

TITLE 22. SALES AND TAXES

Chapter 1. Uniform Sales and Use Tax, 22-1-1 to 22-1-5

Chapter 2. Municipal Energy Sales and Use Tax, 22-2-1 to 22-2-9.

Chapter 3. Utility Revenue Tax, 22-3-1 to 22-3-5.

Chapter 1. Uniform Sales and Use Tax

- 22-1-1. Sales Tax.
- 22-1-2. Use Tax.
- 22-1-3. Authority of Mayor.
- 22-1-4. Contract with State Tax Commission.
- 22-1-5. Penalties.

22-1-1. Sales Tax. (l) (a) From and after 12:01 o'clock a.m., July 1, 1986, there is levied and there shall be collected and paid a tax on every retail sale of tangible personal property, services, and meals made within the municipality at the rate of one percent (1%).

(b) For the purpose of this chapter, all retail sales shall be presumed to have been consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his agent to an out-of-state destination. If a retailer has no permanent place of business in the state, or has more than one place of business, the place or places at which the retail sales are consummated shall be as determined under the rules and regulations prescribed and adopted by the State Tax Commission. Public utilities as defined by Title 54, Utah Code Annotated, 1953, shall not be obligated to determine the place or places within any county or municipality where public utilities services are rendered, but the place of sale or the sales tax revenues arising from such service allocable to the municipality shall be as determined by the State Tax Commission pursuant to an appropriate formula and other rules and regulations to be prescribed and adopted by it.

(2) (a) Except as hereinafter provided, and except insofar as they are inconsistent with the provisions of the Uniform Local Sales and Use Tax Law of Utah, all of the provisions of Chapter 15, Title 59, Utah Code Annotated, 1953, as amended, and in force and effect on the effective date of this chapter, insofar as they relate to sales taxes, excepting sections 59-15-1 and 59-15-21 thereof, and excepting for the amount of the sales tax levied therein, are hereby adopted and made a part of this chapter as though fully set forth herein.

(b) Wherever, and to the extent that in Chapter 15 of Title 59, Utah Code Annotated, 1953, the State of Utah is named or referred to as the taxing agent, the name of Clinton City shall be substituted therefore. Nothing in this subparagraph (2) shall be deemed to require substitution of the name of the city for the word "State" when that word is used as part of the title of the State Tax Commission, or of the Constitution of Utah, nor shall the name of the city be substituted for that of the State in any section when the result of that substitution would require action to be taken by or against the city or any agency thereof, rather than by or against the State Tax Commission in performing the functions incident to the administration or operation of this chapter.

(c) If an annual license has been issued to a retailer under section 59-15-3, Utah Code Annotated, 1953, an additional license shall not be required by reason of this section.

(d) There shall be excluded from the purchase price paid or charged by which the tax is measured:

- (i) The amount of any sales or use tax imposed by the State of Utah on a retailer or consumer;
- (ii) Receipts from the sale of tangible personal property on which a sales or use tax has become due by reason of the same transaction to any other municipality and any county in the State of Utah, under a Sales or Use Tax Ordinance enacted by that county or municipality in accordance with the Uniform Local Sales and Use Tax Law of Utah.

Cross-reference: UCA §11-9-1, et seq
History: 2/83, 9/84, 6/86, 1/90

22-1-2. Use Tax. (l) An excise tax is hereby imposed on the storage, use, or other consumption in this city of tangible personal property from any retailer on or after the operative date of this title for storage, use or other consumption in the city at the rate of one percent (1%) of the sales price of the property.

(2) (a) Except as hereinafter provided, and except insofar as they are inconsistent with the provisions of the Uniform Local Sales and Use Tax Law of Utah, all of the provisions of Chapter 16, Title 59, Utah Code Annotated, 1953, as amended and in force and effect on the effective date of this chapter, applicable to use taxes, excepting the provisions of sections 59-16-1 and 59-16-25 of Utah Code Annotated, and excepting for the amount of the tax levied therein, are

hereby adopted and made a part of this section as though fully set forth herein.

(b) Wherever and to the extent that in Chapter 16 of Title 59, Utah Code Annotated, 1953, the State of Utah is named or referred to as a taxing agency, the name of Clinton City shall be substituted therefor. Nothing in this subparagraph (2) shall be deemed to require the substitution of the name of this city for the word "State" when that word is used as part of the title of the State Tax Commission, or of the Constitution of Utah, nor shall the name of the city be substituted for that of the state in any section when the results of that substitution would require action to be taken by or against the city or any agency thereof, rather than by or against the State Tax Commission in performing the functions incident to the administration or operation of this chapter.

