales tax is collected from the purchaser at the point of sale by the seller and remitted to the Comptroller if the seller has nexus in Maryland. The use tax is payable to the Comptroller directly by the purchaser via a use tax return. Most services are exempt from the sales tax because, on the whole, the sales tax only applies to tangible property; however, the number of taxable services has been increasing since 1992.

Long Distance and Local Exchange Telephone Service

To prevent tax pyramiding, most input products are not subject to the State sales tax. Following this, capital for use in "production activities" is exempt from the sales tax. Telecommunications firms are currently not entitled to this capital exemption, as the creation of telecommunications services is not considered a "production activity." Additionally the bulk of telecommunications services, including basic service, are not taxable. Since 1992, the sales tax is levied on long and local distance services which may be considered "luxury items". These "luxury items" are:

- "900", "976", "915", and other "900"-type telecommunications services;
- Custom calling service provided in connection with basic telephone service (e.g. call waiting); and
- Telephone answering services.

The sales tax also applies to equipment sold or rented to the consumer. Additionally since tax year 2000, a sales tax is imposed on prepaid telephone services if the sale or recharge takes place at the vendor's place of business located in the State, the buyer's shipping address is in the State, or there is no item shipped, but the buyer's billing address or the location associated with the buyer's mobile telephone number is in the State. Prior to this, prepaid calling arrangements were subject to the public service company franchise tax.

Wireless Telephone

All non-prepaid wireless telecommunications became included as a taxable service in 1992, in the same bill that expanded the sales tax on other telecommunications services. The wireless service is sourced to Maryland, and subject to the sales tax, if the primary user's residential or business street address is located in the State. The sales tax was applied to prepaid calling arrangements in tax year 2000. Furthermore, capital goods purchased to provide wireless service is subject to the sales tax. The sales tax is not levied on non-taxable services, such as data plans, which can be reasonably identified from the taxable wireless service cost (even if the provider aggregates the nontaxable service with the taxable service on the price provided to the customer).

Voice-over-Internet-Protocol (VoIP)

The sales tax is applied to 900-type telecommunications services, custom calling services, telephone answering services, prepaid calling arrangements, capital machinery and equipment, and hardware sold or rented to the customer.

Property Tax

A property tax is imposed at the State, county and municipal levels. Non-public utility property (also known as property of ordinary business companies) is assessed and taxed differently from public utility property. Non-public utility property is assessed strictly according to the estimated dollar value of any land and tangible assets which a company holds in Maryland. The property is assessed differently according to if it is real or personal property. Real property, generally, is the term used for any land or improvements to land. Personal property is all property that is not real property. Real property is valued and assessed at market value. Personal property is valued by applying standard depreciation rates to the original cost of the personal property reported by the taxpayers.

Public utility property is assessed according to the unit valuation method. The unit valuation method assesses the national value of a company by calculating the income approach of value, the cost approach to value, as well as all other factors relevant to the determination of the value of the operating unit held by the company. The portion of the national value attributable to Maryland is determined by the State Department of Assessments and Taxation (SDAT). Any property that is exempt by law is deducted from the Maryland assessment. The property of public utility companies is then divided into operating real and operating personal property, as determined by SDAT. This is different from non-public utility companies, whose property is broken into real and personal property (non-operating).

For non-public utility property, personal property is taxed at a rate which is usually 2.5 times higher than real property. The operating personal property of public utility companies is taxed at the same rate as the personal property of non-public utility companies. The operating real property of public utility companies is taxed at a rate 2.5 times higher than the real property of non-public utilities companies at the State, county, and municipal levels. In 1997, cables, lines, poles, and towers of telecommunications companies were reclassified as operating personal property. Before 1997, this property was classified as operating real property.

For the State, the rate of taxation is set annually by the Board of Public Works. For fiscal year 2013, this rate is 28 cents per hundred dollars of assessed value for operating real property and 11.2 cents per hundred dollars for all other real property. For counties, operating real property is also taxed at a rate 2.5 times higher than other real property, by law. County rates are set by the governing board of each county and Baltimore City. Municipalities also set their own rates on operating real property, which are, again, taxed at a rate 2.5 times higher than all other real property, unless otherwise provided by the governing body of the municipal corporation.

The property of public utility companies is assessed and taxed differently from non-public utility companies due to the monopolistic nature of public utility companies: the higher rates and different assessed values can be justified by the difference between competitive and monopolistic industries. For a company that operates as a monopoly, a higher tax rate is passed through to its customers and thus does not impact its business or act as a barrier to capital investment. The value of each additional pole, alone, is not worth as much as each additional pole when included in the large capital structure required of a natural monopoly industry, possibly explaining the use of the income valuation method.

Long Distance and Local Exchange Telephone Service

Long distance and local exchange telephone service providers are considered public utility companies. As a result, long distance and local exchange property is assessed according to the unit valuation method and taxed at a higher rate than non-public utility property.

Wireless Telephone

Maryland's Tax-Property Article explicitly excludes cellular telephone companies from the definition of a public utility company. As a result, wireless property is assessed and taxed as it is for a regular company.

Voice-over-Internet-Protocol (VoIP)

SDAT currently classifies a VoIP company as a public utility company if they file a tariff with the PSC. If a VoIP company is classified as a public utility company, property used to deliver VoIP is assessed according to the unit valuation method. The largest portion of this property is personal property which is taxed at the personal property rate.

Income Tax

Corporations with nexus in Maryland are required to pay an 8.25% tax on the net profit of business activity attributable to the State. Pass-through-entities report income on its members' individual income tax returns, with the tax applied to total income. The progressive individual income tax rates increase with net taxable income attributable to the tax year to a top rate of 5.75%.

Long Distance and Local Exchange Telephone Service

Since tax year 2000, all public service companies pay the corporate income tax on gross receipts subject to the public service company franchise tax. Long distance telephone companies were obligated to pay the corporate income tax on these receipts earlier than local exchange companies, and both industries were required to pay the corporate income tax on these receipts earlier than all other public service companies. The rationale for this may have followed the perceived advent of competition in the long and local distance industries following the divestiture of AT&T.

Until 1992, both long and local distance companies could subtract from corporate income gross receipts subject to the public service company franchise tax. Starting in 1992, long distance companies became exempt from this subtraction. Later, through the 1997 regular session, local exchange companies also became subject to the corporate tax on these receipts. In 1999, the corporate income tax subtraction for gross receipts subject to the public service company franchise tax was completely removed from Maryland law.

Despite divestiture, some contend that the local exchange market became competitive later than the long distance market. By 1993, there were 57 companies providing long distance service in Maryland. On the other hand, while the divestiture of AT&T created seven companies in the local market where before there was only one, each of these seven companies existed in its own defined geographic area and was effectively still a monopoly. This could explain why the corporate income tax applied to long distance service sooner than local exchange.

The federal Telecommunications Act of 1996 (1996 Act) passed with the purpose of creating more competition in the telecommunications industry. This bill required that landline telecommunications companies allow other companies to interconnect with their lines, such that customers of separate carriers could contact each other. Telecommunications is a service exhibiting positive network effect, meaning the value of a product increases with the number of other individuals who own the product. Without this provision, the incumbent firms were capable of creating barriers to entry by denying such interconnection, thereby diminishing the value of competing local telecommunications service. Following the 1996 Act, the Maryland legislature levied the corporate income tax on local telecommunications firms, possibly signaling the belief that this industry would now become more competitive.

Pass-through-entities report income on its members' individual income tax returns, with the tax applied to total income. The individual income tax rates are progressive: they rise as net taxable income increases to a top rate of 5.75%.

Wireless Telephone

A wireless company's net profit is taxable via the Maryland corporate income tax. Pass-through-entities report income on its members' individual income tax returns, with the tax applied to total income. The individual income tax rates are progressive: they rise as net taxable income increases to a top rate of 5.75%.

Voice-over-Internet-Protocol (VoIP)

A VoIP company's net profit is taxable via the Maryland corporate income tax. Pass-through-entities report income on its members' individual income tax returns, with the tax applied to total income. The individual income tax rates are progressive: they rise as net taxable income increases to a top rate of 5.75%.

Miscellaneous Surcharges

The **9-1-1 Emergency Trust Fund Surcharge** (9-1-1 Surcharge) is used to establish and fund the three digit primary emergency number of the State. The 9-1-1 Surcharge is comprised of two separate fees designated to offset 9-1-1 related capital and operational costs. The state fee, a $0.25 monthly fee per account, is distributed to the Maryland counties at the discretion of the Department of Public Safety and Correctional Services' Emergency Number Systems Board in response to county 9-1-1 system enhancement requests. The level of the second portion is the "Additional Charge" and determined by each county through local resolution. Maryland's Public Safety Article limits the "Additional Charge" to a maximum of $0.75, monthly. Currently, all Maryland counties charge the maximum amount. The Comptroller collects both fees, exclusive of up to 0.75% of the State portion for expenses incurred, from the telecommunications company, and remits the county portion to its respective source location. **Landlines, wireless and VoIP are subject to the surcharge.**

The **Universal Relay Service Surcharge** was created in December 1991 to fund the Maryland Relay Service which provides telecommunication equipment for individuals with hearing or speech disabilities. The Secretary of Information Technology certifies the costs of the program to the Public Service Commission, which uses this information to set the monthly surcharge required to fund the program for the following fiscal year. Currently, the surcharge is $0.18 per month for each account. The surcharge is collected monthly from subscribers of switched local exchange access telephone service and remitted to the Comptroller for deposit into the Universal Service Trust Fund. **Landlines, wireless and VoIP are subject to the surcharge.**

Local Sales Taxes

A county, municipal corporation, special taxing district, or other political subdivision of the State may not impose any retail sales or use tax except for a specified few types of sales, including sales of utilities. Currently, Anne Arundel, Baltimore County, and Prince George's County each impose an 8% local sales tax on telecommunications services. The telecommunications services which they levy the tax on are:

- Anne Arundel County: Residential and non-residential local exchange which originates in the county;

- Baltimore County: Residential and non-residential local service; and
- Prince George's County: Residential, non-residential, and wireless.

Local Fees, Surcharges, Excise Taxes, etc.

Local fees, surcharges, or excise taxes are levied on landline, wireless and VoIP telecommunications services. Baltimore City and Montgomery County levy monthly per line fees on telecommunications services. Baltimore city charges $4.00 per residential, non-residential, wireless, and VoIP line. Montgomery County charges $2.00 per residential, nonresidential, and VoIP line and $3.50 per wireless line.

