

CHAPTER 6

FINANCE AND TAXATION

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Sec. 6.1. Real Estate Tax

- (a) There is hereby levied a tax of fifteen (\$0.15) cents of each one hundred (\$100.00) dollars of assessed value of all real estate and improvements thereon.
- (b) A penalty of five (5) percent and ten (10) percent interest will be added if not paid by due date.

Sec. 6.2. Bank Franchise Tax Imposition

Sec. 6.2.1. Definitions

For the purpose of this ordinance, the following words shall have the meanings ascribed to them by this section:

- (a) Bank – Shall be as defined in Section 58-485-01 of the Code of Virginia.
- (b) Net Capital – Shall mean a bank's net capital computed pursuant to Section 58-485.07 of the Code of Virginia.

Sec. 6.2.2. Imposition of Town Bank Franchise Tax

- (a) Pursuant to the provisions of Chapter 10.01 of Title 58 of the Code of Virginia, there is hereby imposed upon each bank located within the boundaries of this town a tax on net capital equaling eighty (80) per centum of the state rate of franchise tax set forth in Section 58-485.06
- (b) In the event that any bank located within the boundaries of this town is not the principal office but is a branch extension or affiliate of the principal office located outside the corporate limits hereof, the tax upon such branch shall be apportioned as provided by Section 58.485.012 of the Code of Virginia.

Sec. 6.2.3. Filing of Return and Payment of Tax

- (a) On or after the first day of January of each year, but not later than march One of any such years, all banks whose principal offices are located within this town shall prepare and file with the Commissioner of the Revenue a return as provided by Section 58-485.013 of the Code of Virginia in duplicate which shall set forth the tax on net capital computed pursuant to Chapter 10.01 of Title 58 of the Code of Virginia. The Commissioner of Revenue shall certify a copy of such filing of the bank's return and schedule and shall forthwith transmit such certified copy to the State Department of Taxation.
- (b) In the event that the principal office of a bank is located outside the corporate boundaries of

this town and such bank has branch offices located within this town, in addition to the filing requirements set forth in Section A hereof, any bank conducting such branch business shall file with the Commissioner of the Revenue of Scott County, Virginia, a copy of the real estate deduction schedule apportionment and other items which are required by Sections 58-485.012, 58-485.013 and 58-485.014 of the Code of Virginia.

(c) Each bank, on or before the first day of June of each year, shall pay into the treasurer's office of this town all taxes imposed pursuant to this ordinance.

Sec. 6.2.4. Penalty Upon Bank for Failure to Comply with Ordinance

Any bank which shall fail or neglect to comply with any provision of this ordinance shall be fined not less than One Hundred (\$100.00) Dollars nor more than Five Hundred (\$500.00) Dollars, which fine shall be recovered upon motion, after five (5) days' notice in the Circuit Court of this locality. The motion shall be in the name of the Commonwealth and shall be presented by the attorney for the Commonwealth of this locality.

Sec. 6.3. Utilities Tax

Sec. 6.3.1. Definitions

For the purposes of this ordinance, the following words and phrases shall have the meanings respectively ascribed to them by this section:

(a) Residential, Commercial, or Industrial. The residential, commercial or industrial rate shall apply to purchasers of electric, gas or telephone service in accordance with purchasers classification as residential, commercial or industrial as designated by the seller of the utility service within the Town of Gate City. The phrase "commercial" shall include, in addition to the normal word usage, buildings having a single meter for the furnishing of electricity or gas to two or more dwelling units or have a central telephone switchboard furnishing telephone service to two or more dwelling units.

(b) Person. The word "person" shall include individuals, firms, partnerships, associations, corporations and combinations of individuals of whatever form and character.

(c) Purchaser of Utility Service. The word "purchaser" used in this ordinance shall be deemed to include all consumers of said services as contemplated in Sec. 58.578.1 and 58.617.2 of the 1950 Code of Virginia as amended except utilities owned by the Town of Gate City, Virginia.

(d) Seller. The word "seller" as used herein shall include any organization, firm, corporation, cooperative, sanitary district, foreign municipality or any other provider of the utility services covered herein of whatever nature or type of organization, the same may be and shall specifically include all suppliers and sellers of utility services contemplated in Secs. 58-587.1 and 58-617.2 of the 1950 Code of Virginia, as amended except utilities owned by the Town of Gate City, Virginia.