(c) There shall be exempt from the tax due under this section:

(i) The amount of any sales or use tax imposed by the State of Utah upon a retailer or consumer;

(ii) The storage, use or other consumption of tangible personal property, the gross receipts from the sales of or the cost of which has been subject to sales or use tax under a sales or use tax ordinance enacted in accordance with the Uniform Local Sales and Use Tax Law of Utah by any other municipality and any county of the state.

Cross-reference: UCA §11-9-1, et seq

History: 2/83, 9/84, 6/86, 1/90

22-1-3. Authority of Mayor. The mayor is authorized to execute whatever documents are necessary to distribute sales and use tax revenues on the combination of point of sale and population factors set forth in section 11-9-5, Utah Code Annotated, 1953.

History: 2/83, 6/86

22-1-4. Contract with State Tax Commission.

Heretofore, this city has entered into an agreement with the State Tax Commission to perform all functions incident to the administration or operation of the sales and use taxes of the city. That contract is hereby confirmed and the mayor is hereby authorized to enter into such supplementary agreement with the State Tax Commission as may be necessary to the continued administration and operation of local sales and use taxes of the city as reenacted by this chapter.

History: 2/83, 6/86

22-1-5. Penalties. Any person violating any of the provisions of this chapter shall be deemed guilty of a class C misdemeanor.

History: 2/83, 6/86, 05/99

Chapter 2. Municipal Energy Sales and Use Tax

- 22-2-1. Purpose.
- 22-2-2. Definitions.
- 22-2-3. Municipal Energy Sales and Use Tax.
- 22-2-4. Exemptions from the Municipal Energy Sales and Use Tax.
- 22-2-5. No Effect Upon Existing Franchises - Credit for Franchise Fees.
- 22-2-6. Tax Collection Contract with State Tax Commission.
- 22-2-7. Incorporation of Part 1, Chapter 12, Title 59, Utah Code, Including Amendments.
- 22-2-8. No Additional License to Collect the Municipal Energy Sales and Use Tax Required - No Additional License or Reporting Requirements.
- 22-2-9. Effective Date.

22-2-1. Purpose. It is the intent of Clinton City to adopt the municipal energy sales and use tax, pursuant to, and in conformance with, Utah Code Ann. § 10-1-301 *et seq.*, "The Municipal Energy Sales and Use Tax Act."

History: 6/97

22-2-2. Definitions.

- (1) "Consumer" means a person who acquires taxable energy for any use that is subject to the Municipal Energy Sales and Use Tax.
- (2) "Contractual Franchise Fee" means:
 - (a) a fee;
 - (i) provided for in a franchise agreement; and
 - (ii) that is consideration for the franchise agreement; or
 - (b) (i) a fee similar to subsection (2)(a); or
 - (ii) any combination of subsections (2)(a) or (2)(b).

(3) (a) "Delivered Value" means the fair market value of the taxable energy delivered for sale or use in the municipality and includes:

- (i) the value of the energy itself; and
- (ii) any transportation, freight, customer demand charges, service charges, or other costs typically incurred in providing taxable energy in usable form to each class of customer in the municipality,

(b) "Delivered Value" does not include the amount of a tax paid under Part 1 or Part 2 of Chapter 12, Title 59 of the Utah Code Annotated.

(4) "Energy Supplier" means a person supplying taxable energy, except for persons supplying a de minimus amount of taxable energy, if such persons are excluded by rule promulgated by the State Tax Commission.

(5) "Franchise Agreement" means a franchise or an ordinance, contract, or agreement granting a franchise.

(6) "Franchise Tax" means:

- (a) a franchise tax
- (b) a tax similar to a franchise tax; or
- (c) any combination of subsections (a) or (b).

(7) "Person" includes any individual, firm, partnership, joint venture, association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city, municipality, district, or other local governmental entity of the state, or any group or combination acting as a unit.

(8) "Sale" means any transfer of title, exchange, or barter, conditional or otherwise, in any manner, of taxable energy for a consideration. It includes:

- (a) installment and credit sales;
- (b) any closed transaction constituting a sale;
- (c) any transaction under which right to acquire, use or consume taxable energy is granted under a lease or contract and the transfer would be taxable if an outright sale were made.

(9) "Storage" means any keeping or retention of taxable energy in Clinton City for any purpose except sale in the regular course of business.

(10) (a) "Use" means the exercise of any right or power over taxable energy incident to the ownership or the leasing of the taxable energy.

(b) "Use" does not include the sale, display, demonstration, or trial of the taxable energy in the regular course of business and held for resale.

(11) "Taxable Energy" means gas and electricity.
History: 6/97

22-2-3. Municipal Energy Sales and Use Tax.

