Pennsylvania Fossil Fuel Subsidies: An Overview

by
Christina Simeone, Director, PennFuture Energy Center

PennFuture
Energy Center
for Enterprise
and the Environment

EXECUTIVE SUMMARY

Pennsylvania taxpayers may not know they are subsidizing the production and use of fossil fuels. In fact, Pennsylvania is subsidizing fossil fuels at a cost of almost $2.9 billion per year.[1,2] Use of these fuels burdens taxpayers with additional non-monetized externalities such as air, land and water pollution and the associated negative human health and property impacts. Since many of these subsidies were passed years or decades ago, Pennsylvania's current policymakers may not all be aware that these subsidies exist or understand their cumulative impacts.

The federal government has long subsidized the production and use of fossil fuels to the tune of billions of dollars per year, and to the considerable benefit of these extremely profitable and mature industries. Federal level subsidies reduce the amount of taxable income that fossil fuel companies are required to report to Pennsylvania for state taxes. Further, Pennsylvania tacks on additional subsidies such as tax breaks and grant programs that benefit the use or production of fossil fuels. With respect to energy, there is no free and competitive market, least of all in Pennsylvania.

The state's fossil fuel subsidies come primarily in the form of tax exemptions, with only a handful of applicable tax credits and grant programs. There are exemptions for the use of fossil fuels, such as exempting gasoline purchase from Sales and Use Tax, which make these fuels more attractive by lowering their costs to the consumer. There are also exemptions that benefit distributors of fossil fuels, such as exempting natural gas sales from the Gross Receipts Tax, thereby reducing the tax burden on distribution companies, and increasing their profitability. Producers of fossil fuels also enjoy subsidies, like the Sales and Use Tax exemption for the purchase of mining equipment, which reduces costs to coal mining companies and increasing profitability. Ironically, Pennsylvania subsidizes the purchase of pollution control equipment to help users of fossil fuels pay for the cost of cleaning the air and water fouled by these very fossil fuels.

This preliminary overview of Pennsylvania's fossil fuel subsidies is intended to promote discussion and perhaps even a reexamination of Pennsylvania's overall incentive strategy with respect to energy. This report should be read as an introduction to the issue of Pennsylvania's fossil fuel subsidies; additional research and analysis is required.

Special thanks to The Honorable David Levdansky for contributing to and reviewing this report.

---

1 Approximately $1.1 billion of the total value of Pennsylvania fossil fuel subsidies is attributed to a Sales and Use Tax exemption for purchase and use of gasoline and motor fuels. Although exempt from Sales and Use Tax, these fuels are subject to the Liquid Fuel and Fuels Tax.

2 This number is likely to be an underestimate since many listed subsidies do not have cost estimates available.

Pennsylvania's Fossil Fuel Subsidies	
Description	**2011-2012 Cost**
Tax Exemptions	
Sales and Use Tax Exemptions	
Coal Purchase and Use Exemption	$119,500,000.00
Residential Use Exemption	
Electricity	$435,400,000.00
Fuel Oil/Natural Gas	$322,700,000.00
Government Exemption	amount undetermined
Resale Exemption	amount undetermined
Manufacturing, Processing Exemption	amount undetermined
Electricity Manufacturing Exemption	amount undetermined
Public Utility Exemption	amount undetermined
Mining Fuel Exemption	amount undetermined
Mining Equipment Exemption	amount undetermined
Gasoline and Motor Fuels Exemption	$1,145,700,000.00
Dairy Exemption	amount undetermined
Farming Exemption	amount undetermined
Printing Exemption	amount undetermined
Photographers Exemption	amount undetermined
Commercial Vessel Fuel Exemption	$2,900,000.00
Gross Receipts Tax Exemptions	
Natural Gas Exemption* **annual cost in 2000*	$82,200,000.00
Electricity Exemption	amount undetermined
Electric Coop Exemption	$21,100,000.00
Municipal Utility Exemption	$11,500,000.00
Liquid Fuel and Fuels Exemptions	
Government Exemption	$10,200,000.00
Agricultural Exemption	$1,100,000.00
Additional Exemptions	nominal
Oil Company Franchise Tax Exemption	
Government Exemption	$19,800,000.00
Agriculutral Exemption	$1,900,000.00
Additional Exemptions	nominal
Electric Coop	$200,000.00
Personal Tax Exemption for Cost Depletion	amount undetermined
Municipal Utility Realty Tax Exemption	$4,000,000.00
Realty Transfer Tax for Extraction	amount undetermined
Oil and Gas Local Property Tax Exemption* **annual cost in 2012, will grow as more wells are drilled*	$477,730,000.00
Additional Exemptions	
Pollution Control Device Sales and Use Tax Exemption	
Pollution Control Device Capitol Stock and Franchise Tax Exemption	
Non-manufacturing, R&D, Processing	$100,000.00
Non-Utility	$230,000,000.00
Tax Credits	
Coal Waste Removal Tax Credit* **$18,000,000 potential cost*	$-
Alternative Energy Production Tax Credit* **unknown amount directed to fossil fuels*	amount undetermined
Grant Programs	
Alternative Fuel Incentive Grant	amount undetermined
TOTAL	**$2,886,030,000.00**

