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CHAPTER 54A

MUNICIPAL PUBLIC SERVICE TAX

Sec. 54A.01. Definitions applicable to Sections 54A.01 to 54A.08.

(a) A "seller" is a person, firm, corporation, or other legal entity who sells a service that is subject to a levy.

(b) The term "electronic transfer" means the use of the Automated Clearing House (the "ACH"), or other electronic transfer system approved by the City Treasurer on a case by case basis, by the seller, to send the taxes collected directly from the seller's bank to the City's primary bank.

(c) "Fuel oil" shall include fuel oil grades Nos. 1, 2, 3, 4, 5, and 6, kerosene and coal oil.

(d) The term "interstate", as applied to telecommunication services, means originating in the state of Florida but not terminating in this state, or terminating in this state but not originating in this state.

(e) The term "local telephone service" means:

(1) The access to a local telephone system, and the privilege of telephonic-quality communication with substantially all persons having telephone or radio telephone stations constituting a part of such local telephone system; or

(2) Any facility or service provided in connection with a service described in paragraph (1).

The term "local telephone service" does not include any service which is a toll telephone service, private communication service, cellular mobile telephone or telecommunication service, specialized mobile radio, or pagers and paging service, including but not limited to "beepers" and any other form of mobile and portable one-way or two-way communication, or teletypewriter or computer exchange service.

(f) The term "private communication service" means:

1 (1) A communication service furnished to a subscriber
2 or user that entitles the subscriber or user to exclusive or
3 priority use of a communication channel or groups of
4 channels, or to the use of an intercommunication system for
5 the subscriber's stations, regardless of whether such
6 channel, groups of channels, or intercommunication system
7 may be connected through switching with a service described
8 in subsection (e), subsection (j), or subsection (k);
9

10 (2) Switching capacity, extension lines, and stations,
11 or other associated services which are provided in
12 connection with, and which are necessary or unique to the
13 use of, channels or systems described in paragraph (1); or
14

15 (3) The channel mileage which connects a telephone
16 station located outside a local telephone system area with a
17 central office in such local telephone system.
18

19 (g) The terms "remit", "remittance" and "remitting", for
20 purposes of the tax imposed by this Chapter 54A, mean the
21 sending by the Seller and the receipt by the City of all
22 taxes levied and collected pursuant to Chapter 54A. The
23 date of receipt of such taxes by the City will be the date
24 of postmark, or if by electronic transfer, the date received
25 by the City's primary bank as indicated on the City's bank
26 statement.
27

28 (h) The term "return", as used in Section 54A.03, means the
29 supporting documentation, that must be accompanied by the tax
30 remittance, if any, unto the Treasurer of the City, which at a
31 minimum shall indicate:
32

33 (1) the name and address of the seller,
34

35 (2) the time period covered with respect to the
36 particular return,
37

38 (3) the amount of revenue collected from the sale of
39 taxable services (in dollars),
40

41 (4) the amount of any collection allowance taken in
42 accordance with Florida law (in dollars),
43

44 (5) the amount of tax remitted with the return (in
45 dollars), and
46

47 (6) the name and telephone number of a person
48 authorized by the seller to respond to inquiries

1 from the City concerning the seller's
2 administration of the tax.

3
4 Those sellers remitting taxes by electronic transfer must
5 nevertheless send the report to the Treasurer of the City.

6
7 (i) The term "tax" means the municipal public service tax
8 authorized under §166.231, F.S.

9
10 (j) The term "telecommunications service" means:

11
12 (1) Local telephone service, toll telephone service,
13 telegram or telegraph service, teletypewriter or computer
14 exchange service and private communication service; or

15
16 (2) Cellular mobile telephone or telecommunication
17 service, specialized mobile radio, and pagers and
18 paging service, including but not limited to
19 "beepers" and any other form of mobile and portable
20 one-way or two-way communication, but does not
21 include services or equipment incidental to
22 telecommunications services enumerated in this
23 paragraph such as maintenance of customer premises
24 equipment, whether owned by the customer or not, or
25 equipment sales or rental for which charges are
26 separately stated, itemized, or described on the
27 bill, invoice, or other tangible evidence of the
28 provision of such service.