(e) Utility Service. The phrase "utility service" shall include local exchange telephone service, electric and gas service furnished within the Town of Gate City.

(f) Venue for the Purposes of Section 10. Shall mean where a utility service is performed.

Sec. 6.3.2. Amount of Tax

There is hereby imposed and levied by the Town of Gate City upon each and every purchase of a utility service a tax for general purposes in the following amounts (7/1/82):

(a) On purchasers of electric service or gas delivered in pipe line for residential purposes, the tax shall be in the amount of 20 per centum of the charge (exclusive of any federal or state tax thereon) made by the seller against the purchaser with respect to such residential electric services; (provided, however, that in any case a monthly bill submitted by the seller for electric or gas utility service for residential purposes shall exceed 15 dollars, there shall be no tax computed on so much of such bill as shall exceed 15 dollars, except that there shall be no tax computed on bills submitted for electric service for water heating where a separate meter is used solely for water heating service or on bills submitted for unmetered electric or gas service.)

(b) On purchasers of electric or gas service for commercial purposes, the tax shall be in the amount of 20 per centum of the charge (exclusive of any federal or state tax thereon) made by the seller against the purchaser with respect to such commercial electric service (provided, however, that in any case any monthly bill submitted by the seller for electric or gas service for commercial purposes shall exceed 37 50/100 dollars, there shall be no tax computed on so much of such bill as shall exceed 37 50/100 dollars).

(c) On purchasers of electric or gas service for industrial purposes, the tax shall be in the amount of 20 per centum of the charge (exclusive of any federal or state tax thereon) made by the seller against the purchaser with respect to such industrial electric or gas service (provided, however, that in any case any monthly bill submitted by the seller for electric or gas service for industrial purposes shall exceed 75 dollars, there shall be no tax computed on so much of such bill as shall exceed 75 dollars).

(d) On purchasers of telephone service for residential or commercial or industrial purposes, the tax shall be in the amount of 20 per centum of the charge (exclusive of any federal or state tax thereon) made by the seller against the purchaser with respect to such telephone service (provided, that in any case any monthly bill for telephone service for residential purposes shall exceed 10 dollars, there shall be no tax computed on so much of such bill as shall exceed 10 dollars; and, provided further, that in any case any monthly bill for telephone service for commercial or industrial purposes shall exceed 25 dollars, there shall be no tax computed on so much of such bill as shall exceed 25 dollars).

(Bills shall be considered monthly bills if submitted twelve times annually for a period of approximately one month or portion thereof. In case bills are submitted by any seller for two months' service, there

shall be no tax computed on so much of such bill as shall exceed 20 dollars for telephone service rendered for commercial or industrial services, 30 dollars for electric or gas utility service rendered for residential purposes, 75 dollars for electric or gas utility service rendered for commercial purposes, 150 dollars for electric or gas utility service rendered for industrial purposes. In the event that bills shall be rendered for utility services herein stated on a basis other than one month or two months, the tax imposed hereby shall be computed pro rata as if such bill was rendered on a monthly basis with the rates and the maximums herein applied.)

Each purchaser of the specified utility services shall pay the tax imposed and levied by this ordinance at the time the purchase price is paid to the seller of the utility service. In the event a purchaser makes a partial payment, the tax must be paid at the time the final portion of the purchase price is paid.

Sec. 6.3.3. Requirements Particularly Applicable to Telephone

The tax imposed and levied by this ordinance on purchasers with respect to telephone service shall apply to all charges made for local exchange service except as follows:

(a) Coin Box Telephone. The total amount of the guaranteed charge on each bill rendered for semi-public coin box telephone service shall be included in the basis for the tax with respect to the purchaser of such service, but no other tax shall be imposed on telephone service paid for by inserting coins in coin-operated telephones.

(b) Flat Rate Service. With respect to flat rate and flat message rate service, the tax shall apply to only the amount payable for local area service and shall not apply to any specific charge for calls to points outside the Town or to any general charge or rate differential payable for the privilege of calling points outside the Town.

(c) Message Rate Service. Where purchasers of telephone service are charged on a message rate basis, the tax shall apply only to the basic charge for such service and shall not apply to any charge for additional message units.

Sec. 6.3.4. Collection

The Town Treasurer is charged with the power and duty of collecting the taxes imposed and levied under this ordinance from the sellers of the utility service.