Note: 2011-2012 Costs were taken from the Governor's Executive Budget for 2011-2012 as identified in the tax expenditures section.

PENNSYLVANIA FOSSIL FUEL SUBSIDIES: AN OVERVIEW

Introduction

In general, state subsidies for fossil fuels come in the form of direct spending (grants, incentives) and preferential tax treatment (tax credits, exemptions). These fossil fuel subsidies can be directed to the producer or distributor of the energy (coal mine operator, natural gas distributor) or the consumer of the energy (residential user, manufacturer). Additional state subsidies that are beyond the scope of this report can be in the form of assumption of liability or risk, purchase requirements (such as waste coal purchases in the Alternative Energy Portfolio Standard), access to state lands, and other activities. This report should be read as an initial review of Pennsylvania's fossil fuel subsidies meant to promote further research and discussion on the topic.

Consideration of federal fossil fuel subsidies is germane to the understanding of Pennsylvania-based fossil fuel subsidies. Essentially, every subsidy the federal government provides to fossil fuels reduces the amount of income subject to Pennsylvania's corporate taxes. This is referred to as "coupling." For example, let us assume a business's gross income in a taxable year is $500,000. After applying all expenses, deductions, write-offs, etc., the business reports a federal tax liability of $245,000, to which it applies the federal corporate net income tax rate. "Coupling" allows, for the purposes of reporting taxable income to Pennsylvania, the business' tax liability to begin with the amount reported to the federal government. Therefore, for state taxes the company starts at $245,000 (not $500,000) and then applies any allowable state deductions, etc., from that point. The net result is that by "coupling" with the federal tax return, Pennsylvania is providing the same value as these federal subsidies since one's tax liability for the state is lowered by the corresponding amount. This report does not factor in the effect of coupling in its quantitative analysis.

The primary manner in which Pennsylvania subsidizes fossil fuels is through Sales and Use Tax exemptions. For specific entities that represent some of the largest energy purchasers and users in the state – including government, public utilities, manufacturers, coal mining companies and residential consumers – purchase and use of many types of fossil fuels are exempt from Sales and Use Tax. As an example, when a Pennsylvania manufacturer buys natural gas to use as fuel in the production of his product, that purchase of natural gas is exempt from Sales and Use Tax. It should be noted that producers of electricity also enjoy subsidies as the purchase of equipment, machinery, supplies (including fuel) used to produce electricity for resale are exempt from Sales and Use tax. Electricity subsidies benefit fossil fuel, nuclear, and renewable energy, yet discourage energy efficiency. This report assumes that since 63 percent of Pennsylvania's electricity mix is supplied by coal, natural gas and oil (with nuclear supplying 34 percent and renewables, hydro and other resources supplying 2.8 percent),[3] subsidies for electricity generation, distribution, sales or consumption should be considered fossil fuel subsidies.

Sales and Use Tax exemptions are an example of Pennsylvania foregoing revenue in order to make the energy provided by fossil fuels less expensive for the end user or more profitable for the producer or seller. Renewable energy, such as wind, solar, and geothermal, relies on non-depletable resources that are not tradeable commodities that fit easily into the current tax structure. For example, how would one tax the energy from the sun used by photovoltaic panels to produce electrical energy? There is no sales transaction taking place for the sun's energy, no seller of the sun's energy, and no fuel commodity to tax.

Additional fossil fuel subsidies come in the form of exemptions from the Gross Receipts Tax, Liquid Fuel and Fuels, Oil Company Franchise Tax, and a host of property and realty tax exemptions. One costly exemption from local property taxes for oil and gas property was the result of a Pennsylvania Supreme Court interpretation of a law passed by the General Assembly. Tax credit programs include the Coal Waste removal tax credit and the Alternative Energy Production Tax Credit. One grant program, the Alternative Fuel Incentive Grant program, was identified as supporting natural gas, electric and coal-based fuels, vehicles and related investments.[4]

There are many fossil fuel subsidies that have been identified that do not have cost estimates available. Therefore, the $2.9 billion annual fossil fuel subsidy cost is likely to be an underestimate of actual costs.

