

Franchise Tax

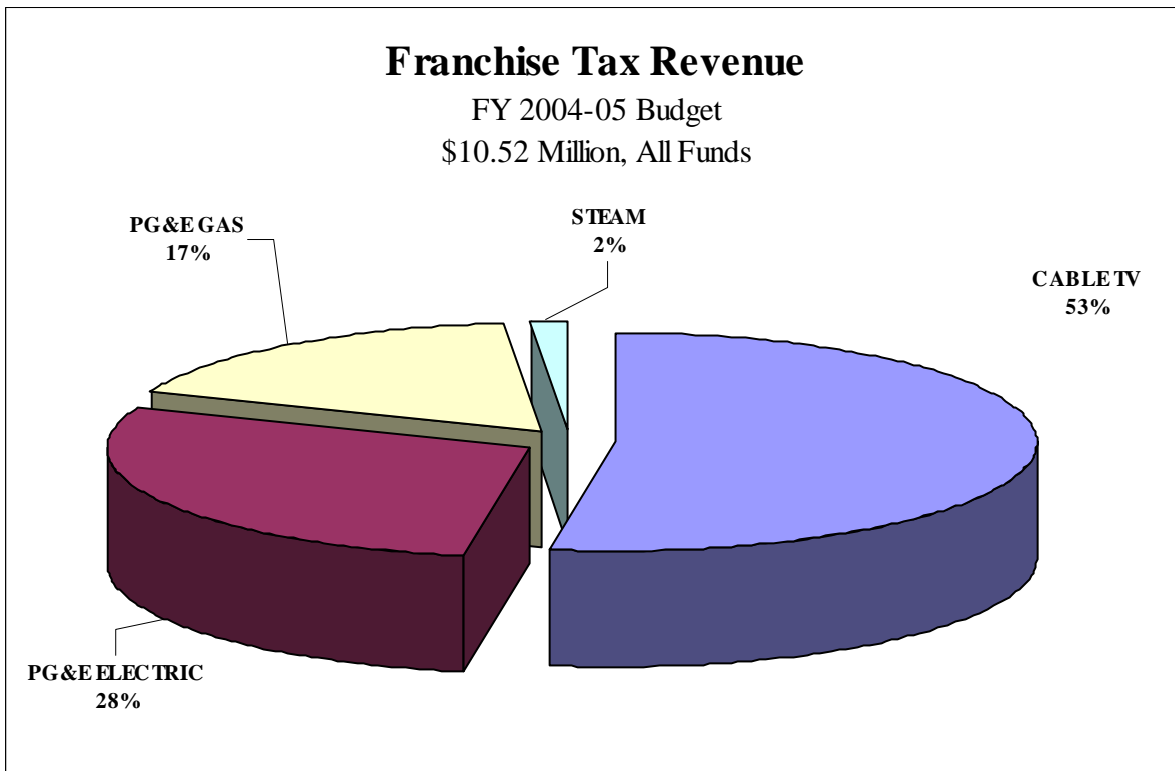
Description

Franchise Tax revenue is derived from a fee paid to a municipality from a franchisee for “rental” or “toll” for the use of city streets and rights-of-way. No person, unless exempted, may construct, install, or operate facilities in the public rights-of-way, or provide service using any facilities installed in the public rights-of-way, without a franchise that authorizes each and every service provided. In consideration of the cost incurred to construct, install, operate, or provide services using facilities in the public rights-of-way, franchisees pay the City a fee expressed as a percentage of gross revenues. The franchise agreement (a contractual obligation) specifies the fee to be paid, and the gross revenues to be included in the fee calculation.

Size (All Funds)

	Cable TV (AT&T, RCN)	Electric (PG&E)	Natural Gas (PG&E)	Steam	Total
FY 2004-05 Budget	\$5.54 M	\$2.99 M	\$1.83 M	\$0.16 M	\$10.52 M
FY 2003-04 Actual	\$6.98 M	\$3.05 M	\$2.88 M	\$0.15 M	\$13.05 M
FY 2002-03 Actual	\$5.77 M	\$3.11 M	\$1.90 M	\$0.17 M	\$10.95 M
FY 2001-02 Actual	\$5.30 M	\$2.93 M	\$3.79 M	\$0.19 M	\$12.21 M

For FY 2004-05, Franchise Tax revenue represents approximately 0.57 percent of General Fund resources.



Authorizing Legislation / Statutes

- **Franchises:** San Francisco Administrative Code Chapter 11, Article I – IX
- **Cable TV:** Federal Law 47 U.S.C. Section 542(b) statutory cap of 5% for cable franchise fees
 - AT&T: Ordinance No. 105 64 as amended through Ordinance No. 226-99
 - RCN Telecom: Ordinance No. 210-04
- **PG&E Electric:** California Public Utilities Code Division 3, Chapter 2.5; Bill No. 326, Ordinance No. 414 (1939)¹
- **PG&E Gas:** California Public Utilities Code Division 3, Chapter 2.5; Bill No. 325, Ordinance No. 413 (1939)
- **S.F. Thermal:** Ordinance No. 124-93 (Original grantee was PG&E Ord. No. 418-75)

Collection Method and Issues

Unless otherwise specified in a Franchise, grantees and operators shall pay the franchise fee due to the City on a quarterly basis. Payment for each quarter shall be made to the City Controller not later than forty (40) City business days after the end of each calendar quarter. (Administrative Code Section 11.22)

Allocation

Gas, Electric and Steam Franchise Tax revenues are budgeted in the General Fund. Majority of Cable Franchise Tax revenue is budgeted in the General Fund; a small portion (\$0.23 million in FY 2004-05) of total Cable Franchise Tax revenue is budgeted in Cable TV Access Development & Program Fund for public access programming (CityWatch).