Sec. 6.3.5. Filing Forms

Prescription of forms for reports, etc. The Town Treasurer may prescribe forms for filing of any report or the payment of any funds set forth in this ordinance.

Sec. 6.3.6. Duty of Seller Generally

(a) It shall be the duty of every seller in acting as the tax collection medium or agency for the Town to collect from the purchaser for use of the Town, the tax imposed and levied by this ordinance at the taxes collected during each calendar month or billing period shall be reported and paid by each seller to the

Town Treasurer by the last day of the second calendar month thereafter, together with the name and address of any purchaser who has paid his total purchase price but has failed to pay the tax imposed and levied under this section.

(b) In all cases where the seller collects the price for utility service in stated periods, the tax imposed and levied by this ordinance shall be computed on the amount of purchase during the month or period according to each bill rendered, provided the amount of tax to be collected shall be the nearest whole cent to the amount computed.

Sec. 6.3.7. Records to Be Kept by Seller

Each seller shall keep complete records showing all purchasers in the Town, which records shall show the price charged against each purchaser with respect to each purchase, the date thereof and the date of payment thereof, and the amount of tax imposed hereunder and such records shall be kept open for inspection by the duly authorized agents of the Town during regular business hours on business days, and the duly authorized agents of the Town shall have the right, power, and authority to make such transcripts thereof during such times as they may desire.

Sec. 6.3.8. Extension of Time for Filing Return

The Town Treasurer may extend, for good cause shown, the time of filing any return required to be filed by the provisions of this ordinance; provided, however, no such extension shall exceed a period of ninety days.

Sec. 6.3.9. Exemptions From Ordinance

The United States of America, diplomatic personnel exempted by the laws of the United States, the state and the political subdivisions, boards, commissions and the authorities and agencies thereof, churches and residences of ministers owned by a religious body, are hereby exempt from the payment of the tax imposed and levied by this ordinance with respect to the purchase of utility services used by such agencies.

Sec. 6.3.10. Penalties

Any purchaser who fails to pay the tax imposed or levied by this ordinance and any seller violating the provisions of this ordinance and any officer, agent or employee of any seller violating the provisions of this ordinance shall be guilty of a misdemeanor and shall be punished by a fine of not less than ten dollars nor more than three hundred dollars.

Upon failing to pay the tax when the total purchase price is paid or when the final portion of a purchase price paid in partial payments is paid, each day's continuance of failing to pay shall constitute a separate offense.

Such conviction shall not relieve any person from the payment, collection and remittance of such tax as provided in this ordinance.

Sec. 6.3.11. Severability

Should any article, section, subsection, or provision of this consumer utility tax ordinance be declared by a court of competent jurisdiction to be

Invalid or unconstitutional, such decision shall not affect the validity or constitutionality of this consumer utility tax ordinance as a whole or any part thereof other than the part so declared to be invalid or unconstitutional.

Sec. 6.4. Business Licenses

See Schedule of Taxes in Chapter Eleven

Sec. 6.5 Collection of Fees (Ordained and Enacted 5-8-2012)

Any person liable for any taxes imposed by this Chapter or for other delinquent charges owed to the Town, who fails to pay or remit the taxes required under this Chapter or other delinquent charges on or before the due date shall, in addition to all penalties and interest, pay a fee to cover the administrative costs associated with the collection of taxes or other delinquent charges. A fee of thirty (\$30.00) dollars shall be imposed upon all taxpayers from who taxes are collected subsequent to thirty (30) or more days after notice of delinquent taxes or charges pursuant to Section 58.1.3919 VA Code, but prior to the taking of any judgment with respect to such delinquent taxes or charges. A fee of thirty-five dollars (\$35.00) shall be imposed upon all taxpayers from whom taxes are collected subsequent to judgment. Additionally, collection agency's fees or attorney's fees actually contracted for not to exceed twenty (20) percent of the delinquent tax bill, may be recovered from any such person whose taxes are thereafter collected by a private collection agent or attorney. The Treasurer may waive any administrative fees imposed by this section when it is determined that the failure to pay a tax imposed under this Chapter was not the fault of the taxpayer. If the collection activity is to collect on a nuisance abatement lien, the fee for administrative costs shall be one hundred and fifty dollars \$150.00 or twenty-five (25) percent of the cost, whichever is less; however, in no event shall the fee be less than twenty-five dollars (\$25.00).