3 Pennsylvania Public Utility Commission, Electric Power Outlook for Pennsylvania, July 2011

4 Eligible Alternative Fuel Investment Grant projects may include: Transportation projects that use mixtures of 85% ethanol and 15% gasoline (E85); liquid or compressed natural gas, liquid propane, hydrogen, or coal-derived liquid fuel; electricity and biodiesel/diesel blends as well as other potential R&D fuels.

Potential Inequities to Consider

Renewable energy technologies are nascent industries with minor market penetration and significant potential for growth. Additionally, renewable energy and energy efficiency do not produce costly externalities that taxpayers are forced to internalize and remediate. A 2010 report from the Pennsylvania Department of Labor and Industry identified 65,137 Pennsylvania jobs in the energy efficiency industry and another 41,141 Pennsylvania jobs in renewable energy and resource sustainability.[5] Energy efficiency and renewable energy have created over 106,000 Pennsylvania jobs and that number has been growing over the years. Conversely, Pennsylvania's mature coal industry has seen a steady downturn in employment. In 2009, Pennsylvania mines employed only 8,081 people (from office workers, maintenance employees, actual miners, etc).[6] In 1991, Pennsylvania coal industry employed about 13,506 people, indicating a significant downward trend in employment from 1991 to 2009.[7] This is not an indictment of the coal industry, it is an example of a mature industry that is not in a growth phase, has shifted to machinery-intense production (via longwall mining), and does not have the job creation potential that emerging industries possess.

Pennsylvania has subsidized fossil fuels for decades, while only recently subsidizing the development of renewable energy and energy efficiency. Furthermore, renewables and efficiency do not receive nearly the same amount of benefits that fossil fuels have enjoyed. In 2008, Pennsylvania enacted a law[8] that would, over time, provide $650 million to promote renewable and alternative energy, and energy efficiency. A limited amount of funding for renewables and efficiency remains from this law. Renewable energy is promoted by a purchase mandate established through the Alternative Energy Portfolio Standard that requires 8 percent of electricity sold in 2021 to come from renewable energy sources and another 10 percent from alternative energy technologies. Another 2008 law[9] requires electric utilities to invest $1 billion over a four year period in energy efficiency that saves electricity ratepayers money by lowering their electric bills (consequently, also saving taxpayers money by reducing subsidized fossil fuel use). Pennsylvania also has a biofuels requirement that goes beyond the federal Renewable Fuels Standard by requiring that an increasing amount of biodiesel be blended into every gallon of diesel fuel sold in the state.[10] There are numerous incentives and subsidies for renewable energy and energy efficiency in Pennsylvania, including a Property Tax exemption for commercial wind farms, utility-based rebates and loan programs, and more. A complete inventory of renewable energy and energy efficiency subsidies is beyond the scope of this report, but it is reasonable to assert that these subsidies are significantly less than the subsidy value of $2.9 billion per year provided to mature fossil fuel industries.

One would expect solar and other renewable energies to enjoy a competitive advantage over fossil fuels as a result of reduced transaction costs and tax inapplicability associated with having no fuel extraction, distribution or sale costs, as well as no pollution costs. However, this is not the case. The existing fossil fuel Sales and Use Tax exemption artificially lowers the cost of fossil fuels and reduces the competitive advantage possessed by zero fuel cost energy technologies, like wind, solar and geothermal. For tax purposes, the purchase of equipment, machinery and supplies used to build residential renewable energy systems, such as a solar array, are subject to Sales and Use Tax, while the purchase of equipment, machinery, and supplies used to mine coal, process coal, transport coal, convert coal into electricity, and transport that electricity from the power plant to the residential user, is all exempt from Sales and Use Tax. This would be the same for equipment, machinery, and supplies used to extract, transport, and produce electricity from natural gas or oil.[11] Fossil fuels are artificially being made more competitive with free-fuel source renewables because purchase of machinery, equipment, and supplies to extract, transport, and manufacture the fuels into electricity is being subsidized.