CURRENT TELECOMMUNICATIONS TAX AND FEE OVERVIEW

	Long Distance	Local	Wireless	Voice-over-Internet-Protocol
Public Service Company Franchise Tax	Yes	Yes	No	Differs[1]
Corporate or Individual Income Tax	Yes	Yes	Yes	Yes
State Sales Tax[2]	Some Services, Consumer Hardware, and Capital Machinery and Equipment	Some Services, Consumer Hardware, and Capital Machinery and Equipment	Yes	Some Services, Consumer Hardware, and Capital Machinery and Equipment
Property Tax[3]	Public Utility	Public Utility	Non-Public Utility	Differs[1]
911 Emergency Trust Fund Surcharge	Yes	Yes	Yes	Yes
Universal Relay Service Surcharge	Yes	Yes	Yes	Yes
Local Sales Tax[4]	Yes	Yes	Yes	Yes
Local Fees, Excise Taxes, etc.[4]	Yes	Yes	Yes	Yes

<u>Notes:</u>

[1)] Whether a VoIP company incurs the public service company franchise tax and is considered a public utility for property tax purposes depends on the existence of a tariff agreement with the Public Service Commission.

[2)] Sales tax charged for 900-type phone calls, custom calling services provided in connection with basic telephone service (e.g. call waiting), telephone answering services, prepaid calling arrangements, hardware sold or rented to customers, and capital equipment used to provide telecommunications services.

[3)] Public utility property is assessed according to the unit value method and real property is, generally, taxed at a rate 2.5 times higher than the real property of non-public utility companies.

[4)] See Appendix 1-A for complete list of telecommunications taxes and fees levied by local governments.

Current Pay-Television Tax and Fee Structure

In Maryland, the satellite industry is subject to much of the same taxation and fee structure as the cable industry, with two major exceptions: satellite companies are not subject to franchise or public, educational or governmental (PEG) channel fees.

Franchise Fees

A franchise fee is the payment, currently to local or municipal governments, for the privilege of using the public right-of-way. The public right-of-way is the term used for the land under, and the air above, the ground which is used for infrastructure to provide service to customers. Revenue from franchise fees totaled $56.6 million in fiscal year 2011.

Cable Television

Cable companies must use the public right-of-way in order to lay cables and lines such that they can offer their service to customers. The franchise fee may be viewed as the rent that cable companies pay to localities in exchange for access to public right-of-way. The fee is also intended to cover all costs incurred by the localities to support and regulate the franchises, including the regular maintenance required to support the cable companies' infrastructure and the resources necessary to ensure a quality product and customer service. Some contend that franchising by local governments is superior to state franchising, as localities are more knowledgeable on the customers and the public rights-of-way in their respective regions.

A cable franchise fee is assessed on a cable company by the franchising authority of the state, local or municipal government as agreed through the franchise agreement. The fee is paid based on a percentage of gross revenue, not to exceed 5% per federal law: The Cable and Communications Policy Act of 1984. The cost of the fee is passed on to the subscribers and permitted to be itemized separately on the bill.

Generally, a local government or county will award one or many franchises to serve its jurisdiction. In Maryland, large urban counties have several franchises. These counties have split into regions with each region awarding a franchise. Many incorporated towns and municipalities have utilized their authority to franchise cable companies independent of their respective county.

Satellite Television

Through the federal Telecommunications Act of 1996, satellite companies became exempt from collecting any local tax or fee for remittance to the local governments. In this legislation the terms "tax" and "fee" mean any local sales tax, local use tax, local intangible tax, local income tax, business license tax, utility tax, privilege tax, gross receipts tax, excise tax, franchise fees, local telecommunications tax, or any other tax, license or fee that is imposed for the privilege of doing business in, regulating, or raising revenue for a local taxing jurisdiction. This legislation, however, does not prevent taxation of a provider of direct-to-home satellite service by a state or prevent a local taxing jurisdiction from receiving revenue derived from a tax or fee imposed and collected by the state.

Public, Educational, or Governmental (PEG) Channel Fees

Federal law provides that, within the franchise agreement, a franchise authority can mandate that a television company make available channel space for public, educational or governmental (PEG) use. Payment from the television company to fund this programming can also be assessed through the franchise agreement, separate from franchise fees.

Cable Television

Cable television companies make payments for PEG programming, granted that it is agreed upon in the franchise agreement.

Satellite Television

As satellite television companies do not enter into franchise agreements with franchising authorities, they do not pay for PEG programming, or have PEG channel carrying requirements. Federal law, however, requires satellite TV companies to set aside 4% of their available channels for public interest programming. This mandate effectively subjects satellite TV companies to similar PEG channel carrying requirements found in the franchise agreements that cable companies negotiate with local governments.

State Sales Tax

The State sales tax is not collected on television subscription packages; however, since 1992, pay-per-view television service is specifically labeled as a taxable service and subject to the 6% sales tax. Television firms are currently subject to the sales tax on purchases of capital and other equipment used to provide television services. Any equipment rented or sold to subscribers is also subject to the sales tax. There existed an exemption from the sales tax on machinery or equipment that enables a television to originate and broadcast or to receive and broadcast digital signals from January 1, 2000 through January 1, 2008.

Boxing and Wrestling Tax

Pay-per-view boxing and wrestling programs sold via cable and satellite were made explicitly subject to a 10% boxing and wrestling gross receipts tax. If the sales tax is also applicable to a boxing and wrestling match, the total tax collected from both the sales and boxing and wrestling taxes may not exceed 10%.

Property Tax

Both satellite and cable television are subject to State, county and municipal government property taxes. Neither pay television provider is categorized as a public utility company; thus, tangible property owned by pay-television companies is assessed according to the value of the property and taxed at normal property tax rates.

Income Tax

Both satellite and cable television companies are subject to an 8.25% tax on all net income attributable to activity in Maryland. Pass-through-entities report income on its members' individual income tax returns, with the tax applied to total income. The individual income tax rates are progressive: they rise as net taxable income increases to a top rate of 5.75%.

Local Sales Tax, Fees, Surcharges, Excise Taxes, etc.

Cable Television

Local governments may be legally capable of levying a sales tax on cable television service because cable television providers are classified as utilities; however, this legal capacity remains uncertain. In addition, local governments and municipalities may be legally able to charge fees, surcharges and excise taxes on the sale or use of cable television services.

Satellite Television

Through the federal Telecommunications Act of 1996, satellite companies became exempt from collecting any local tax or fee on their video programming for remittance to the local governments. This legislation, however, does not prevent taxation of a provider of direct-to-home satellite service by a state or prevent a local taxing jurisdiction from receiving revenue derived from a tax or fee imposed and collected by the state. Nor does it prevent local governments from taxing the set-top boxes or other equipment that satellite TV companies lease or sell to their customers, though State law may.

CURRENT PAY TELEVISION TAX AND FEE OVERVIEW

Tax/Fee	Cable Television	Satellite Television
Franchise Fee	Yes	Federal Law Restricts
Public, Educational, Governmental Channel Fees	Yes	Federal Law Restricts
State Sales Tax[1]	Some Services, Consumer Hardware, and Capital Machinery and Equipment	Some Services, Consumer Hardware, and Capital Machinery and Equipment
Boxing and Wrestling Tax	Yes	Yes
Property Tax[2]	Non-Public Utility	Non-Public Utility
Corporate or Individual Income Tax	Yes	Yes
Local Sales Tax	Some May[3]	Federal Law Restricts[4]
Local Fees, Surcharges, Excise Taxes, etc.	Some May[3]	Federal Law Restricts[4]

Notes:

[1] Sales or use tax charged for pay-per-view programming, hardware sold or rented to customers for television services, and capital equipment used to provide television services.

[2] Public utility property is assessed according to the unit value method and real property is, generally, taxed at a rate 2.5 times higher than the real property of non-public utility companies.

[3] Some counties may be able to tax cable services, but their legal authority to do so is uncertain.

[4] Through the federal Telecommunications Act of 1996, satellite companies became exempt from collecting any local tax or fee for remittance to the local government

LOCAL TELECOMMUNICATIONS TAXES AND FEES—RATES AND REVENUES

County	Unit Taxed	Tax Rate[1]	FY 2011 Revenue	FY 2012 Revenue
Anne Arundel	Local Residential, Local Nonresidential	8% sales tax	$6,000,000	$5,800,000
Baltimore City	Residential, Nonresidential, Wireless, VoIP	$4.00 per line	$34,937,114	$33,720,000
Baltimore	Local Residential, Local Nonresidential	8% sales tax	$9,800,000	$9,800,000
Montgomery	Residential, Nonresidential, VoIP	$2.00 per line	$49,620,000	$51,528,000
	Wireless	$3.50 per line	(Revenue included in amounts above)	
Prince George's	Residential, Nonresidential, Wireless	8% sales tax	$41,982,171	$42,334,100

[1]Tax rates were the same for fiscal 2011 and 2012
*Some changes have been made to 'Unit Taxed' column but 'Revenue' columns remain unchanged
Source: *2012 Budget and Tax Rate Survey*, Maryland Association of Counties

CABLE TELEVISION FRANCHISE FEES—RATES AND REVENUES

County	Franchise Fee	FY 2011 Yield	FY 2012 Yield	Number of Companies	County Franchise
Allegany	5%	$ 340,000	$ 350,000	2	Y
Anne Arundel	5%	$ 7,840,000	$ 8,500,000	4	Y
Baltimore City	5%	$ 6,130,459	$ 5,400,000	1	Y
Baltimore	5%	$12,240,000	$12,852,000	2	Y
Calvert	5%	$ 1,050,000	$ 1,100,000	1	Y
Caroline	5%	$ 134,376	$ 136,000	1	Y
Carroll	5%	$ 1,150,000	$ 1,200,000	1	Y
Cecil	5%	$ 319,000	$ 333,010	3	Y
Charles	5%	$ 1,694,600	$ 1,710,900	0	Y
Dorchester	0%	$ -	$ -	0	N
Frederick	0%	$ -	$ -	1	N
Garrett	0%	$ -	$ -	3	N
Harford	3%	$ 1,400,000	$ 1,400,000	3	Y
Howard	5%	$ 4,000,000	$ 4,467,940	3	Y
Kent	3%, 5%	$ 19,500	$ 20,000	2	Y
Montgomery	5%	$13,939,000	$14,997,000	1	Y
Prince George’s	5%	$ 9,427,730	$ 8,845,900	2	Y
Queen Anne’s	5%	$ 315,000	$ 320,000	1	Y
St. Mary’s	5%	$ 775,000	$ 800,000	2	Y
Somerset	3%	$ 100,956	$ 95,000	2	Y
Talbot	2%	$ 24,000	$ 24,000	2	Y
Washington	0%	$ -	$ -	0	N
Wicomico	5%	$ 820,000	$ 820,000	2	Y
Worcester	0%	$ -	$ -	0	N
Total		**$61,719,621**	**$63,371,750**		