Tax/Rate Structure

- Cable TV: 5.0%, maximum rate allowed under Federal law (47 U.S.C. section 542(b))
- Electric: 0.5%
- Gas: 1.0%
- Steam: 2.0%

Revenue Base

- **Cable TV Franchise** (AT&T Television Signal Corp. & RCN Telecom Services of California, Inc.): Gross revenue from or in connection with the provision of cable services.

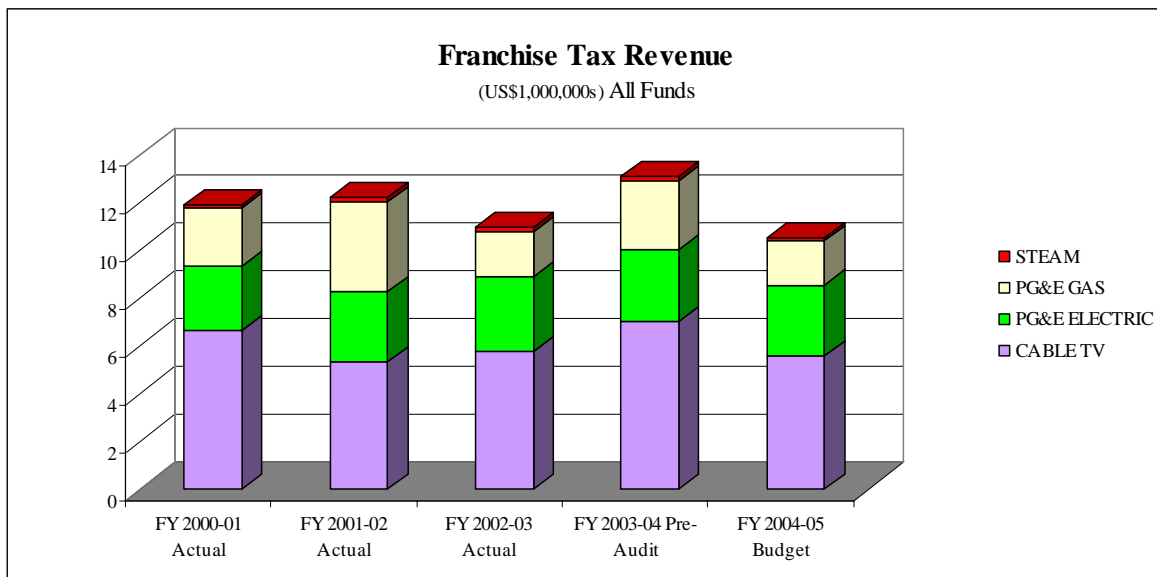
¹ For **general law cities**, the **Broughton Act** (Public Utility Code, Sec 6006) restricts city collection of franchise payments for use of electric and telephone poles and wires and gas and oil pipelines, to 2 percent of the franchisee's gross annual receipts arising from use of the franchise. The **Franchise Act of 1937** (Public Utility Code, Sec 6201) provides an alternative procedure for granting electrical, oil, gas and water franchises; however, restricts collections to 2 percent of gross annual receipts. The Franchise Act also includes a **minimum fee of ½ percent of gross annual receipts for electric franchises and 1 percent of gross annual receipts for gas or water franchises** operating within the city limits. For **charter cities**, neither the Broughton Act, nor the Franchise Act of 1937 apply (with the exception of oil pipeline fees), thus **charter cities may set fees in excess of the 2-percent limit**. (Sources: League of California Cities, Municipal Revenue Sources Handbook, 2001 Edition)

- **PG&E Electric:** Gross annual receipts from the sale of electricity within city limits.
- **PG&E GAS:** Gross annual receipts from the sale of gas within city limits.
- **Steam Franchise** (San Francisco Thermal, L.P.): Gross annual receipts arising from the operation of the franchise.

Historical Information

Entities not required to obtain franchises include the City and County of San Francisco and unaffiliated video programming providers that only deliver cable service or other communications service to subscribers. (San Francisco Administrative Code, Chapter 11, Article I, Section 11.4 Exceptions to Franchise Requirement). Among the four franchise types levied by San Francisco, only cable TV has a statutory cap for charter cities in California. Under Federal law (47 U.S.C. section 542(b), the annual franchise fees paid by a cable operator shall not exceed five (5) percent of a cable operator’s gross revenues. Electric and Gas Franchise Tax revenues are covered under a perpetual franchise contractual agreement between the City and PG&E.

Trends and Projections



Sensitivities

Cable TV Franchise Tax revenues are tied to cable demand and pricing, the recent recession has some impact as subscribers move or drop their cable subscription. On the flip side, as the popularity of ‘digital cable’ and other higher priced, premium channels grows, so too can this tax revenue. Energy-related franchise tax revenues are tied to commodity pricing and consumption.