There is hereby levied, subject to the provisions of this chapter, a tax on every sale or use of taxable energy made within Clinton City equaling six percent (6%) of the delivered value of the taxable energy to the consumer. This tax shall be known as the Municipal Energy Sales and Use Tax.

(1) The tax shall be calculated on the delivered value of the taxable energy to the consumer.

(2) The tax shall be in addition to any sales or use tax on taxable energy imposed by Clinton City as authorized by Title 59, Chapter 12, Part 2 of the Utah Code Annotated, The Local Sales and Use Tax Act.

History: 6/97

22-2-4. Exemptions From the Municipal Energy Sales and Use Tax.

(1) No exemptions are granted from the Municipal Energy Sales and Use Tax except as expressly provided in Utah Code Ann. § 10-1-305(2)(b); notwithstanding an exemption granted by § 59-1-104 of the Utah Code.

(2) The following are exempt from the Municipal Energy Sales and Use Tax, pursuant to Utah Code Ann. § 10-1-305(2)(b):

(a) Sales and use of aviation fuel, motor fuel, and special fuels subject to taxation under Title 59, Chapter 13 of the Utah Code Annotated;

(b) Sales and use of taxable energy that is exempt from taxation under federal law, the United States Constitution, or the Utah Constitution;

(c) Sales and use of taxable energy purchased or stored for resale;

(d) Sales or use of taxable energy to a person, if the primary use of the taxable energy is for use in compounding or producing taxable energy or a fuel

subject to taxation under Title 59, Chapter 13 of the Utah Code Annotated;

(e) Taxable energy brought into the state by a nonresident for the nonresident's own personal use or enjoyment while within the state, except taxable energy purchased for use in the state by a nonresident living or working in the state at the time of purchase;

(f) The sale or use of taxable energy for any purpose other than as a fuel or energy; and

(g) The sale of taxable energy for use outside the boundaries of Clinton City.

(3) The sale, storage, use, or other consumption of taxable energy is exempt from the Municipal Energy Sales and Use Tax levied by this Chapter, provided:

(a) The delivered value of the taxable energy has been subject to a municipal energy sales or use tax levied by another municipality within the state authorized by Title 59, Chapter 12, Part 3 of the Utah Code Annotated; and

(b) Clinton City is paid the difference between the tax paid to the other municipality and the tax that would otherwise be due under this Chapter, if the tax due under this Chapter exceeds the tax paid to the other municipality.

History: 6/97

22-2-5. No Effect Upon Existing Franchises - Credit for Franchise Fees.

(1) This Chapter shall not alter any existing franchise agreements between Clinton City and energy suppliers.

(2) There is a credit against the tax due from any consumer in the amount of a contractual franchise fee paid if:

(a) the energy supplier pays the contractual franchise fee to Clinton City pursuant to a franchise agreement in effect on July 1, 1997;

(b) the contractual franchise fee is passed through by the energy supplier to a consumer as a separately itemized charge; and

(c) the energy supplier has accepted the franchise.

History: 6/97

22-2-6. Tax Collection Contract With State Tax Commission. (1) On or before the effective date of this Chapter, Clinton City shall contract with the State Tax Commission to perform all functions incident to the administration and collection of the Municipal Energy Sales and Use Tax, in accordance with this Chapter. The Mayor is hereby authorized to enter agreements with the State Tax Commission that may be necessary to the continued administration and operation of the Municipal Energy Sales and Use Tax Ordinance enacted by this Chapter.

(2) An energy supplier shall pay the Municipal Energy Sales and Use Tax revenues collected from consumers directly to Clinton City monthly if:

(a) Clinton City is the energy supplier; or

(b) (i) the energy supplier estimates that the municipal energy sales and use tax collected annually from its Utah consumers equals \$1,000,000 or more, and

(ii) the energy supplier collects the Municipal Energy Sales and Use Tax.

(3) An energy supplier paying the Municipal Energy Sales and Use Tax directly to Clinton City may deduct any contractual franchise fees collected by the energy supplier qualifying as a credit and remit the net tax less any amount the energy supplier retains as authorized by § 10-1-307(4), Utah Code Annotated.

History: 6/97

22-2-7. Incorporation of Part 1, Chapter 12, Title 59, Utah Code, Including Amendments. (1) (a)

Except as herein provided, and except insofar as they are inconsistent with the provisions of Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act, as well as this Chapter, all of the provisions of Part 1, Chapter 12, Title 59 of the Utah Code Annotated 1953, as amended, and in force and effect on the effective date of this Chapter, insofar as they relate to sales and use taxes, excepting Sections 59-12-101 and 59-12-119 thereof, and excepting for the amount of the sales and use taxes levied therein, are hereby adopted and made a part of this Chapter as if fully set forth herein.

