

Chapter 3.12

UTILITIES TAX

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3.12.010 **Definitions.** In construing the provisions of this chapter, save when otherwise plainly declared or clearly apparent from the context the following definitions shall be applied:

- A. "Gross income" means the value proceeding or accruing from the sale of tangible property or service, and receipts (including all sums earned or charged whether received or not), by reason of the investment of capital in the business engaged in, including rentals, royalties, fees or other emoluments, however designated, derived from business activities conducted within the city limits (excluding receipts or proceeds from the use or sale of real property or any interest therein and proceeds from the sale of notes, bonds, mortgages, or other evidence of indebtedness or stocks and the like) and without any deduction on account of the cost of the property sold, and the cost of materials

used, labor costs, interest, or any expenses whatsoever; provided, however, that only the gross income attributable to those taxable services or commodities as are specifically set forth in Section 3.12.030 shall be subject to the tax provided in this chapter, and any taxpayer deriving income from the sale of any other tangible property or services and receipts not so specifically set forth in Sections 3.12.020 through 3.12.050 may exclude the income from gross income as defined in this subsection. Gross income of any public utility district subject to this tax shall be the total gross revenues from sales of electricity for the purpose of resale.

- B. "Person" or "persons" means persons of either sex, firms, co-partnerships, corporations, public utility districts, operating works, plants as facilities for the sale and distribution of electricity within the city, municipal corporations or departments thereof, public or private utilities, water companies or districts, and other associations, whether acting by themselves or by servants, agents or employees.
- C. "Taxpayer" means any person liable to the license fee or tax imposed by this chapter.
- D. "Tax year" or "taxable year" means the year commencing January first and ending on the last day of December of the year, or, in lieu thereof, the taxpayer's fiscal year when permission is obtained from the city clerk to use the same as the tax period. (Ord. 391 SI (part), 1981.)

3.12.020 **Quarterly license fee.** For the purpose of raising revenue, there is levied upon and shall be collected from and paid as hereinafter provided by every person on account of and for the privilege of engaging in business activities, a utility tax, sometimes referred to in this chapter as "tax," against the gross income of businesses as defined in this chapter for three calendar months next preceding the beginning of each quarterly period. Said quarterly periods are as follows:

- A. First quarter: January, February, March.
- B. Second quarter: April, May, June.
- C. Third quarter: July, August, September.
- D. Fourth quarter: October, November, and December. (Ord.700 March 2000; Ord. 391 SI (part), 1981.)

3.12.030 **Computation--Utilities.** The tax provided in this Chapter shall be computed at the rate of six percent of gross income derived from each of the following occupations or business activities conducted within the city limits. Those

persons subject to the payment of the tax in this Chapter at the rate are as follows:

- A. All persons engaged in or carrying on the business of selling or furnishing electric light and power.
- B. All persons engaged in or carrying on the business of selling or furnishing natural gas.
- C. All persons engaged in or carrying on a telegraph and/or telephone business, and such tax shall be computed on the subscriber's gross exchange monthly service charge, including nonrecurring charges for service connections and moves and changes as billed to business and residence subscribers.
- D. All persons engaged in or carrying on the business of selling or supplying domestic water and/or providing sanitary sewer services.
- E. All persons engaged in or carrying on the business of solid waste collection.

Nothing herein shall prevent any of those persons above, including the City of Benton City, from transferring or passing onto its customers the tax herein provided. (Ord. 598, February 1994.)

3.12.040 **Computation -- CATV.** The tax provided in this chapter shall be computed at the rate of three percent of the gross income derived from each of the following occupation or business activities conducted within the city limits. Those persons subject to payment of the tax in this chapter at the rate are as follows:

All persons engaged in the business of constructing, operating and maintaining a coaxial cable subscriber system for television, radio and other auditory, visual, electrical signal distribution throughout the city. (Ord. 391 SI (part), 1981.)

3.12.050 **Tax for each Business -- Violation.** Any person engaged in or carrying on more than one such business, occupation, pursuit or privilege shall pay the license tax so imposed for each respective business, trade or privilege. Any taxpayer who is engaged in, or carries on, any business subject to the tax under this chapter, and who fails or refuses to pay the tax or any part thereof on or before the due date shall be operating in violation of this chapter. (Ord. 391 SI (part), 1981.)