5 Pennsylvania Department of Labor and Industry, "The Pennsylvania Green Jobs Survey Report", December 2010

6 U.S. Energy Information Administration, Annual Coal Report, 2009

7 U.S. Energy Information Administration, Annual Coal Report, 2000

8 Alternative Energy Investment Act of 2008

9 Pennsylvania Act 129 of 2008

10 Pennsylvania Biofuel Incentive and In-State Production Act (Act 78 of 2008)

11 Pennsylvania imposes a Sales and Use Tax on sale at retail of 'tangible personal property' (defined to include 'electricity for non-residential use') sold within the Commonwealth. An exclusion is provided for sale at retail of machinery, equipment, parts, and supplies used or consumed directly and predominately in the manufacturing operation. Taxpayers engaging in the business of manufacturing electricity for non-residential use may claim the exemption on purchase of equipment, machinery and supplies predominately and directly used in its manufacturing.

Typically, when property is bought and sold, a realty transfer tax of 1 percent of the value of the real estate is remitted. In Pennsylvania, long-term leases of over 30 years are (for tax purposes) considered a sale and are subject to realty transfer tax. When a property owner leases the right to extract coal, oil, or natural gas to a developer, the term of which is often more than 30 years, Pennsylvania law exempts the transaction from realty transfer tax. Developers and landowners that enter into long term leases of over 30 years for wind farm projects are subject to the realty transfer tax, which may in turn trigger annual local real estate tax assessments.[12]

While Pennsylvania promotes the use of fossil fuels through subsidies, the state also subsidizes the purchase and use of pollution control equipment in an attempt to prevent pollution generated by these subsidized fossil fuels from entering the air and water. Pennsylvania taxpayers are paying to increase the use of fossil fuels, which therefore increases the amount they must pay (through tax exemptions) for pollution control equipment to clean up the resultant pollution. Taxpayers are once again paying for externalities not included in the price of fossil fuel use, such as the negative health effects from air and water pollution, reduced property values from land and water pollution, economic instability related to fossil fuel price volatility, and more. Renewable energy and energy efficiency help avoid or reduce pollution altogether and are not subject to fuel cost fluctuations. Additionally, promoting their use would not result in the need for additional taxpayer subsidies for pollution control equipment.

12 Janice Moore and Gregg Rosen, "Negotiating the Best Deal for Land Use Agreements", Windpower, March 2006

TAX EXEMPTIONS

In general, exemptions or tax expenditures are characterized as conferring special treatment on specific taxpayers, activities or goods and services. According to Governor Corbett's budget, these tax expenditures represent activities taken in "prior legislative sessions, and the original intent of certain tax expenditures may no longer be valid or consistent with current policies." The governor's budget report defines tax expenditures as a "reduction in revenue that would otherwise be collected by the commonwealth as the result of an exemption, reduction, deduction, limitation, exclusion, tax deferral, discount, refund, commission, credit, special rate, or special treatment." The report uses the following six criteria to help identify tax expenditures: 1) reduces state revenues, 2) confers special treatment, 3) is included in the defined tax base, 4) is not subject to equivalent alternative taxation, 5) can be altered by a change in state law, and 6) is not a appropriation. [13]

The following are brief explanations of tax exemptions that have been specifically identified in Pennsylvania law. From the government's perspective, these can be considered as either tax expenditures or foregone revenue. The intent of this report is to provide an overview of some of Pennsylvania's fossil fuel subsidy policies and to promote discussion and additional research and analysis of the issue.

Sales and Use Tax Exemptions

Consumption taxes are imposed on the purchase of certain goods and services. They are paid by the ultimate consumer and collected by the vendor who then remits to the Commonwealth. Sales and Use Taxes are levied on the retail sale, consumption, rental or use of tangible property or certain services. There are several Sales and Use Tax exemptions for fossil fuels, all of which encourage the use of these fuels by reducing costs to the distributor, end user, or consumer:

1. **Coal Purchase and Use Exemption** – The purchase or use of coal is exempt from taxation. According to government documents, "Other major energy sources are exempt only when used directly by the purchaser for residential use. Encouragement of coal consumption may have been perceived as providing or preserving employment when mining was a major employer within the Commonwealth."[14]
   - Approximately 121,000 households and 6,800 businesses benefit from this tax exemption at a cost of $119,500,000 during 2011-2012.[15]

2. **Residential Use Exemption** – Purchase of natural gas, fuel oil, kerosene (along with steam, manufactured gas, and electricity) for residential use is exempt from tax.[16]
   - 4.4 million households benefit from the electricity tax exemption at a cost of $435,400,000 during 2011-2012.[17] Since Pennsylvania's electricity mix is over 63 percent fossil fuel based, this exemption benefits fossil fuels. As of 2010, less than 2.8 percent of Pennsylvania's electricity mix was supplied by renewables and 34 percent from nuclear energy.
   - 3.7 million households benefit from the Fuel Oil/Natural Gas tax exemption at a cost of $322,700,000 during 2011-2012.[18]

3. **Government Exemption** – U.S. and state government's (and political subdivisions) purchase of natural gas, fuel oil and kerosene (along with steam, manufactured gas and electricity) are exempt from tax.[19]
   - Purchases made by commonwealth agencies that are exempted from Sales and Use Tax are not technically calculated as exemptions. This is because without the exemption, tax revenues and tax expenditures would increase with a net zero effect.[20] However, this is still a subsidy to the applicable fossil fuel industries.