Source: 2012 Budget and Tax Rate Survey, Maryland Association of Counties

COUNTY REAL PROPERTY TAX RATES (NON-MUNICIPAL AREAS) FOR FISCAL YEARS 2002 THROUGH 2012

	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Allegany	0.98	0.98	1	1	1.001	0.983	0.9829	0.983	0.9829	0.9829	0.982
Anne Arundel	0.96	0.95	0.96	0.94	0.931	0.918	0.891	0.888	0.876	0.88	0.91
Baltimore City	2.33	2.33	2.33	2.33	2.308	2.288	2.268	2.268	2.268	2.268	2.268
Baltimore	1.115	1.115	1.115	1.115	1.115	1.1	1.1	1.1	1.1	1.1	1.1
Calvert	0.89	0.89	0.89	0.89	0.892	0.892	0.892	0.892	0.892	0.892	0.892
Caroline	0.95	0.95	0.95	0.95	0.91	0.87	0.87	0.87	0.87	0.87	0.87
Carroll	1.05	1.048	1.048	1.048	1.048	1.048	1.048	1.048	1.048	1.048	1.028
Cecil	0.98	0.98	0.98	0.98	0.98	0.96	0.96	0.96	0.94	0.915	0.94
Charles	0.95	0.95	0.95	0.96	0.962	0.962	0.962	0.962	0.962	0.962	1.003
Dorchester	0.88	0.88	0.93	0.93	0.92	0.896	0.896	0.896	0.896	0.896	0.976
Frederick	1	1	1	1	1	0.936	0.936	0.936	0.936	0.936	0.936
Garrett	1.04	1.04	1.04	1.04	1	1	1	1	0.99	0.99	0.99
Harford	1.092	1.092	1.092	1.092	1.082	1.082	1.082	1.082	1.064	1.042	1.042
Howard	1.04	1.04	1.04	1.04	1.044	1.014	1.014	1.014	1.014	1.014	1.014
Kent	1.01	1.01	1.01	1.01	0.992	0.972	0.972	0.972	0.972	1.022	1.022
Montgomery	0.901	0.91	0.914	0.902	0.856	0.812	0.812	0.818	0.904	0.904	0.946
Prince George’s	0.96	0.96	0.96	0.96	0.96	0.96	0.96	0.96	0.96	0.96	0.96
Queen Anne’s	0.98	0.98	0.98	0.93	0.87	0.8	0.77	0.77	0.77	0.767	0.847
St. Mary’s	0.908	0.908	0.908	0.878	0.872	0.857	0.857	0.857	0.857	0.857	0.857
Somerset	0.98	1.01	1.01	1.01	0.99	0.94	0.94	0.92	0.9	0.884	0.884
Talbot	0.56	0.55	0.55	0.54	0.52	0.5	0.475	0.449	0.432	0.432	0.448
Washington	0.95	0.95	0.95	0.95	0.948	0.948	0.948	0.948	0.948	0.948	0.948
Wicomico	1.07	1.05	1.04	1.03	0.993	0.942	0.881	0.814	0.759	0.759	0.769
Worcester	0.73	0.73	0.73	0.73	0.73	0.7	0.7	0.7	0.7	0.7	0.7

NOTE: Many counties levy special service property taxes by district. Those taxes are in addition to those represented on this table.
SOURCE: Maryland Association of Counties/Department of Legislative Services, *Budget and Tax Rate Survey*, August 2011 and prior year data

PUBLIC, EDUCATION, AND GOVERNMENT (PEG) ACCESS CHANNEL FEES FISCAL YEARS 2012 - 2013

Subdivision	PEG Fee	FY 2012 Yield	FY 2013 Yield	Number of Companies	County Franchise
Allegany	N/A	N/A	N/A	N/A	N
Anne Arundel	1%	$1,700,000	$1,800,000	3	Y
Baltimore City	N/A	N/A	N/A	N/A	N
Baltimore	N/A	N/A	N/A	N/A	N
Calvert	N/A	N/A	N/A	N/A	N
Caroline	N/A	N/A	N/A	N/A	N
Carroll	N/A	N/A	N/A	N/A	N
Cecil	N/A	N/A	N/A	N/A	N
Charles	1%	$335,000	$364,800	2	Y
Dorchester	N/A	N/A	N/A	N/A	N
Frederick	N/A	N/A	N/A	N/A	N
Garrett	N/A	N/A	N/A	N/A	N
Harford	N/A	N/A	N/A	N/A	N
Howard	.20/subscriber/mo.	$100,000	$100,000	3	Y
Kent	N/A	N/A	N/A	N/A	N
Montgomery	See below	$7,195,120	$7,656,572	3	Y
Prince George's	N/A	N/A	N/A	N/A	N
Queen Anne's	N/A	N/A	N/A	N/A	N/A
St. Mary's	N/A	N/A	N/A	N/A	N/A
Somerset	N/A	N/A	N/A	N/A	N/A
Talbot	2%	$27,408	$27,000	2	Y
Washington	N/A	N/A	N/A	N/A	N
Wicomico	N/A	N/A	N/A	N/A	N
Worcester	N/A	N/A	N/A	N/A	N/A
Total Yield		**$9,357,528**	**$9,948,372**		

Note: RCN and Verizon - 3% of gross revenues; Comcast - Capital Equipment: $200,000 per year adjusted for CPI
Operating Costs: $1.5 million per year adjusted for CPI

Source: Maryland Association of Counties/Department of Legislative Services, Budget and Tax Rate Survey, August 2012

Information Request Results

Presented to

THE COMMUNICATIONS TAX REFORM COMMISSION

May 16th, 2013
Annapolis, Maryland

Bureau of Revenue Estimates
Comptroller of Maryland

Appendix 2

Table of Contents

Introduction

Included in the Commission's charge is the assessment of the "feasibility and fiscal implications for the State and local governments of a modernized, competitively neutral communications tax and fee system that eliminates disparate treatment of similar communications service providers." To aid this analysis, information on the current communications tax structure, recent communications tax and fee reform enacted by Virginia and other states, and emerging technologies in the communications industry are located at **ctrc.maryland.gov**.

Furthermore, the Comptroller and the State Department of Assessments and Taxation are charged with collecting data from State and local governments and communications providers to assess, and inform the Commission on, total fiscal year 2012 communications tax and fee revenue. The following report contains the results of this data collection effort, the estimated effects on consumers and revenues of enacting two reform proposals offered by Commission members, and specification of potential difficulties related to communications tax reform in Maryland – particularly in reference to the two proposals presented.

Methodology

The founding legislation tasked the Comptroller and the State Department of Assessments and Taxation with collecting data from both communications providers and local governments which remit or receive communications tax or fee revenue. Accordingly, a comprehensive information request was sent to all communications providers and local governments. Over 300 companies returned a completed information request to the Comptroller's Office which, as the communications industry is dominated by a few very large firms, provides a highly representative sample. Furthermore, every local government which receives communications tax or fee revenue returned a completed information request. This data was compiled into a database and segregated by government recipient – whether State or local – and by the communications service on which the tax or fee was levied. In fulfilling the charge of the Commission, this data has been aggregated to prevent disclosure of confidential information and is provided in the attached appendices for review.

Analysis

Currently, Maryland receives communications revenue from a myriad of taxes and fees levied on consumers and providers of telecommunications – local and long distance, wireless, and Voice-over-Internet-Protocol (VoIP) – and pay-television – cable and satellite – services. **Appendix 6** provides an overview of this tax and fee structure. The majority of these taxes and fees are enumerated on the communications bill, collected from the consumer and then remitted to the State and local governments by the provider. Only the property tax, income tax and sales tax on capital equipment are directly collected from the providers.

Information Request Results

Communications revenue totaled approximately $555.0 million in fiscal year 2012 **(Appendix 2-A)**. This revenue was split fairly evenly between the State and local governments, which received approximately 51.1% and 48.9% of the total, respectively. **Appendix 2-C** shows the total communications revenue received by the State government, as well as the percent of total State communications revenue attributable to each tax or fee type. **Appendix 2-D** shows the total communications revenue received by the local governments – both the counties and the municipal corporations – as well as a graph of the communications revenue received by each county and the share of total county communications revenue attributable to each tax and fee type. Of the total communications revenue that may be segregated by service type, 79.4% is attributable to telecommunications and 20.6% is attributable to pay-television. The State received a slightly greater share of total telecommunications revenue, while 84.5% of pay-television revenue was received by the local governments **(Appendix 2-E)**.

Under current law, certain Maryland counties are able to levy sales taxes or fees on the purchase of telecommunications services (‘local telecommunications sales tax’). Only five local governments apply this tax: Montgomery County, Prince George’s County, Baltimore City, Baltimore County, and Anne Arundel County; however, with collections of approximately $136.3 million, it was the greatest source of communications revenue in fiscal year 2012. The State sales tax, which is exclusively charged on wireless telecommunications, was the second largest communications revenue source, totaling approximately $132.8 million. While both of these taxes are levied on wireless telecommunications, and the local telecommunications sales tax is applied on landline telecommunications; neither of the taxes is imposed on pay-television (the State sales tax is levied on ancillary landline telecommunications and pay-television services but not on general service).

Proposals

Two reform proposals were presented by Commission members at the meeting of December 5, 2012. The first proposal, entitled ‘*Option 1: Comprehensive State–Local Communications Tax Reform*’, suggests reforming the telecommunications and pay-television tax and fee structure by: Repealing the public service company franchise tax levied on landline telecommunications services; reducing the State and local tax rate on telecommunications property to the rate of other communications property; exempting the purchase of communications network equipment from the State sales tax; and phasing out all local communications taxes and fees over a four-year period. It proposes implementing the State sales tax on all communications services, increasing the rate for some consumers while reducing it for others, and expanding the revenue base to satellite and other communications services, such as internet-streamed television and movies, which are currently not taxable under State law.

The second proposal, entitled *‘Option 2: Reform Discriminatory Telecommunications Taxes’*, exclusively reforms the telecommunications industry. This plan includes repealing the public service company franchise tax levied on landline phone services, reducing the State and local property tax rate applicable to telecommunications property to the rate of other communications property, exempting the purchase of telecommunications network equipment from the sales tax, and phasing out all local telecommunications taxes and fees over a four-year period. It proposes implementing the State sales tax on all telecommunications services, increasing the rate for some consumers while reducing it for others. It is estimated that both options 1 and 2 will decrease aggregate communications revenue.

Appendices 3-A and 4-A illustrate these proposals' effects on total annual communications revenue received by State and local governments after the complete repeal of the local taxes and fees. These tables show estimated fiscal year 2012 communications revenue under the proposed tax and fee structures, as well as these revenues relative to actual fiscal year 2012 collections. The enactment of the tax and fee structure in the first proposal would decrease aggregate State and local government revenue by approximately $73.6 million. In order to hold fiscal year 2012 revenue constant, a communications tax rate of 7.2% is required rather than the 6.0% rate proposed. Instituting the second proposal's tax and fee structure would diminish revenue to a greater extent, decreasing collections by $106.3 million in fiscal year 2012 and requiring a tax rate on telecommunications services of approximately 8.7% in order to retain the current level of communications revenue.