3.12.060 **Payment -- In general.** The license fee or tax imposed by this chapter, except the annual license fee required to accompany the application for the license, shall be due and payable in quarterly installments, and remittance

shall be made on or before the thirtieth day of the month next succeeding the end of the quarterly period in which the tax accrued. The remittance shall be made as hereinafter provided and shall be accompanied by a return on a form to be provided and prescribed by the city clerk. To the return the taxpayer shall be required to swear or affirm that the information therein given is full and true and that the taxpayer knows the same to be so. Whenever the total tax for which any person is liable under this chapter does not exceed the sum of fifty dollars for any quarterly period, an annual return may be made upon written request and subject to the approval of the city clerk. (Ord. 391 SI (part), 1981.)

3.12.070 **Payment -- Monthly.** In lieu of the quarterly payment of the tax provided in this chapter, the taxpayer may, when permission is obtained from the city clerk, pay the tax on a monthly basis. (Ord. 391 SI (part), 1981.)

3.12.080 **Payment -- New returns.** Whenever a taxpayer commences to engage in business during any quarterly period, his first return and license fee or tax shall be based upon and cover the portion of the quarterly period during which he engaged in business. (Ord. 391 SI (part), 1981.)

3.12.090 **Payment -- Type.** The license fee or tax payable under this chapter shall at the time of the return being required to be filed under this chapter, be paid to the city treasurer by bank draft, certified check, cashier's check, personal check or money order or in cash. If payment is made by draft or check, the tax or fee shall not be deemed paid until the check or draft is honored in the usual course of business; nor shall the acceptance of any sum by the treasurer be an acquittance or discharge of the tax or fee due unless the amount of payment is in full, and the actual amount due. (Ord. 391 SI (part), 1981.)

3.12.100 **Deductions -- Extrastate transactions.** There shall be excepted and deducted from the total gross income upon which the license fee or tax is computed so much thereof as is derived from transactions in interstate or foreign commerce, or from business done for the government of the United States, its officers or agents, and any amount paid by the taxpayer to the United States or the state as excise taxes levied or imposed upon the sale or distribution of property or service. (Ord. 391 SI (part), 1981.)

3.12.110 **Deductions -- Bad debts.** There shall be excepted and deducted from the total gross income upon which the license fee or tax is computed all bad debts for services incurred, rendered or charged for during the tax year. Debts shall be deemed bad and uncollectible when the same have been written off the books of the taxpayer. In the event debts are subsequently collected, the income shall be reported in the return for the quarter in which the debts are collected and at the rate prevailing in the tax year when collected. (Ord. 391 SI

(part), 1981.)

- 3.12.120** **Deductions -- Cash discounts.** There shall be excepted and deducted from the total gross income upon which the license fee or tax is computed all cash discounts allowed and actually granted to customers of the taxpayer during the tax year. (Ord. 391 SI (part), 1981.)
- 3.12.130** **Limitation on authority.** Nothing in this chapter shall be construed as requiring a license, or the payment of a license fee or tax, or the doing of any act, which would constitute an unlawful burden or interference in violation of the Constitution or laws of the United States or which would not be consistent with the constitution or laws of the state. (Ord. 391 SI (part), 1981.)
- 3.12.140** **Occupation license -- In general.** On and after the first day of October, 1964, no person subject to the payment of the tax provided in this chapter shall engage in any business or activity in the city for which a tax is imposed by this chapter without first having obtained and being the holder of a valid and subsisting license so to do, to be known as an occupation license issued under the provisions of this chapter and without paying the license fee or tax imposed by this chapter. The fee or tax for the occupation license shall be the license fee or tax imposed by this chapter. Such license shall expire at the end of the calendar year in which it is issued and a new license shall be required for each calendar year. Application for license shall be made to and issued by the city clerk-treasurer on forms provided by him, without charge in addition to that set forth in Sections 3.12.020 through 3.12.050. (Ord. 391 S1 (part), 1981.)
- 3.12.150** **Occupation license -- Specifications.** The license shall be personal and nontransferable. Each license shall be numbered, shall show the name, place and character of business of the taxpayer and such other information as the city clerk-treasurer deems necessary and shall be at all times conspicuously posted in the place of business for which it is issued. (Ord. 391 SI (part), 1981.)
- 3.12.160** **Occupation license -- Limited to permittee.** No person to whom a license has been issued pursuant to this chapter shall suffer or allow any other person for whom a separate license is required to operate under or display his license; nor shall such other person operate under or display such license. (Ord. 391 SI (part), 1981.)
- 3.12.170** **Recordation -- License holder's responsibility.** It shall be the duty of every person liable for the payment of any fee or tax imposed by this chapter to keep and preserve for the period of five years such books and records as will accurately reflect the amount of his gross income as defined in this chapter and from which can be determined the amount of any fee or tax for which he