13 2011-2012 Proposed Budget, D4
14 2011-2012 Governor's Executive Budget for the Commonwealth of Pennsylvania (Proposed Budget)
15 2011-2012 Proposed Budget, D44
16 Title 61, Part I, Subpart B, Article II, Chapter 32.25 (b)(1)
17 2011-2012 Proposed Budget, D45
18 2011-2012 Proposed Budget, D45
19 Title 61, Part I, Subpart B, Article II, Chapter 32.25 (d)(2)(i)
20 2011-2012 Proposed Budget, D5

4. **Resale Exemption** – The purchase of bottled natural gas, fuel oil, or kerosene by a vendor for purposes of resale, such as a residential home heating oil distributor, is exempt. Similarly, the purchase of steam, natural or manufactured gas, and electricity by a vendor who intends to sell the product through a metered device, such as an electric or gas distribution utility, is exempt.[21]
    - Example – The purchase of wholesale electricity by an electric distribution company is exempt from Sales and Use Tax. The purchase of wholesale natural gas by a gas distribution company is exempt.
    - Exclusion of sales for resale from the Sales and Use Tax is not considered a tax expenditure because the tax is imposed on each separate sale at retail of tangible personal property or services.[22]

5. **Manufacturing, Processing Exemption -** The purchase or use of natural gas, kerosene, fuel oil, steam, manufactured gas and electricity for direct use by a person engaged in the business of manufacturing or processing is exempt.[23] Purchase of equipment to process fuels, such as natural gas, would also be exempt. Among other things, direct use can include supplies used to produce or to transport and convey products.
    - **Example** – Purchase of natural gas to manufacture fertilizer is exempt. Purchase of transportation fuel used to power trucks for transport of goods is exempt. Purchase of equipment to process natural gas is also exempt.

6. **Electricity Manufacturing Exemption** – The Pennsylvania Tax Reform Code excludes from the definition of a taxable sale at retail the transfer of personal property, including but not limited to machinery, equipment, parts and supplies used or consumed by the purchaser directly in the operations of the manufacture of tangible personal property. 72 P.S. 7201(k)(8)(A). Section 201 (m) of the Code defines "tangible personal property" to include "electricity for non-residential use." Therefore, a taxpayer engaging in the manufacturing of electricity for resale may purchase exempt from Sales and Use Tax all machinery, equipment, parts and supplies starting with that used in the initial stage of the electricity generation process and ending in the final phase where electricity is acceptable to the public utility purchaser.[24]

    Note: This exemption benefits all non-residential electricity generators (fossil fuel, nuclear, renewable).

7. **Public Utility Exemption** – Purchase or use of natural gas, kerosene, fuel oil, steam, manufactured gas, electricity, equipment, machinery, and supplies for direct use by a public utility is exempt.[25] Among other things, direct use is generally considered as producing, delivering, or rendering of a public utility service or constructing, reconstructing, remodeling, repairing, or maintaining facilities directly used.
    - **Example** – Utility purchase of equipment to build natural gas pipelines or electricity grid infrastructure is exempt from sales tax. Natural gas fuel purchase to power gas pipeline compressors is exempt.

8. **Mining Fuel Exemption** – Purchase or use of natural gas, kerosene, fuel oil, steam, manufactured gas and electricity for direct use by a person engaged in the business of mining is exempt.[26] Among other things, direct use includes fuel to power machinery equipment.

9. **Mining Equipment Exemption** – Purchase or use of equipment, machinery, parts, and foundations and supplies directly used in mining are exempt from Sales and Use Tax.[27] Among other things, equipment includes power coal cutting machines, machinery used to remove overburden in strip mines, transportation devices to move the extracted product to the preparation plant, and preparation plant machinery.