Appendices 3-B and 4-B illustrate the direct taxes and fees levied on Maryland consumers under the current structure and each proposal. The table depicts the monthly communications taxes and fees paid by a family with one landline telephone, three cell phones on a family wireless plan, and basic pay-television. Tax and fee liability depends on whether pay-television is received via cable or satellite, therefore the taxes and fees paid by the representative family is shown under both scenarios for each tax structure. In the example, current liability differs greatly by the county of residence, ranging from an effective tax rate of 4.6% to 19.1%, with the highest liability in counties that levy a local telecommunications tax or fee **(Appendices 3-C and 4-C)**.

Baltimore City, Prince George's and Montgomery Counties levy a local telecommunications sales tax on wireless service as well as landline services and exhibit the highest effective tax rates in the example. Anne Arundel and Baltimore Counties levy a local telecommunications sales tax exclusively on landline services; residents of these two counties pay the fourth and fifth highest effective tax rates. Not surprisingly, these five counties collect the highest communications revenue per household and as a percent of total county revenue **(Appendices 2-F and 2-G)**. The proposed reforms would appear to reduce this county based variance: all counties have an effective tax rate of 7.8% under Proposal 1 while the effective tax rate ranges from 5.5% to 8.6% under Proposal 2.

A consensus reform proposal was not put forth by the Maryland Association of Counties (MACo) nor the Maryland Municipal League (MML), rather guidelines for communications reform were jointly assembled by the two groups and disseminated to Commission members. These general principles are maintaining tax and fee distinction, current local government revenues, flexible taxation authority, local franchising and rights-of-way management, as well as that comparable services should be treated equitably and tax policy can be an incentivizing tool.

Virginia recently enacted communications tax reform in a manner similar to the proposals presented in this report, replacing a myriad of communications taxes and fees with a flat, sales tax rate equivalent, communications tax. While Virginia was able to enact such reform without significantly diminishing revenue, Virginia's pre-reform effective tax rate on communications services was lower than Maryland's current tax structure. Furthermore, Virginia's communications revenue was anticipated to diminish at a high rate over time, as wireless telecommunications, increasingly becoming a greater share of the total communications industry, was among the lowest-taxed communications services.

Possibly illustrating the fiscal differences between Virginia's reform and the estimated effect from the proposals in Maryland, the same family used in **Appendices 3-B and 4-B**, assuming that half of the landline bill was devoted to local telecommunications and the family received pay-television service via cable, would have been liable for $13.75 in monthly taxes and fees if it resided in the highest taxing county in pre-reform Virginia. This is well below the amount that would currently be paid by the same family residing in Baltimore City, Prince George's or Montgomery Counties, where approximately 42.6% of Marylanders lived in 2012 according to the U.S. Census Bureau. As a result of these pre-reform tax structure differences, in order to enact the proposed reforms and retain the current level of communications revenue, Maryland will need to institute a communications tax rate which is higher than both Virginia's post-reform communications tax rate and Maryland's general sales tax rate.

Federal Impact on Outlook

The adoption of new technologies and forthcoming federal Congressional decisions could alter Maryland's communications revenue base in future years by a currently indeterminable, but potentially significant, amount. While the adoption of new taxable technologies which are currently not codified as taxable may cannibalize the existing communications revenue base, it is uncertain how quickly, if at all, consumers will embrace these new technologies and replace their existing means for acquiring these services. Furthermore, even if Maryland law is altered to include these services as taxable, without Congress acting to overturn the existing prohibition on obligating out-of-State sellers to collect and remit the sales tax, much of this potential revenue could remain unrealized. Another pending federal determination is the current prohibition on taxing internet access services, known as the "internet tax moratorium". If Congress does not extend this prohibition, and the moratorium expires in November of 2014, data plans, which are increasingly becoming a larger part of consumers' wireless telecommunications bill, may become subject to sales tax collections by the State and the local governments. Along with many other complicating factors, these unforeseeable future developments lead to a wide variance in potential total communications revenue collected under any tax structure, confounding the ability to accurately forecast the overall effect of reform until the course of these future outcomes becomes more transparent.

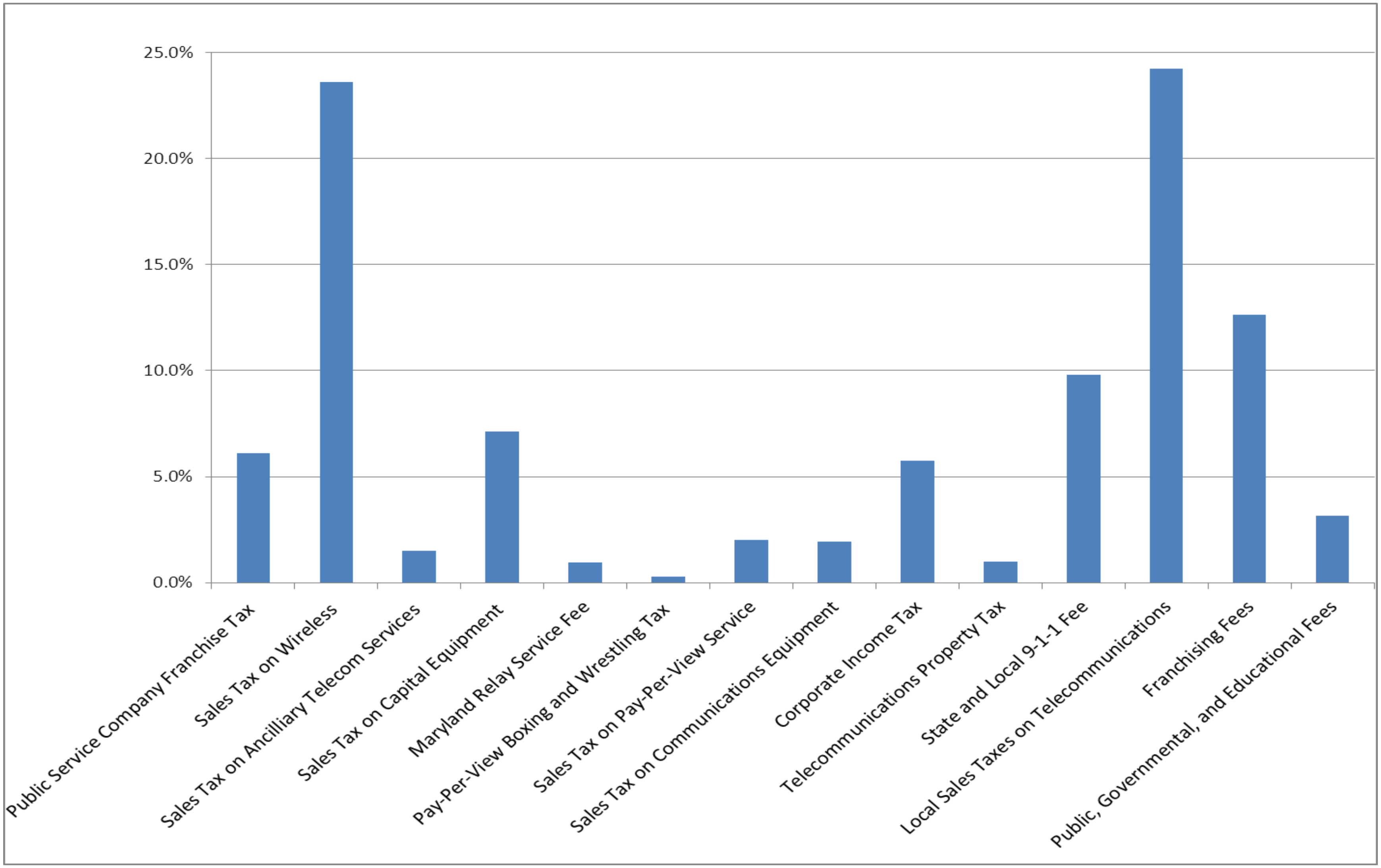
This report has been compiled by staff of the Commission for presentation at the meeting on May 16, 2013, but may not represent the views of the Commission members or staff agencies. The proposals presented in this report are those which have been tentatively offered by Commission members for preliminary analysis.

ANNUAL COMMUNICATIONS TAX AND FEE REVENUE

Fiscal Year 2012 Survey Results

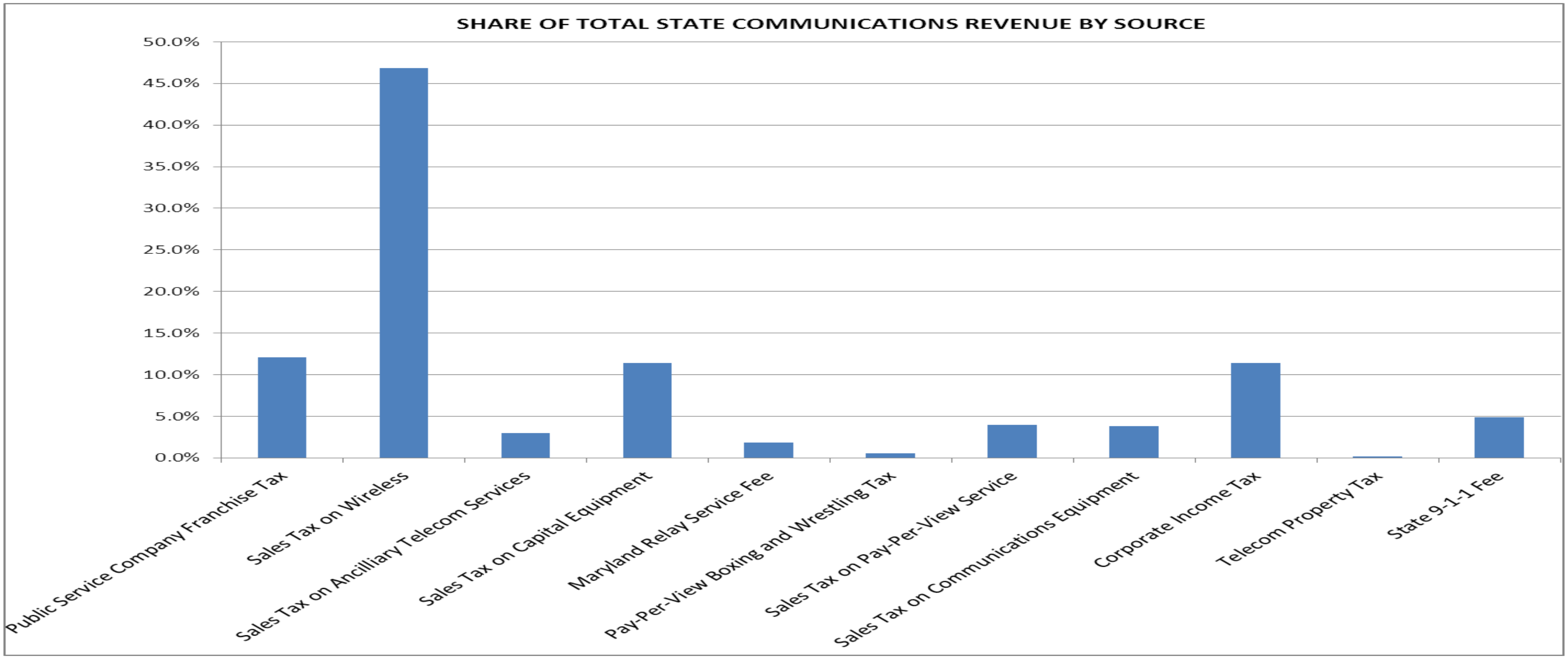
	Current Revenue
Public Service Company Franchise Tax (2%)	34,269,706
Sales Tax on Wireless (6%)	132,791,747
Sales Tax on Ancilliary Telecommunications Services (6%)	8,506,354
Sales Tax on Capital Equipment (6%)	32,329,708
Maryland Relay Service Fee ($0.18 per Account per Month)	5,289,855
Pay-Per-View Boxing and Wrestling Tax (10%)	1,630,672
Sales Tax on Pay-Per-View Service (6%)	11,277,559
Sales Tax on Communications Equipment either Rented or Sold (6%)	10,868,663
Corporate Income Tax (8.25%)	32,359,379
Telecommunications Property Tax (Only Incremental Revenue from 2.5 Times Higher Tax Rate)	
State	456,480
Local	4,835,265
State 9-1-1 Fee ($0.25 per Account per Month)	13,766,360
Local 9-1-1 Fee ($0.75 per Account per Month)	41,299,079
Local Sales Taxes on Telecommunications (Levied by Local Governments)	136,346,540
Franchising Fees (Negotiated by Local Governments)	71,197,029
Public, Governmental, and Educational Fees (Negotiated by Local Governments)	17,800,124
State Revenue	283,546,482
Local Revenue	271,478,037
Total	**555,024,519**
	Estimated Revenue
Proposal 1 Revenue (Local Telecommunications Taxes and Fees Fully Phased Out)	480,507,846
Revenue Change Relative to Current	**(74,516,672)**
Proposal 2 Revenue (Local Telecommunications Taxes and Fees Fully Phased Out)	448,737,402
Revenue Change Relative to Current	**(106,287,117)**

