

## Chapter 5.08 UTILITIES TAX

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### **5.08.010 Exercise of revenue license powers.**

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The provisions of this chapter shall be deemed to be an exercise of the power of the city to license for revenue.  
(Ord. 81-38 § 1, 1981)

### **5.08.020 Definitions.**

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For purposes of this chapter, the following definitions shall apply:

A. *Repealed by Ord. 2003-22.*

B. 1. "Gross income" means the value proceeding or accruing by reason of the transaction of the business engaged in and includes gross proceeds of sales, compensation for the rendition of services, gains realized from trading in stocks, bonds or other evidences of indebtedness, interest, discount, rents, royalties, fees, commissions, dividends and other emoluments however designated, all without any deduction on account of the cost of tangible property sold, the cost of materials used, labor costs, interest, discount, delivery costs, taxes or other expense whatsoever paid or accrued and without any deduction on account of losses.

2. Gross income does not include charges that are passed on to customers by the taxpayers pursuant to tariffs required by regulatory order to compensate for the cost to the company of tax imposed by this chapter. (Ord. 2003-22 § 5, 2003; Ord. 90-33 § 1, 1990; Ord. 81-38 § 2, 1981)

#### **5.08.030 Occupation license required.**

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*Repealed by Ord. 98-26. (Ord. 81-38 § 3, 1981)*

#### **5.08.040 Tax – Levy.**

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There is levied upon and there shall be collected from every person, firm or corporation engaged in carrying on the following business for hire or for sale of a commodity or a service within or partly within the corporate limits of the city a tax for the privilege of so doing business as hereinafter defined:

A. Upon any city-owned utility selling, transmitting or distributing water a tax to be equal to a percent of the total gross income derived from the operation of such business within the city as established by resolution of the city council.

B. Upon any city-owned utility providing sewer service, a tax to be equal to a percent of the total gross income from the operation of such business within the city as established by resolution of the city council.

C. Upon any city-owned utility providing storm drain service, a tax to be equal to a percent of the total gross income from the operation of such business within the city as established by resolution of the city council.

D. Upon any person selling or otherwise providing coaxial or other cable distribution of entertainment or information including television, radio, computer data, or any other electronically transmitted information, a tax equal to a percentage of the total gross income derived from the operation of such business within the city which percentage shall be the lower of the percentage charged to utility providers under Chapter [3.88](#) BIMC or the percentage charged to utility providers under other subsections of this section. (Ord. 2000-46 § 1, 2000; Ord. 99-53 § 1, 1999; Ord. 98-26 § 2, 1998; Ord. 90-33 § 2, 1990; Ord. 88-16 § 2, 1988; Ord. 85-14 § 1, 1985; Ord. 84-24 § 1, 1984; Ord. 83-13 § 1, 1983; Ord. 82-37 § 1, 1982; Ord. 81-38 § 4, 1981)

#### **5.08.045 Solid waste utility tax – Levied.**

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From and after October 1, 1998, there is levied upon and there shall be collected from every person, firm or corporation engaged in the business of providing solid waste collection and disposal services within or partly within the city, a tax for the privilege of doing such business in the city in the amount of five percent of the total gross income from the operation of such business within the city, except that for purposes of this section, gross

income does not include amounts received for the sale of materials obtained in the operation of a recycling facility. (Ord. 98-17 § 1, 1998)

#### **5.08.050 Tax – Payment.**

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A. The tax imposed by this chapter shall be due and payable in quarterly installments and remittance shall be made on or before the last day of the month next succeeding the end of the quarterly period in which the tax accrued. These quarterly periods are as follows:

1. First quarter, January, February, March;
2. Second quarter, April, May, June;
3. Third quarter, July, August, September;
4. Fourth quarter, October, November, December.

B. The first payment made under this chapter shall be made by April 30th for the 3-month period ending March 31st. On or before said due date the taxpayer shall file with the clerk a written return, upon such form and setting forth such information as the clerk shall reasonably require, together with the payment of the amount of the tax. (Ord. 81-38 § 5, 1981)

#### **5.08.060 Tax – Exemptions.**

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In computing the tax there shall be deducted from said gross operating revenues the following items:

A. Amounts derived from transactions in interstate or foreign commerce or from any business which the city is prohibited from taxing under the Constitutions of the United States or the state;

B. Amounts derived by the taxpayer from the city. (Ord. 81-38 § 6, 1981)

#### **5.08.070 Taxpayer records required.**

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Each taxpayer shall keep records reflecting the amount of the taxpayer's gross income. In addition, each taxpayer required to pay tax under BIMC [5.08.045](#) shall keep records reflecting the amount of gross income received for the sale of materials obtained in the operation of a recycling facility. Such records shall be open at all reasonable times to the inspection of the finance director or the finance director's designee, for verification of the tax returns or for the fixing of the tax of a taxpayer who fails to make such returns. (Ord. 98-17 § 2, 1998; Ord. 81-38 § 7, 1981)

#### **5.08.080 Penalty for failure to pay tax.**

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If any person, firm or corporation subject to this chapter fails to pay any tax required by this chapter within 30 days after the due date thereof, there shall be added to such tax a penalty of 10 percent of the amount of such tax, and any tax due under this chapter and unpaid, and all penalties thereon, shall constitute a debt to the city and may be collected by court proceedings, which remedy shall be in addition to all other remedies. Any judgment entered in favor of the city shall include recovery by the city of all court costs including attorney fees. (Ord. 81-38 § 8, 1981)

#### **5.08.090 Credit or refund upon overpayment.**

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Any money paid to the city through error or otherwise not in payment of the tax imposed by this chapter or in excess of such tax shall, upon request of the taxpayer, be credited against any tax due or to become due from such taxpayer under this chapter or, upon the taxpayer's ceasing to do business in the city, be refunded to the taxpayer. (Ord. 81-38 § 9, 1981)

#### **5.08.100 Procedure upon annexations to city.**

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Whenever the boundaries of the city are extended by annexation, all persons, firms and corporations subject to this chapter will be provided copies of all annexation ordinances by the city. (Ord. 81-38 § 11, 1981)

#### **5.08.110 Enforcement.**

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The clerk is authorized to adopt, publish and enforce, from time to time, such rules and regulations for the proper administration of this chapter as shall be necessary, and it shall be a violation of this chapter to violate or to fail to comply with any such rule or regulation lawfully promulgated under this chapter. (Ord. 81-38 § 13, 1981)

#### **5.08.120 Violation – Penalty.**

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Any person, firm or corporation subject to this chapter who fails or refuses to file a tax return or pay tax when due, or who makes any false statement or representation in or in connection with a tax return, or otherwise violates or refuses or fails to comply with this chapter, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not to exceed \$500.00 or by imprisonment not to exceed six months, or by both. (Ord. 98-26 § 3, 1998; Ord. 81-38 § 10, 1981)