10. **Gasoline and Motor Fuels Exemption** – The purchase or use of gasoline and motor fuels is exempt from Sales and Use Tax. The legislature exempted these fuels from taxation because they are subject to the Liquid Fuel and Fuels Tax.
    - Approximately "4.3 million households and owners of more than 1.5 million medium and heavy trucks, buses, etc.," benefit from this tax exemption at a cost of $1,145,700,000 during 2011-2012.[28]

---

21 Title 61, Part I, Subpart B, Article II, Chapter 32.25 (d)(1)

22 2011-2012 Proposed Budget, D5

23 Title 61, Part I, Subpart B, Article II, Chapter 32.25 and 32.32

24 PA Department of Revenue, Pennsylvania Sales and Use Tax, No. SUT-05-003, Property Used in Manufacture of Electricity. Feb 23, 2005 (re-issued Feb 23, 2010)

25 Title 61, Part I, Subpart B, Article II, Chapter 32.25 and 32.34

26 Title 61, Part I, Subpart B, Article II, Chapter 32.25 and 32.35

27 Title 61, Part I, Subpart B, Article II, Chapter 32.35

28 2011-2012 Proposed Budget, D46

11. **Dairy Exemption** – Purchase or use of natural gas, kerosene, fuel oil, steam, manufactured gas and electricity equipment, machinery, parts and supplies directly used to produce or transport milk and milk products to the bottler are exempt.[29]

12. **Farming Exemption** - Purchase or use of natural gas, kerosene, fuel oil, steam, manufactured gas and electricity equipment, machinery, parts and supplies directly used in farming operations are exempt.[30]

13. **Printing Exemption** – Purchase or use of natural gas, kerosene, fuel oil, steam, manufactured gas and electricity equipment, machinery, parts and supplies directly used printing is exempt.[31]

14. **Photographers, Photofinishers Exemption** - Purchase or use of natural gas, kerosene, fuel oil, steam, manufactured gas and electricity equipment, machinery, parts and supplies for direct use by a photographer or photofinisher are exempt.[32]

15. **Commercial Vessel Fuel Purchase Exemption** – Purchase or use of fuel by vessels of fifty tons or more designed for commercial use is exempt from tax.
    - An unknown number of taxpayers benefit from this exemption, valued at $2,900,000 from 2011-2012.[33]

Gross Receipts Tax Exemption34

In general, Gross Receipts Tax (GRT) is a tax on the total gross revenues of a company. Pennsylvania applies Gross Receipts Tax to specific categories of companies, including but not limited to freight, hydroelectric, telephone and electric power.

16. **Natural Gas GRT Exemption** – Since January 1, 2000, the natural gas industry has been exempt from the gross receipts tax for sale of natural gas.
    - **Example** – Natural gas companies that would otherwise pay taxes on their net revenues (sales) are now exempt. At the time of repeal of the natural gas GRT the estimated annual value of the exemption was **$82,200,000.**[35]

17. **Electricity GRT Exemption** – Companies selling electric energy for resale are entitled to exclude those gross receipts.

18. **Electric Cooperative GRT Exemption** – Electric cooperatives are exempt from the electric company GRT for sales within their service territory.
    - Thirteen electric cooperatives in Pennsylvania benefit from this tax at a cost of $21,100,000 during 2011-2012.[36]

19. **Municipal Utility GRT Exemption** – Municipally owned or operated public utilities may exclude gross receipts derived from business conducted within the limits of the municipality.
    - Thirty-one municipally owned public utilities operating in the Commonwealth benefit from this tax exemption at a cost of $11,500,000 during 2011-2012.[37]

---

29 Title 61, Part I, Subpart B, Article II, Chapter 32.25 and 32.31
30 Title 61, Part I, Subpart B, Article II, Chapter 32.25 and 32.33
31 Title 61, Part I, Subpart B, Article II, Chapter 32.25 and 32.36
32 Title 61, Part I, Subpart B, Article II, Chapter 32.25 and 32.37
33 2011-2012 Proposed Budget, p. D47
34 Pennsylvania Tax Compendium, December 2010, page 9
35 1999-2000 Commonwealth of Pennsylvania, Budget in Brief, February 2, 1999, page 8
36 2011-2012 Proposed Budget, D30
37 2011-2012 Proposed Budget, D29

Realty Transfer Tax Exemption for Fossil Fuel Extraction

20. **Realty transfer tax** is tax imposed on the value of real property upon transfer by deed, instrument, long-term lease or other writing. Leases for the production or extraction of coal, oil, natural gas, or minerals are exempt from realty transfer tax.[38]

- 1,185 companies may benefit from this tax exemption at an unknown cost.[39]

Municipal Utility Realty Tax

21. Municipalities or municipal authorities furnishing electric and natural gas, as well as telephone or water public utility service, are exempt from the tax.[40]