SHARE OF TOTAL COMMUNICATIONS REVENUE BY SOURCE



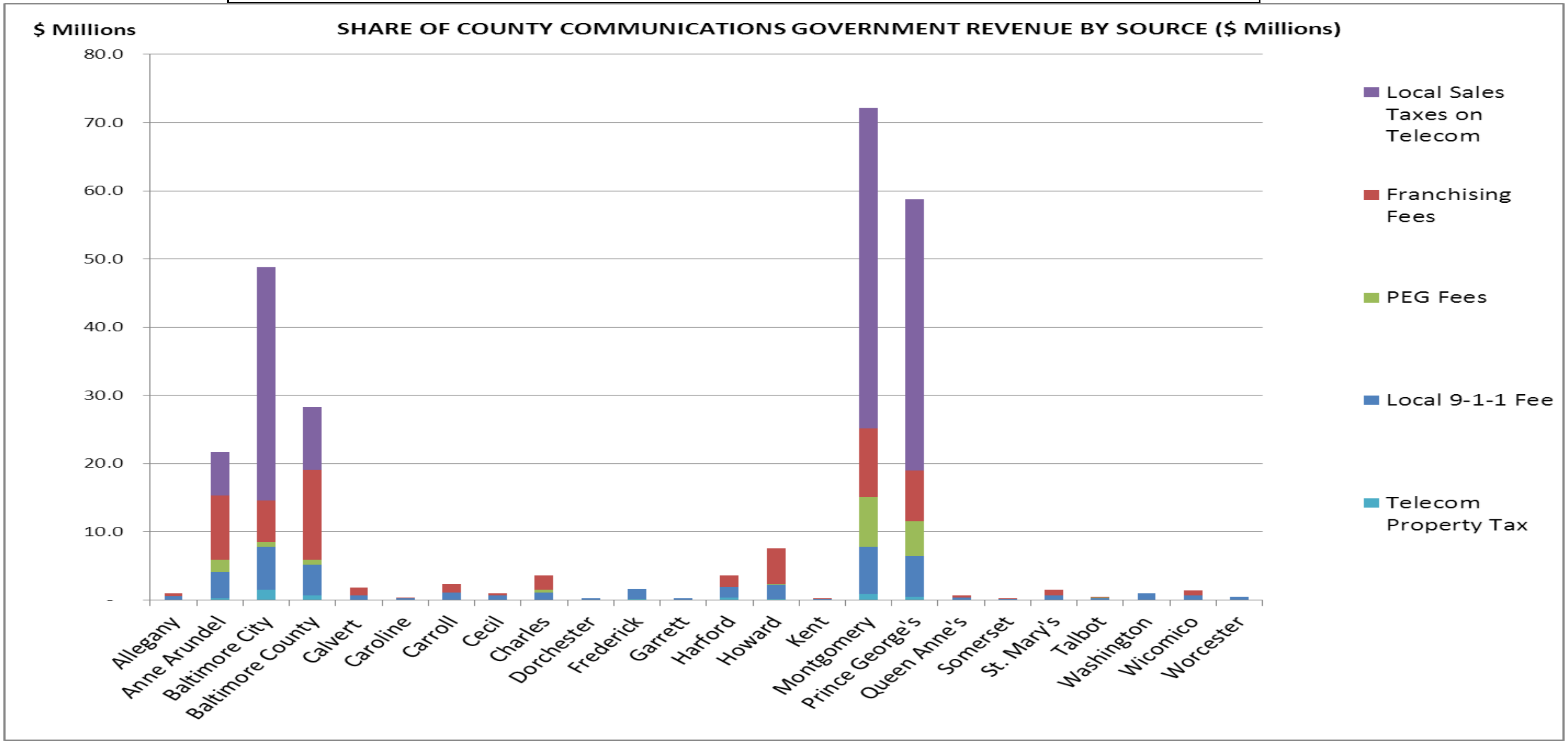
STATE GOVERNMENT COMMUNICATIONS REVENUE

	Current Revenue
Public Service Company Franchise Tax (2%)	34,269,706
Sales Tax on Wireless (6%)	132,791,747
Sales Tax on Ancilliary Telecommunications Services (6%)	8,506,354
Sales Tax on Capital Equipment (6%)	32,329,708
Maryland Relay Service Fee ($0.18 per Account per Month)	5,289,855
Pay-Per-View Boxing and Wrestling Tax (10%)	1,630,672
Sales Tax on Pay-Per-View Service (6%)	11,277,559
Sales Tax on Communications Equipment either Rented or Sold (6%)	10,868,663
Corporate Income Tax (8.25%)	32,359,379
Telecommunications Property Tax (2.5 Times Higher Tax Rate)	456,480
State 9-1-1 Fee ($0.25 per Account per Month)	13,766,360
Total	**283,546,482**



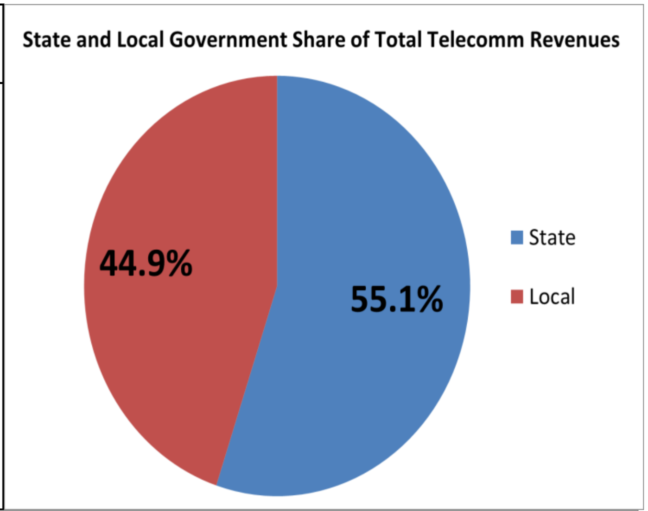
LOCAL GOVERNMENT COMMUNICATIONS REVENUE

	Current Revenue
Telecommunications Property Tax (2.5 Times Higher Tax Rate)	4,835,265
Local 9-1-1 Fee ($0.75 per Account per Month)	41,299,079
Local Sales Taxes on Telecommunications (Levied by Local Governments)	136,346,540
Franchising Fees (Negotiated by Local Governments)	71,197,029
Public, Governmental, and Educational Fees (Negotiated by Local Governments)	17,800,124
Total	**271,478,037**