may be liable under the provisions of this chapter and all books as provided therein shall be open for examination at all reasonable times by the city clerk or his duly authorized agent. (Ord. 391 SI (part), 1981.)

3.12.180 **Transfer of business -- Transferee's responsibility.** Upon the sale or transfer during a quarterly period of a business or account of which a license fee or tax is required, the purchaser or transferee shall, if the fee or tax has not been paid in full for the quarterly period, be responsible for the payment of the fee or tax for that portion of the quarterly period during which he carries on such business. (Ord. 391 SI (part), 1981.)

3.12.190 **City records kept confidential.** The application and returns made to the city clerk pursuant to this chapter shall not be made public, nor shall they be subject to the inspection of any person except the mayor, city attorney, city clerk, city treasurer or their authorized agent and members of city council. It is unlawful for any person to make public or to inform any other person as to the contents or any information contained in or to permit inspection of any application or return except as in this section authorized. (Ord. 391 SI (part), 1981.)

3.12.200 **Overpayment -- Underpayment.** If the city clerk upon investigation or upon checking returns, finds that the fee or tax paid on any of them is more than the amount required of the taxpayer, he shall refund the amount overpaid by a warrant upon the general fund. If the clerk finds that the fee or tax is less than required, he shall mail a statement to the taxpayer showing the balance due, who shall within three days pay the amount shown thereon. (Ord. 391 SI (part), 1981.)

3.12.210 **Delinquent payment.** If any taxpayer fails, neglects or refuses to make his return as and when required herein, the clerk is authorized to determine the amount of tax payable and by mail to notify such taxpayer of the amount as so determined. The amount so fixed shall thereupon become the tax and be immediately due and payable. (Ord. 391 S1 (part), 1981.)

3.12.220 **Compliance required -- False statements unlawful.** It is unlawful for any person liable to tax under this chapter to fail or refuse to secure the license, to make the returns as when required or to pay the fee or tax when due, or for any person to make any false or fraudulent application or return or any false statement or return or any false statement or representation in, or in connection with, any such application or return, or to aid or abet another in an attempt to evade payment of the fee or tax, or any part thereof, or for any person to fail to appear and/or testify in response to subpoena issued pursuant hereto, or to testify falsely upon any investigation of the correctness of a return, or upon the hearing of any appeal, or in any manner to hinder or delay the city or any of its officers in carrying out the provisions of this chapter.

(Ord. 391 SI (part), 1981.)

- 3.12.230** **License fee additional to other fees.** The license fee and tax, levied in this chapter shall be additional to any license or tax imposed or levied under any law or any other ordinance of the city. (Ord. 391 SI (part), 1981.)
- 3.12.240** **Unpaid fee deemed debt to city.** Any license fee or tax due and unpaid under this chapter, and all penalties thereon, shall constitute a debt to the city and may be collected by court proceedings in the same manner as any other debt in like amount which remedy shall be in addition to all other existing remedies. (Ord. 391 SI (part), 1981.)
- 3.12.250** **City payment of license fee -- Exception.** Whenever the city through any department or division engages in any business activity which if engaged in by any person would under this chapter require an occupation license and the payment of a license fee or tax by such person, the city department or division engaging in such business activity shall as to such business activity at the same time and in the same manner as persons are required under this chapter, make returns and from the funds of such department or division pay the license fees or taxes imposed under this chapter. Each of the departments or divisions of the city shall transfer or pass on to its consumers the tax provided in this chapter; provided, however, that the city shall not be required to pay the annual license fee. (Ord. 391 SI (part), 1981.)