

Chapter 19

TAXATION*

Art. I. In General, §§ 19-1—19-15

Art. II. Public Service Tax, §§ 19-16—19-27

ARTICLE I. IN GENERAL

Secs. 19-1—19-15. RESERVED

ARTICLE II. PUBLIC SERVICE TAX†

Sec. 19-16. DEFINITIONS

The following words and terms when used in this Code have the meaning ascribed to them in this section except where the context clearly indicates a different meaning:

"Fuel oil" shall include fuel oil grades numbers. 1, 2, 3, 4, 5 and 6, kerosene, and coal oil.

"Purchaser" shall include any person acting together as a unit who purchase or cause to be purchased for consumption utility service within the corporate limits of the City.

"Seller" shall include any person acting together as a unit who sell, furnish or deliver for sale utility service within the corporate limits of the City.

"Telephone service" shall mean local service except local messages which are paid for by inserting coins in coin-operated telephones; however, the total amount of the guaranteed charge in each bill rendered for semipublic coin-box telephone service shall be subject to the tax imposed by this article.

"Utility service" shall mean electricity, metered or bottled gas (natural, liquefied petroleum gas or manufactured), water service, telephone service or telegraph service and fuel oil, sold, purchased, delivered or received within the boundaries of the City. (Ord. 7-2003 § 2, 8-25-03)

Sec. 19-17. LEVY OF TAX

- 1) There is hereby levied by the City on each and every purchase in the City of utility service, a tax of ten (10) per cent of the charge made by the seller of such services or commodity, which tax shall in each case be paid by the purchaser thereof for the use of the City to the seller of such utility service, at the time of paying the charge therefore, but not less than monthly.
- 2) The tax hereby levied on purchases of utility service shall be collected only once upon the same commodity or service and after the commodity or service has lost its interstate character. (Ord. No. 6-2003 § 1, 08-11-03)

Sec. 19-18. EXEMPTION ON CHURCHES

All recognized churches shall be exempt from the payment of taxes imposed and levied by this article.

Sec. 19-19. EXEMPTION ON PUBLIC ENTITIES

All Federal, State, County and Municipal governments and their commissions and agencies, and all public schools shall be exempt from the payment of the taxes imposed and levied by this article. (Code 1971, § 19-37)

Sec. 19-20. EXEMPTION ON FUEL OIL

- 1) For the purpose of this article, the tax imposed by this article shall not include the following:

- a) Purchases of special fuels as defined in Florida Statutes Ch.206;
 - b) The purchase of not more than five (5) gallons of fuel oil delivered at the seller's place of business into the purchaser's container of not more than five (5) gallons' capacity;
 - c) The purchase of fuel oil for use in the propulsion of ships, motor vessels, motorboats, aircraft, railroad trains and other media of transportation; and
 - d) The purchase of fuel oil by a public or private utility, including Municipal corporations and rural electric cooperative associations, either for resale or for use as fuel in the generation of electricity.
- 2) The extension of the utility tax authorized by Florida Statutes § 166.231, to fuel oil is based upon the legislative finding that fuel oil is competitive with other utilities taxed by this article under the doctrine announced by the Florida Supreme Court in the case of Central Oil Company v. Cheney, (Fla. 1971) 253 So 2d 869. It is further determined and declared that items that are exempt under this article and other items which are not taxed under this article such as coal, wood, charcoal and alcohol are not competitive with those other items that are taxed by this article. (Code 1971, § 19-34, Ord. 134 § 1,9-11-72)

.Sec. 19-21. SELLER'S DUTY TO COLLECT

It shall be the duty of every seller of utility service within the corporate limits of the City to collect from the purchaser thereof for the use of the City, the tax hereby levied at the time of collecting the selling price thereof, and to report and pay over on or before the twentieth (20th) day of each calendar month, unto the City, all such taxes levied and collected during the preceding calendar month. (Code 1971, § 19-38, Ord. 134 § 4,9-11-72)

Sec. 19-22. ASSUMPTION OF TAX BY SELLER

It shall be unlawful for any seller to collect for the utility service imposed under this article without at the same time collecting the tax hereby levied, unless such seller shall elect to assume and pay such tax without collecting the same from the purchaser. (Code 1971, § 19-39)

Sec. 19-23. SELLER'S FAILURE TO COLLECT

Any seller failing to collect the tax required by this article at the time of collecting for any utility service, where the seller has not elected to assume and pay such tax, shall be liable to the City for the amount of such tax; provided however, that the seller shall not be liable for the payment of such tax upon uncollected bills. (Code 1971, § 19-40)

Sec. 19-24. FAILURE OF PURCHASER TO PAY TAX

If any purchaser shall fail, neglect, or refuse to pay for any utility service, including the tax imposed by this article, the seller shall have and is hereby authorized and empowered to immediately discontinue further service to such purchaser until the same is paid in full. (Code 1971, § 19-41)

Sec. 19-25. RECORDS REQUIRED

Each and every seller of a utility service, shall keep complete records showing all sales in the City of such commodities or service, which records shall show the price charged upon each sale, the date thereof, and the date of payment, and records shall be kept open for inspection by the duly authorized agents of the City during business hours on all business days. Such duly authorized agents of the City shall have the right, power, and authority to make any transcripts thereof during such times as they may desire. (Code 1971, § 19-42, Ord. 134 § 5,9-11-72)

Sec. 19-26. COMPUTATION OF TAX

In all cases, where the seller of a utility service collects the price thereof at monthly periods, the tax hereby levied may be computed on the aggregate amount of sales during such period provided that the amount of tax collected shall be the nearest whole cent to the amount computed.

(Code 1971, § 19-43, Ord. 134 § 6,9-11-72)

Sec. 19-27. VIOLATIONS; PENALTY

Any purchaser willfully failing or refusing to pay the tax hereby imposed by this article where the seller has not elected to assume and pay such tax, and any seller violating any of the provisions or terms of this article or any officer, agent, or employee of any seller who shall violate any of the terms or provisions of this article shall, upon conviction thereof, be subject to the penalties provided by Section 1.10 (Ord. 134 § 7,9-11-72)