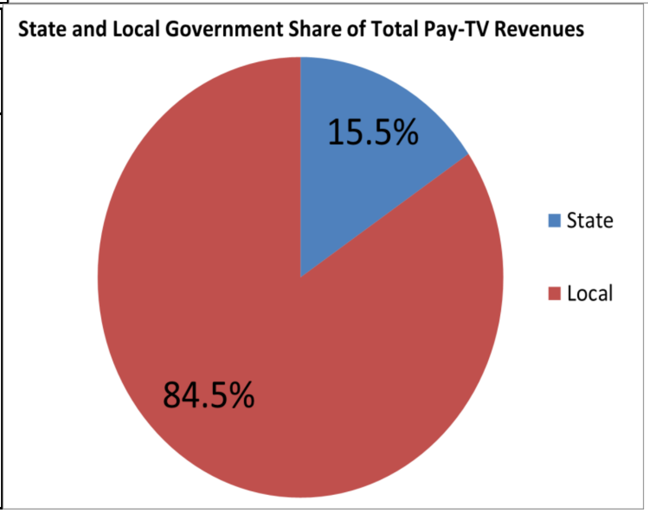


COMMUNICATIONS REVENUE VIA TELECOMMUNICATIONS AND PAY-TELEVISION SERVICES

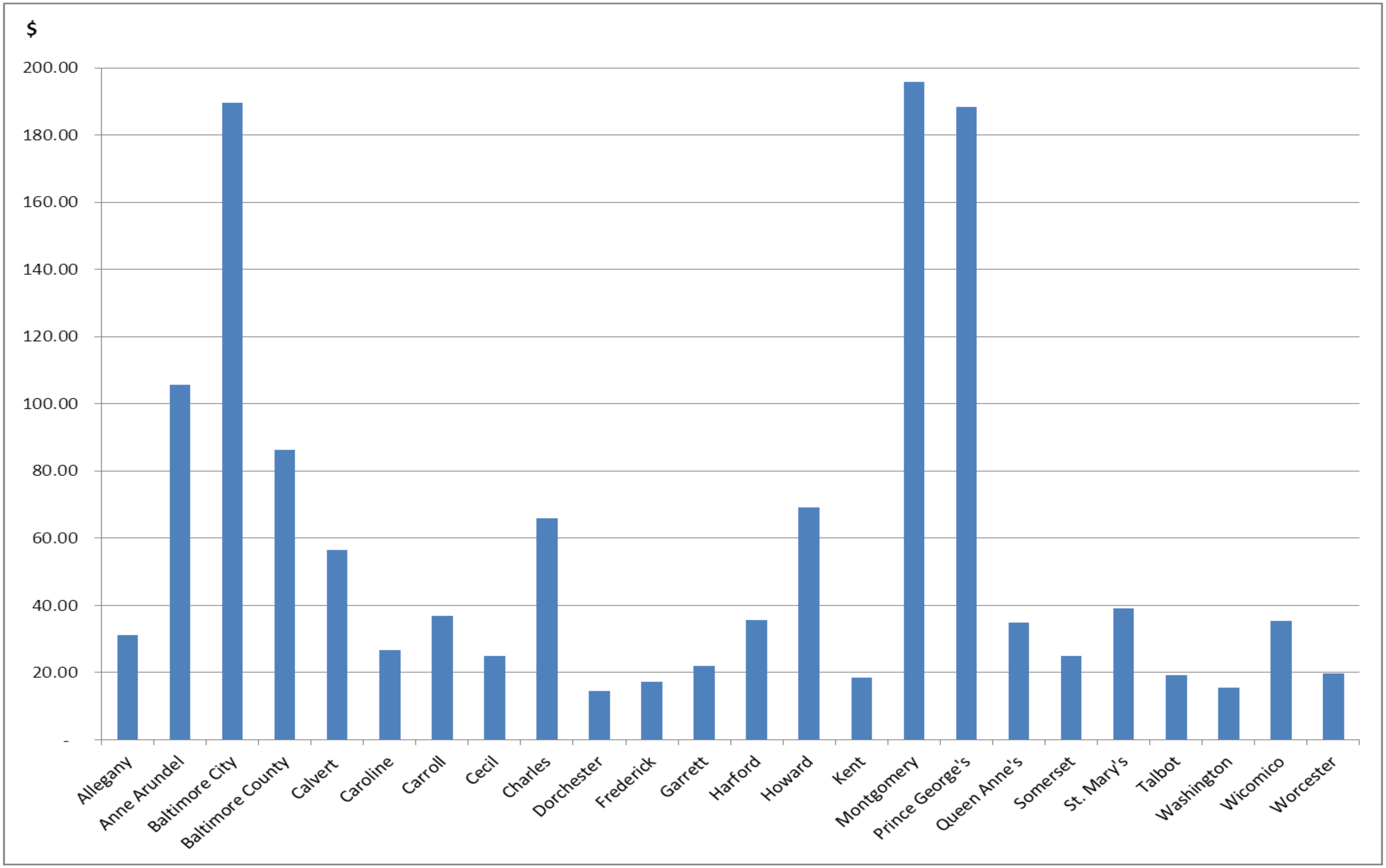
Telecommunications Revenue	
State	**Current Revenue**
Public Service Company Franchise Tax (2%)	34,269,706
Sales Tax on Wireless (6%)	132,791,747
Sales Tax on Ancilliary Telecommunications Services (6%)	8,506,354
Sales Tax on Capital Equipment (6%)	28,873,219
Maryland Relay Service ($0.18 per Account per Month)	5,289,855
Telecommunications Property Tax (2.5 Times Higher Tax Rate)	456,480
State 9-1-1 ($0.25 per Account per Month)	13,766,360
Total	***223,953,720***
Local	
Local Taxes on Telecommunications (Levied by Local Governments)	136,346,540
Telecommunications Property Tax (2.5 Times Higher Tax Rate)	4,835,265
Local 9-1-1 ($0.75 per Account per Month)	41,299,079
Total	***182,480,884***



Pay-Television Revenue	
State	**Current Revenue**
Sales Tax on Capital Equipment (6%)	3,456,489
Pay-Per-View Boxing and Wrestling Tax (10%)	1,630,672
Sales Tax on Pay-Per-View Services (6%)	11,277,559
Total	***16,364,719***
Local	
Franchising Fees (Negotiated by Local Governments)	71,197,029
Public, Governmental, and Educational Fees (Negotiated by Local Governments)	17,800,124
Total	***88,997,153***

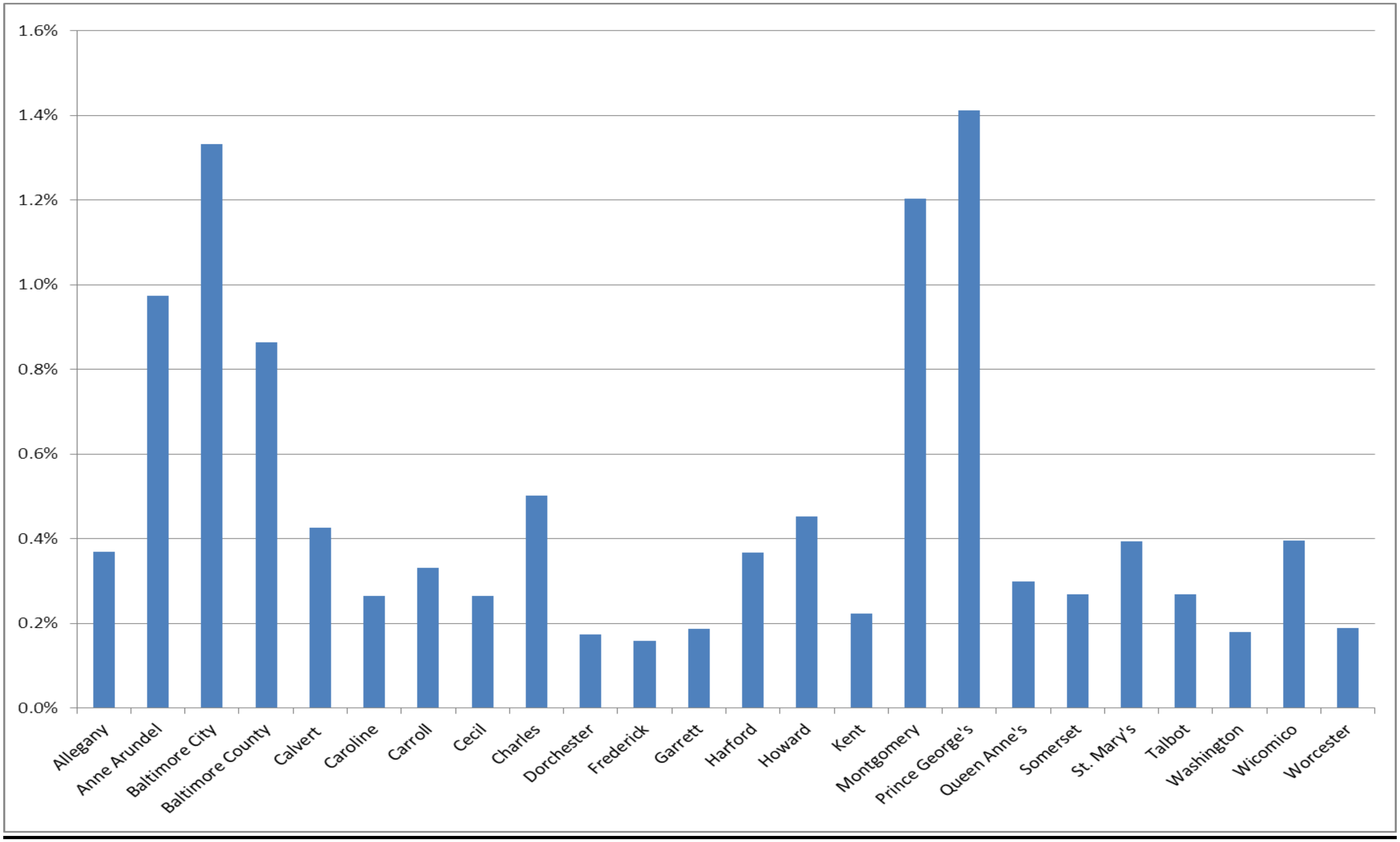


PER HOUSEHOLD COUNTY COMMUNICATIONS REVENUE



Appendix 2-G

COUNTY COMMUNICATIONS REVENUE AS PERCENT OF TOTAL FISCAL YEAR 2011 REVENUE



PROPOSAL #1: FISCAL EFFECT

Proposal Description: Repeal the public service company franchise tax levied on landline telecommunications services; reduce the tax rate on telecommunications real property to the rate of other communications real property; exempt the purchase of communications network equipment from the State sales tax; and phase out all local communications taxes and fees over a four-year period. Institute the State sales tax against all communications services. Proposal indicates that additional State revenue will be used to provide transitional assistance to local governments.

Proposal 1 Revenue (Local Telecommunications Taxes and Fees Fully Phased Out)	Proposed Revenue	Difference vs. Current Revenue
Replace Public Service Company Franchise Tax with Sales Tax (6%)	98,494,094	64,224,388
Retain Sales Tax on Wireless (6%)	132,791,747	-
Retain Sales Tax on Ancilliary Telecommunications Services (6%)	8,506,354	-
Remove Sales Tax on All Communications Capital Equipment (0%)	-	(32,329,708)
Retain Maryland Relay Service Fee ($0.18 per Account per Month)	5,289,855	-
Reduce Pay-Per-View Boxing and Wrestling Tax (6%)	-	(1,630,672)
Retain Sales Tax on Pay-Per-View Service (6%)	11,277,559	-
Retain Sales Tax on Communications Equipment either Rented or Sold (6%)	10,868,663	-
Retain Corporate Income Tax (8.25%)	32,359,379	-
Reduce Telecommunications Property Tax (Same Tax Rate as Other Property)		
State	-	(456,480)
Local	-	(4,835,265)
Retain State 9-1-1 Fee ($0.25 per Account per Month)	14,773,225	-
Retain Local 9-1-1 Fee ($0.00 per Account per Month)	40,292,213	-
Remove Local Sales Taxes on Telecommunications (0%)	-	(136,346,540)
Replace Franchise and PEG Fees with Sales Tax on Cable Television Service (6%)	93,021,819	4,024,666
Institute Sales Tax on Satellite Television (6%)	26,610,719	26,610,719
Institute Sales Tax on Other Currently Non-Taxable Communications Services (6%)	7,099,086	7,099,086
Total	**481,384,712**	**(73,639,807)**

Brief Analysis: The table above illustrates the total estimated fiscal year 2012 communications revenue under the tax structure of proposal 1 and this revenue relative to actual fiscal year 2012 collections. While the public service company franchise tax is levied against governments' and non-profits' purchases, these entities are exempt from sales tax obligations; thus, applying the sales tax to landline services would shrink the applicable tax base. Counteracting this decreased base are the addition of new services – satellite television, internet-streamed television and movies –, currently untaxed VoIP service, and cable service in areas which do not currently levy fees. The revenue lost from removing the sales tax on capital equipment may vary greatly by year. Overall, total communications revenue would have been approximately $73.6 million lower in fiscal year 2012 if the proposed tax structure had been in place.

PROPOSAL 1: MONTHLY CONSUMER EFFECT

<u>Monthly</u> Direct Communications Taxes and Fees Incurred: Family of three with one landline phone account for $30.00 per month; three cell phones on family plan for $50.00 per month; and, one basic television plan for $50.00 per month.