- 542 municipal authorities and 35 municipal public utilities benefit from this tax at a cost of $4,000,000 during 2011-2012.[41]

Personal Tax Exemptions

22. Generally speaking, personal income tax is applied to the taxable income of a resident, partnership, and other businesses that are not taxed as corporations by the IRS. Personal income tax deductions (exemptions) for cost depletion are provided for mines, oil, and natural gas wells.[42]

Liquid Fuels Tax Exemption

There are four taxes that pertain to use or purchase of motor fuel in the Commonwealth that make up the liquid fuel taxes: 1) the liquid fuels and fuel tax, 2) the motor carriers road tax/IFTA, 3) alternative fuels tax, and 4) the oil company franchise tax. Liquid fuels are considered primarily to be gasoline. Diesel fuel is considered to be 'fuels'.

Liquid Fuels and Fuels Tax – A per gallon tax on ultimate consumer of liquid fuel or fuels.

23. **Government Exemption** – The U.S. Government, Commonwealth and its political subdivisions are exempted from paying the tax on fuels sold and delivered to them. [43]

- 3,130 government units benefit from this tax exemption at the following costs during 2011-2012:[44]
  - > Liquid fuels - $4,200,000
  - > Fuels - $6,000,000

24. **Agricultural Exemptions** – A full refund of tax paid is granted for fuel consumed in agricultural used related to actual production of farm products.

- 63,200 farms benefit from these tax exemptions at a cost of about $1,100,000 in 2011-2012.[45]

25. **Additional Exemptions** – Non-public, non-profits schools, second-class port authorities, ambulance services, rescue squads, and volunteer fire companies are all exempted from paying the tax on fuels sold and delivered to them. Fuel purchases for vehicles operated by electric cooperatives are also exempt.

Oil Company Franchise Tax – A per gallon tax on distributors of liquid fuel and fuels.

26. **Government Exemption** – Liquid fuel and fuels sold to the U.S. Government, Commonwealth and its political subdivisions are exempted from this tax. [46]

- 3,130 government units benefit from this tax exemption at a cost of $19,800,000 during 2011-2012.[47]

---

38 Title 61, Part I, Subpart B, Article IV, Chapter 91.193
39 2011-2012 Proposed Budget, D80
40 2011-2012 Proposed Budget, D32
41 2011-2012 Proposed Budget, D32
42 Title 61, Part I, Subpart B, Article V, Chapter 125.51
43 Title 61, Part I, Subpart C, Chapter 315
44 2011-2012 Proposed Budget, D91
45 2011-2012 Proposed Budget, D93
46 Title 61, Part I, Subpart C, Chapter 351.5
47 2011-2012 Proposed Budget, D91

27. **Agricultural Exemptions** – A full refund of tax paid is granted for fuel consumed in agricultural used related to actual production of farm products.

- 63,200 farms benefit from these tax exemptions at a cost of about $1,900,000 during 2011-2012. [48]

28. **Additional Exemptions** – Liquid fuel and fuels sold to non-public, non-profits schools, second-class port authorities, ambulance services, rescue squads, and volunteer fire companies are all exempted from paying the tax on fuels sold and delivered to them. Electric cooperatives are also exempt.

- **Electric Cooperatives** – 14 electric cooperative benefit from this tax exemption at a cost of $200,000 during 2011-2012.[49]

ADDITIONAL EXEMPTIONS

Pollution Control Device Exemptions

Producers and distributors of fossil fuels are subsidized to get more of their products to market. Once in the market, users of fossil fuels enjoy subsidies to purchase pollution control equipment to reduce the amount of pollution emitted from these energy sources.

29. **Sales and Use Tax Exemptions** – Purchase and use of equipment, machinery, and supplies designed and used to control, abate, or prevent air, water or noise pollution by public utilities, manufacturers, processors, and persons involved in the business of mining are specifically exempted from Sales and Use Tax.[50]

30. **Capital Stock and Franchise Tax Exemption** – Pennsylvania corporations are required to pay capital stock tax while corporations outside of Pennsylvania that do business in Pennsylvania are required to remit a foreign franchise tax. The Capital Stock and Franchise Tax is assessed based on three factors: payroll, revenue, and property. Over the past 20 years, the tax rate has steadily decreased from 13 mills in 1991 to 2.89 mills in 2009 (a rate lower than it was in 1844 when the tax was 3 mills).[51]

    An exemption from the capital stock tax and the foreign franchise tax is provided for water and air pollution control or abatement. The exemption is basically taken as a deduction.[52]