(b) Wherever, and to the extent that in Part 1, Chapter 12, Title 59, Utah Code Annotated 1953, as amended, the State of Utah is named or referred to as the "taxing agency," the name "Clinton City" shall be substituted insofar as is necessary for the purposes of that part, as well as Part 3, Chapter 1, Title 10, Utah

Code Annotated 1953, as amended. Nothing in this subparagraph (b) shall be deemed to require substitution of the name Clinton City for the word "State" when that word is used as part of the title of the State Tax Commission, or of the Constitution of Utah, nor shall the name of Clinton City be substituted for that of the State in any section when the result of such a substitution would require action to be taken by or against Clinton City or any agency thereof, rather than by or against the State Tax Commission in performing the functions incident to the administration of operation of this Chapter.

(c) Any amendments made to Part 1, Chapter 12, Title 59, Utah Code Annotated 1953, as amended, which would be applicable to Clinton City for the purposes of carrying out this Chapter are hereby incorporated herein by reference shall be effective upon the date that they are effective as a Utah statute.

History: 6/97

22-2-8. No Additional License to Collect the Municipal Energy Sales and Use Tax Required - No Additional License or Reporting Requirements.

No additional license to collect or report the Municipal Energy Sales and Use Tax levied by this Chapter is required, provided the energy supplier collecting the tax has a license issued under Section 59-12-106, Utah Code Annotated.

History: 6/97

22-2-9. Effective Date. This Chapter is effective June 30, 1997. The Municipal Energy Sales and Use Tax shall be levied beginning 12:01 A.M., July 1, 1997.

History: 6/97

Chapter 3. Utility Revenue Tax

- 22-3-1. Definitions.
- 22-3-2. Utility Revenue Tax.
- 22-3-3. Revenue Tax on Businesses in Competition with Public Utilities.
- 22-3-4. Filing Reports and Payment of Tax.
- 22-3-5. Future Rates By Resolution

22-3-1. Definitions. The following words and phrases when used in this ordinance shall have the meanings respectively ascribed to them:

(1) **"Gross Revenue"** shall be construed to mean the revenue derived from the sale and use of public utility services within the city, provided that "gross revenue"

as applied to the telephone utility shall be construed to mean basic local exchange services revenue.

(2) **"Basic Local Exchange Service Revenue"** shall be construed to mean revenues received from the furnishing of telecommunications within the city and access to the telecommunications network to either business, residential, or other customers whether on a flat rate or measured basis, by means of an access line. Basic Local Exchange Service Revenue shall not include revenues obtained by the telephone public utility company from the provision of terminal telephone equipment services (such as basic telephone sets, private branch exchanges and key telephone systems), or from other telephone equipment which is obtainable from both the telephone company and other suppliers.

(3) **"Public Utility Service"** shall mean the sale and use of electrical power and energy, natural gas and basic local exchange telephone service.

(4) **"In Competition with Public Utilities"** shall mean any person who trades in products or services within the same market as a public utility taxed under Section 22-3-3 of this ordinance.

(5) **"Person"** shall mean or include a natural person, firm, partnership, association or corporation.

History: 4/82, 9/84

22-3-2. Utility Revenue Tax. There is hereby levied upon the business of every person engaged in business in Clinton City, Utah, of supplying telephone, gas or electric energy services and public utilities an annual license fee of 6% of gross revenue derived from the sale and use of the services of the utilities derived from use within the city beginning on and continuing after November 1, 1994.

History: 6/84, 9/84, 7/85, 9/94

22-3-3. Revenue Tax on Businesses in Competition with Public Utilities. There is hereby levied upon the business of every person engaged in the business in the City of Clinton, Utah, of supplying telephone service or gas energy service in competition with public utilities, an annual license tax as designated above.

History: 6/84

22-3-4. Filing Reports and Payment of Tax. Within 45 days after the close of each quarter in a calendar year, any person taxed by this ordinance

shall file with the city treasurer of the city a report of its gross revenue derived from the sale and uses of its services as specified in this ordinance, together with a computation of the tax levied by this ordinance. Concurrent with the filing of such report, the person taxed hereunder shall pay to the city treasurer the amount of the tax due for that calendar month subject to said report.

History: 4/82, 9/84

22-3-5. Future Rates by Resolution. The Clinton City Council shall consider annually the level of tax to be assessed under this chapter, taking into consideration the revenue sources and expenditure needs, and may elect to change the amount of tax by resolution.

History: 7/85, 9/94