	Current		Proposal #1	
	Family Recieves TV via Cable	Family Recieves TV via Satellite	Family Recieves TV via Cable	Family Recieves TV via Satellite
Allegany County	$ 8.46	$ 5.96	$ 10.71	$ 8.21
Anne Arundel County	$ 11.36	$ 8.36	$ 13.61	$ 10.61
Baltimore City	$ 24.78	$ 21.96	$ 27.03	$ 24.21
Baltimore County	$ 11.52	$ 8.36	$ 13.77	$ 10.61
Calvert County	$ 8.46	$ 5.96	$ 10.71	$ 8.21
Caroline County	$ 8.46	$ 5.96	$ 10.71	$ 8.21
Carroll County	$ 8.46	$ 5.96	$ 10.71	$ 8.21
Cecil County	$ 8.46	$ 5.96	$ 10.71	$ 8.21
Charles County	$ 8.96	$ 5.96	$ 11.21	$ 8.21
Dorchester County	N/A	$ 5.96	N/A	$ 8.21
Frederick County	$ 5.96	$ 5.96	$ 8.21	$ 8.21
Garrett County	$ 5.96	$ 5.96	$ 8.21	$ 8.21
Harford County	$ 7.46	$ 5.96	$ 9.71	$ 8.21
Howard County	$ 8.66	$ 5.96	$ 10.91	$ 8.21
Kent County	$ 8.46	$ 5.96	$ 10.71	$ 8.21
Montgomery County	$ 22.46	$ 18.46	$ 24.71	$ 20.71
Prince George's County	$ 16.36	$ 12.36	$ 18.61	$ 14.61
Queen Anne's County	$ 8.46	$ 5.96	$ 10.71	$ 8.21
Somerset County	$ 7.46	$ 5.96	$ 9.71	$ 8.21
St. Mary's County	$ 8.46	$ 5.96	$ 10.71	$ 8.21
Talbot County	$ 6.96	$ 5.96	$ 9.21	$ 8.21
Washington County	N/A	$ 5.96	N/A	$ 8.21
Wicomico County	$ 8.46	$ 5.96	$ 10.71	$ 8.21
Worcester County	N/A	$ 5.96	N/A	$ 8.21

Note: Cable Service is Only Available in Certain Municipal Corporations and Cities within Dorchester, Washington and Worcester Counties.

PROPOSAL 1: EFFECTIVE TAX RATE CONSUMER EFFECT

<u>Effective Tax Rate</u> of Direct Communications Taxes and Fees Incurred: Family of three with one landline phone account for $30.00 per month; three cell phones on family plan for $50.00 per month; and, one basic television plan for $50.00 per month.

	Current		Proposal #1	
	Family Recieves TV via Cable	Family Recieves TV via Satellite	Family Recieves TV via Cable	Family Recieves TV via Satellite
Allegany County	6.5%	4.6%	8.2%	6.3%
Anne Arundel County	8.7%	6.4%	10.5%	8.2%
Baltimore City	19.1%	16.9%	20.8%	18.6%
Baltimore County	8.9%	6.4%	10.6%	8.2%
Calvert County	6.5%	4.6%	8.2%	6.3%
Caroline County	6.5%	4.6%	8.2%	6.3%
Carroll County	6.5%	4.6%	8.2%	6.3%
Cecil County	6.5%	4.6%	8.2%	6.3%
Charles County	6.9%	4.6%	8.6%	6.3%
Dorchester County	N/A	4.6%	N/A	6.3%
Frederick County	4.6%	4.6%	6.3%	6.3%
Garrett County	4.6%	4.6%	6.3%	6.3%
Harford County	5.7%	4.6%	7.5%	6.3%
Howard County	6.7%	4.6%	8.4%	6.3%
Kent County	6.5%	4.6%	8.2%	6.3%
Montgomery County	17.3%	14.2%	19.0%	15.9%
Prince George's County	12.6%	9.5%	14.3%	11.2%
Queen Anne's County	6.5%	4.6%	8.2%	6.3%
Somerset County	5.7%	4.6%	7.5%	6.3%
St. Mary's County	6.5%	4.6%	8.2%	6.3%
Talbot County	5.4%	4.6%	7.1%	6.3%
Washington County	N/A	4.6%	N/A	6.3%
Wicomico County	6.5%	4.6%	8.2%	6.3%
Worcester County	N/A	4.6%	N/A	6.3%
Note: Cable Service is Only Available in Certain Municipal Corporations and Cities within Dorchester, Washington and Worcester Counties.				

PROPOSAL #2: FISCAL EFFECT

Proposal Description: Exclusively reform the telecommunications industry. Repeal the public service company franchise tax levied on landline phone services, reduce the property tax rate applicable to telecommunications real property to the rate of other communications real property, exempt the purchase of telecommunications network equipment from the sales tax, and phase out all local telecommunications taxes and fees over a four-year period. Implement the State sales tax on all telecommunications services. Proposal indicates that additional State revenue will be used to provide transitional assistance to local governments.

Proposal 2 Revenue (Local Telecommunications Taxes and Fees Fully Phased Out)

	Proposed Revenue	Difference vs. Current Revenue
Replace Public Service Company Franchise Tax with Sales Tax (6%)	98,494,094	64,224,388
Retain Sales Tax on Wireless (6%)	132,791,747	-
Retain Sales Tax on Ancilliary Telecommunications Services (6%)	8,506,354	-
Remove Sales Tax on Only Telecommunications Capital Equipment (0%/6%)	3,456,489	(28,873,219)
Retain Maryland Relay Service Fee ($0.18 per Account per Month)	5,289,855	-
Retain Pay-Per-View Boxing and Wrestling Tax (10%)	1,630,672	-
Retain Sales Tax on Pay-Per-View Service (6%)	11,277,559	-
Retain Sales Tax on Communications Equipment either Rented or Sold (6%)	10,868,663	-
Retain Corporate Income Tax (8.25%)	32,359,379	-
Reduce Telecommunications Property Tax (Same Tax Rate as Other Property)		
State	-	(456,480)
Local	-	(4,835,265)
Retain State 9-1-1 Fee ($0.25 per Account per Month)	14,773,225	-
Retain Local 9-1-1 Fee ($0.00 per Account per Month)	40,292,213	-
Remove Local Sales Taxes on Telecommunications (0%)	-	(136,346,540)
Retain Franchising Fees (Negotiated by Local Governments)	71,197,029	-
Retain Public, Governmental, and Educational Fees (Negotiated by Local Governments)	17,800,124	-
Total	**448,737,402**	**(106,287,117)**

Brief Analysis: The table above illustrates the total estimated fiscal year 2012 communications revenue under the tax structure of proposal 2 and this revenue relative to actual fiscal year 2012 collections. While the public service company franchise tax is levied against governments' and non-profits' purchases, these entities are exempt from sales tax obligations; thus, applying the sales tax to landline services would shrink the applicable tax base. Counteracting this decreased base is the addition of currently untaxed VoIP service. The revenue lost from removing the sales tax on capital equipment may vary greatly by year. Overall, total communications revenue would have been approximately $106.3 million lower in fiscal year 2012 if the proposed tax structure had been fully instituted.

PROPOSAL 2: MONTHLY CONSUMER EFFECT

<u>Monthly</u> Direct Communications Taxes and Fees Incurred: Family of three with one landline phone account for $30.00 per month; three cell phones on family plan for $50.00 per month; and, one basic television plan for $50.00 per month.

	Current		Proposal #2	
	Family Recieves TV via Cable	Family Recieves TV via Satellite	Family Recieves TV via Cable	Family Recieves TV via Satellite
Allegany County	$ 8.46	$ 5.96	$ 9.67	$ 7.17
Anne Arundel County	$ 11.36	$ 8.36	$ 12.57	$ 9.57
Baltimore City	$ 24.78	$ 21.96	$ 25.99	$ 23.17
Baltimore County	$ 11.52	$ 8.36	$ 12.73	$ 9.57
Calvert County	$ 8.46	$ 5.96	$ 9.67	$ 7.17
Caroline County	$ 8.46	$ 5.96	$ 9.67	$ 7.17
Carroll County	$ 8.46	$ 5.96	$ 9.67	$ 7.17
Cecil County	$ 8.46	$ 5.96	$ 9.67	$ 7.17
Charles County	$ 8.96	$ 5.96	$ 10.17	$ 7.17
Dorchester County	N/A	$ 5.96	N/A	$ 7.17
Frederick County	$ 5.96	$ 5.96	$ 7.17	$ 7.17
Garrett County	$ 5.96	$ 5.96	$ 7.17	$ 7.17
Harford County	$ 7.46	$ 5.96	$ 8.67	$ 7.17
Howard County	$ 8.66	$ 5.96	$ 9.87	$ 7.17
Kent County	$ 8.46	$ 5.96	$ 9.67	$ 7.17
Montgomery County	$ 22.46	$ 18.46	$ 23.67	$ 19.67
Prince George's County	$ 16.36	$ 12.36	$ 17.57	$ 13.57
Queen Anne's County	$ 8.46	$ 5.96	$ 9.67	$ 7.17
Somerset County	$ 7.46	$ 5.96	$ 8.67	$ 7.17
St. Mary's County	$ 8.46	$ 5.96	$ 9.67	$ 7.17
Talbot County	$ 6.96	$ 5.96	$ 8.17	$ 7.17
Washington County	N/A	$ 5.96	N/A	$ 7.17
Wicomico County	$ 8.46	$ 5.96	$ 9.67	$ 7.17
Worcester County	N/A	$ 5.96	N/A	$ 7.17

Note: Cable Service is Only Available in Certain Municipal Corporations and Cities within Dorchester, Washington and Worcester Counties.

PROPOSAL 2: EFFECTIVE TAX RATE CONSUMER EFFECT

<u>Effective Tax Rate</u> of Direct Communications Taxes and Fees Incurred: Family of three with one landline phone account for $30.00 per month; three cell phones on family plan for $50.00 per month; and, one basic television plan for $50.00 per month.

	Current		**Proposal #2**	
	Family Recieves TV via Cable	Family Recieves TV via Satellite	Family Recieves TV via Cable	Family Recieves TV via Satellite
Allegany County	6.5%	4.6%	7.4%	5.5%
Anne Arundel County	8.7%	6.4%	9.7%	7.4%
Baltimore City	19.1%	16.9%	20.0%	17.8%
Baltimore County	8.9%	6.4%	9.8%	7.4%
Calvert County	6.5%	4.6%	7.4%	5.5%
Caroline County	6.5%	4.6%	7.4%	5.5%
Carroll County	6.5%	4.6%	7.4%	5.5%
Cecil County	6.5%	4.6%	7.4%	5.5%
Charles County	6.9%	4.6%	7.8%	5.5%
Dorchester County	N/A	4.6%	N/A	5.5%
Frederick County	4.6%	4.6%	5.5%	5.5%
Garrett County	4.6%	4.6%	5.5%	5.5%
Harford County	5.7%	4.6%	6.7%	5.5%
Howard County	6.7%	4.6%	7.6%	5.5%
Kent County	6.5%	4.6%	7.4%	5.5%
Montgomery County	17.3%	14.2%	18.2%	15.1%
Prince George's County	12.6%	9.5%	13.5%	10.4%
Queen Anne's County	6.5%	4.6%	7.4%	5.5%
Somerset County	5.7%	4.6%	6.7%	5.5%
St. Mary's County	6.5%	4.6%	7.4%	5.5%
Talbot County	5.4%	4.6%	6.3%	5.5%
Washington County	N/A	4.6%	N/A	5.5%
Wicomico County	6.5%	4.6%	7.4%	5.5%
Worcester County	N/A	4.6%	N/A	5.5%

Note: Cable Service is Only Available in Certain Municipal Corporations and Cities within Dorchester, Washington and Worcester Counties.