    - Twenty companies (not including manufacturers, processors or research and development corporations) doing business in Pennsylvania benefit from this expenditure at a cost of $100,000 during 2011-2012. [53]
    - 5,500 non-utility corporations are exempt from capital stock tax when investing in Pennsylvania assets in Pennsylvania, including but not limited to purchase of pollution control equipment. Total cost of this exemption is $230,000,000 during 2011-2012.[54]

JUDICIAL EXEMPTIONS

Oil and Gas Local Property Tax Exemption

31. Since the early 1900s, oil and gas reserves had been treated like mineral reserves and therefore were subject to real estate assessment and associated local property taxation. A 2002 decision from the Pennsylvania Supreme Court in the Independent Oil and Gas Association of Pennsylvania v. Board of Assessment Appeals of Fayette County exempted leased oil and gas reserves and operating wells from being included in property tax assessments, therefore allowing all oil and gas interests to escape local property taxes. Coal reserves and mines, limestone reserves, mines, and other extraction industries are still included in property tax assessments and pay local property taxes. Property taxes provide revenue for counties, municipalities, and school districts. Exempting oil and gas requires other local taxpayers to assume increased burdens for local financial liabilities. Currently, only the following entities are exempted from local property taxes: churches, hospitals, schools, nonprofits, governments, and oil and gas properties.

---

48 2011-2012 Proposed Budget, D93
49 2011-2012 Proposed Budget, D93
50 Title 61, Part I, Subpart B, Article II, Chapter 32.32, 32.34, 32.35
51 Pennsylvania Tax Compendium, December 2010, p.8
52 Title 61, Part I, Subpart B, Article VI, Chapter 155.11
53 2011-2012 Proposed Budget, D24
54 2011-2012 Proposed Budget, D23

- $477,730,000 is the estimated value of this exemption, related to foregone revenue from potential local tax property taxes on oil and gas properties in 2012. As more wells are drilled, the value of this exemption will increase. The value is expected to grow to $600,000,000 in 2013 and $977,000,000 in 2014.[55]

TAX CREDITS

Tax credits represent a sum that can be deducted from the total amount a taxpayer owes to the state.

32. Coal Waste Removal Tax Credit – Tax credit for qualified capital expenditures on facilities producing fuel from coal, culm, or silt.

- The tax credit program is capped at $18,000,000 per year, though no taxpayers have benefited from this program.[56]

33. Alternative Energy Production Tax Credit – Tax credit of up to 15 percent of total costs of development or construction of alternative energy production projects located in the Commonwealth of Pennsylvania with a useful life of over four years. Waste coal and clean coal projects qualify. Capped at $1 million per project.[57]

GRANT PROGRAMS

Grant programs represent direct rebates or award of funding to promote a specific activity.

34. Alternative Fuels Incentive Grant – This grant program is funded through the Gross Receipts Tax. The program promotes the purchase of alternative fuels, and related vehicles and infrastructure. Alternative fuels can include biofuels, electricity, natural gas, hydrogen, coal-derived fuel, and other fuels.

CONCLUSION

Both the state and the federal government subsidize the production and use of fossil fuels. These subsidies lower costs to consumers and enhance the profitability of mature fossil fuel industries, such as industries that produce or use coal, natural gas, and oil. These subsidies also raise costs to the average Pennsylvania taxpayers, as tax exemptions and credits mean foregone tax revenue that must be made up somewhere else. The government collects fewer taxes from fossil fuel companies and fewer taxes from the sale of fossil fuels, and that forgone revenue has to come from other means, perhaps by raising other taxes or by cutting services. Taxpayers are also subsidizing the cost of cleaning up the pollution caused by using fossil fuels, through Pennsylvania's tax exemptions available for companies that purchase pollution control equipment.

In addition to burdening taxpayers, fossil fuel subsidies distort energy market dynamics. Subsidies provide preferential treatment, in essence picking winners. Competing energy forms such as renewable energy and energy efficiency, which receive fewer subsidies, operate at an inherent disadvantage.

As Pennsylvania balances budgetary constraints with developing a diverse energy strategy, the role of fossil fuel subsidies should be considered. Additional research and analysis should be conducted to further understand the cumulative impacts of these subsidies. The goal and role of subsidies should also be examined to determine if existing subsidies still make sense or if they should be adjusted or eliminated.

Please contact Christina Simeone with questions, simeone@pennfuture.org or (215) 545-2013

---

55 Estimates provided by Resource Technologies Corporation and Jeff Kern, November 30, 2011

56 2011-2012 Proposed Budget, D10

57 Alternative Energy Investment Act of 2008