PROPOSAL #3: FISCAL EFFECT

Proposal Description: Repeal the public service company franchise tax levied on landline telecommunications services; reduce the tax rate on public utility telecommunications real property to the rate of non-public utility real property; exempt the purchase of communications network equipment from the State sales tax. Institute a new 4.0% State sales tax against all communications services, including reducing the sales tax rate on wireless service from 6.0% to 4.0%. Proposal indicates that additional State revenue will be used to replenish local property tax revenues and to establish funding for broadband development in rural areas.

Proposal 3	Proposed Revenue	Difference vs. Current Law
Replace Public Service Company Franchise Tax (4.0%)	65,662,729	31,393,023
Replace Sales Tax on Wireless (4.0%)	88,527,831	(44,263,916)
Replace Sales Tax on Ancilliary Telecommunications Services (4.0%)	5,670,902	(2,835,451)
Remove Sales Tax on All Communications Capital Equipment (0%)	-	(32,329,708)
Retain Maryland Relay Service Fee ($0.18 per Account per Month)	5,289,855	-
Remove Pay-Per-View Boxing and Wrestling Tax (0.0%)	-	(1,630,672)
Replace Sales Tax on Pay-Per-View Service (4.0%)	7,518,372	(3,759,186)
Replace Sales Tax on Television Equipment either Rented or Sold by the Service Provider (4.0%)	7,245,775	(3,622,888)
Retain Corporate Income Tax (8.25%)	32,359,379	-
Telecommunications Property Tax		
Reduce State Rate	-	(456,480)
Reduce Local Rate	-	(4,835,265)
Retain State 9-1-1 Fee ($0.25 per Account per Month)	14,773,225	-
Retain Local 9-1-1 Fee ($0.75 per Account per Month)	40,292,213	-
Retain Local Sales Taxes on Telecommunications (Levied by Local Governments)	136,346,540	-
Retain Franchise Fees (Negotiated by Local Governments)	71,197,029	-
Retain Public, Governmental and Educational Fees (Negotiated by Local Governments)	17,800,124	-
Institute Sales Tax on Cable Television (4.0%)	61,429,969	61,429,969
Institute Sales Tax on Satellite Television (4.0%)	17,740,479	17,740,479
Institute Sales Tax on Currently Non-Taxable Over-the-Top Communications Services (4.0%)	4,732,724	4,732,724
Gross Communications Revenue	576,587,148	21,562,629
Less New Funding:		
Replace Local Government Property Tax Revenue Losses	4,835,265	4,835,265
Institute Rural Broadband Expansion Funding (Estimated Amount Proposed Gross Revenue Exceeds Current Law)	16,727,364	16,727,364
Net State and Local Government Revenue	**555,024,519**	**-**

Brief Analysis: The table above illustrates the total estimated fiscal year 2012 communications revenue under the tax structure of Proposal 3 and this revenue relative to actual fiscal year 2012 collections. While the public service company franchise tax is levied against governments' and non-profits' purchases, these entities are exempt from sales tax obligations; thus, applying this sales tax to landline services would shrink the applicable tax base. Counteracting this decreased base are the addition of new services – satellite, cable and internet-streamed television and movies – and currently untaxed VoIP service. Furthermore, revenue losses are associated with decreasing the sales tax rate against wireless from 6.0% to 4.0%. The revenue lost from removing the sales tax on capital equipment may vary greatly by year. Under this proposal, approximately $4.8 million in revenue will be due to local governments to replenish lost property tax revenue and $16.7 million may be applied to rural broadband expansion funding. Overall, the reform proposal is estimated to be revenue neutral.

PROPOSAL 3: MONTHLY CONSUMER EFFECT

<u>Monthly</u> Direct Communications Taxes and Fees Incurred: Family of three with one landline phone account for $30.00 per month; three cell phones on family plan for $50.00 per month; and, one basic television plan for $50.00 per month.

	Current		**Proposal #3**	
	Family Recieves TV via Cable	Family Recieves TV via Satellite	Family Recieves TV via Cable	Family Recieves TV via Satellite
Allegany County	$ 8.46	$ 5.96	$ 10.06	$ 7.56
Anne Arundel County	11.36	8.36	12.96	9.96
Baltimore City	24.78	21.96	26.38	23.56
Baltimore County	11.52	8.36	13.12	9.96
Calvert County	8.46	5.96	10.06	7.56
Caroline County	8.46	5.96	10.06	7.56
Carroll County	8.46	5.96	10.06	7.56
Cecil County	8.46	5.96	10.06	7.56
Charles County	8.96	5.96	10.56	7.56
Dorchester County	N/A	5.96	N/A	7.56
Frederick County	5.96	5.96	7.56	7.56
Garrett County	5.96	5.96	7.56	7.56
Harford County	7.46	5.96	9.06	7.56
Howard County	8.66	5.96	10.26	7.56
Kent County	8.46	5.96	10.06	7.56
Montgomery County	22.46	18.46	24.06	20.06
Prince George's County	16.36	12.36	17.96	13.96
Queen Anne's County	8.46	5.96	10.06	7.56
Somerset County	7.46	5.96	9.06	7.56
St. Mary's County	8.46	5.96	10.06	7.56
Talbot County	6.96	5.96	8.56	7.56
Washington County	N/A	5.96	N/A	7.56
Wicomico County	8.46	5.96	10.06	7.56
Worcester County	N/A	5.96	N/A	7.56

Note: Cable Service is Only Available in Certain Municipal Corporations and Cities within Dorchester, Washington and Worcester Counties.

PROPOSAL 3: EFFECTIVE TAX RATE CONSUMER EFFECT

<u>Effective Tax Rate</u> of Direct Communications Taxes and Fees Incurred: Family of three with one landline phone account for $30.00 per month; three cell phones on family plan for $50.00 per month; and, one basic television plan for $50.00 per month.

	Current		Proposal #3	
	Family Recieves TV via Cable	Family Recieves TV via Satellite	Family Recieves TV via Cable	Family Recieves TV via Satellite
Allegany County	6.5%	4.6%	7.7%	5.8%
Anne Arundel County	8.7%	6.4%	10.0%	7.7%
Baltimore City	19.1%	16.9%	20.3%	18.1%
Baltimore County	8.9%	6.4%	10.1%	7.7%
Calvert County	6.5%	4.6%	7.7%	5.8%
Caroline County	6.5%	4.6%	7.7%	5.8%
Carroll County	6.5%	4.6%	7.7%	5.8%
Cecil County	6.5%	4.6%	7.7%	5.8%
Charles County	6.9%	4.6%	8.1%	5.8%
Dorchester County	N/A	4.6%	N/A	5.8%
Frederick County	4.6%	4.6%	5.8%	5.8%
Garrett County	4.6%	4.6%	5.8%	5.8%
Harford County	5.7%	4.6%	7.0%	5.8%
Howard County	6.7%	4.6%	7.9%	5.8%
Kent County	6.5%	4.6%	7.7%	5.8%
Montgomery County	17.3%	14.2%	18.5%	15.4%
Prince George's County	12.6%	9.5%	13.8%	10.7%
Queen Anne's County	6.5%	4.6%	7.7%	5.8%
Somerset County	5.7%	4.6%	7.0%	5.8%
St. Mary's County	6.5%	4.6%	7.7%	5.8%
Talbot County	5.4%	4.6%	6.6%	5.8%
Washington County	N/A	4.6%	N/A	5.8%
Wicomico County	6.5%	4.6%	7.7%	5.8%
Worcester County	N/A	4.6%	N/A	5.8%

Note: Cable Service is Only Available in Certain Municipal Corporations and Cities within Dorchester, Washington and Worcester Counties.

Appendix 6

CURRENT COMMUNICATIONS TAX AND FEE STRUCTURE OVERVIEW

	Telecommunications Services				Pay-Television Services	
	Local	**Long**	**Wireless**	**VoIP**	**Cable**	**Satellite**
Public Service Company Franchise Tax	Yes	Yes	No	Differs[1]	No	No
Property Tax[2]	Public Utility	Public Utility	Non-Public Utility	Differs[1]	Non-Public Utility	Non-Public Utility
State Sales and Use Tax	Some Services, Consumer Hardware, and Machinery and Equipment[3]	Some Services, Consumer Hardware, and Machinery and Equipment[3]	Yes	Some Services, Consumer Hardware, and Machinery and Equipment[3]	Some Services, Consumer Hardware, and Machinery and Equipment[4]	Some Services, Consumer Hardware, and Machinery and Equipment[4]
Income Tax	Yes	Yes	Yes	Yes	Yes	Yes
9-1-1 Surcharge	Yes	Yes	Yes	Yes	No	No
Relay Service Surcharge	Yes	Yes	Yes	Yes	No	No
Boxing and Wrestling Tax	No	No	No	No	Yes	Yes
Franchise Fees	No	No	No	No	Yes	Federally Prohibited[7]
PEG Fees	No	No	No	No	Yes	Federally Prohibited[7]
Local Sales Tax	Yes[5]	Yes[5]	Yes[5]	No[5]	Some May[6]	Federally Prohibited[7]
Other Local Taxes, Surcharges, Fees	Yes[5]	Yes[5]	Yes[5]	Yes[5]	Some May[6]	Federally Prohibited[7]

Notes:

[1] Whether a VoIP company incurs the public service company franchise tax and is considered a public utility for property tax purposes depends on the existence of a tariff agreement with the Public Service Commission.

[2] Public utility property is assessed according to the unit value method and real property is, generally, taxed at a rate 2.5 times higher than the real property of non-public utility companies.

[3] Sales or use tax charged for 900-type phone calls, custom calling services provided in connection with basic telephone service (e.g. call waiting), telephone answering services, prepaid calling arrangements, hardware sold or rented to customers, and capital equipment used to provide telecommunications services.

[4] Sales or use tax charged for pay-per-view programming, hardware sold or rented to customers for television services, and capital equipment used to provide television services.

[5] See Appendix 1 for complete list of telecommunications taxes and fees levied by local governments.

[6] Some counties may be able to tax cable services, but their legal authority to do so is uncertain.

[7] Through the federal Telecommunications Act of 1996, satellite companies became exempt from collecting any local tax or fee for remittance to the local government.

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