29
30
31 (k) The term "teletypewriter or computer exchange service"
32 means the access from a teletypewriter, telephone, computer, or
33 other data station of which such station is a part, and the
34 privilege of intercommunication by such station with
35 substantially all persons having teletypewriter, telephone,
36 computer, or other data stations constituting a part of the same
37 teletypewriter or computer exchange system, to which the
38 subscriber or user is entitled upon payment of a charge or
39 charges, whether such charge or charges are determined as a flat
40 periodic amount, on the basis of distance and elapsed
41 transmission time, or some other method. The term
42 "teletypewriter or computer exchange service" does not include
43 local telephone service or toll telephone service.

44
45 (l) The term "toll telephone service" means:

46
47 (1) A telephonic-quality communication for which there
48 is a toll charge which varies in amount with the distance

1 and elapsed transmission time of each individual
2 communication; or
3

4 (2) A service which entitles the subscriber or user,
5 upon the payment of a periodic charge which is determined as
6 a flat amount or upon the basis of total elapsed
7 transmission time, to the privilege of an unlimited number
8 of telephonic communications to or from all or a substantial
9 portion of the persons having telephone or radio telephone
10 stations in a specified area which is outside the local
11 telephone system area in which the station provided with
12 this service is located.
13

14 (m) The term "toll telephone service" includes interstate
15 and intrastate wide-area telephone service charges.
16

17 (n) The term "levy" means and includes the imposition of
18 the tax under §166.231 or §166.232, F.S., all changes in the
19 rate of tax imposed under either of those sections, and all
20 changes of election under §166.231(9)(a), F.S.
21

22 Sec. 54A.02. Purchase of electricity, gas, fuel oil, water and
23 telecommunications service-Levy of tax; amount;
24 payment generally of tax.
25

26 (a) Except as provided below or as otherwise exempted by
27 Section 54A.04, there is hereby levied and imposed by the City on
28 each and every purchase of electricity, metered or bottled gas
29 (natural liquefied petroleum gas or manufactured gas), fuel oil,
30 and water service, within the corporate limits of the City, a tax
31 at the rate of ten percent (10%) of the sales price of such
32 utility service or commodity. Included in taxable services are
33 any gross receipts taxes or franchise fees separately stated on
34 customer bills.
35

36 (b) The tax imposed by this section shall not be applied
37 against any fuel adjustment charge, and such charge shall be
38 separately stated on each bill. "Fuel adjustment charge" shall
39 mean all increases in the cost of utility services to the
40 ultimate consumer resulting from an increase in the cost of fuel
41 to the utility subsequent to October 1, 1973.
42

43 (c) Except as provided below or as otherwise exempted by
44 Section 54A.04, there is hereby levied and imposed by the City on
45 each and every purchase of telecommunication service within the
46 City that originates and terminates in this state a tax at the
47 rate of 7 percent (7%) of the total amount charged for any
48 telecommunications service provided within the City or, if the

1 location of the telecommunications service provided cannot be
2 determined as part of the billing process, the total amount
3 billed for such telecommunications service to a telephone or
4 telephone number, a telecommunications number or device, a
5 service address, or a customers' billing address located within
6 the City, excluding public telephone charges collected on site,
7 charges for any foreign exchange service or any private line
8 service except when such services are used or sold as a
9 substitute for any telephone company switched service or
10 dedicated facility by which a telephone company provides a
11 communication path, access charges, and any customer access line
12 charges paid to a local telephone company. However, purchases of
13 telecommunications service as defined in Section 54A.01(j)(2),
14 made within the City, shall be taxed only on the monthly
15 recurring customer service charges excluding variable usage
16 charges. Included in taxable services are any gross receipts
17 taxes or franchise fees separately stated on customer bills.

18
19 Sec. 54A.03. Same--Collection generally and disposition of tax;
20 discontinuance of service upon failure of
21 purchaser to pay tax and seller's charge.

22
23 (a) It shall be the duty of every seller of electricity,
24 metered or bottled gas, (natural or manufactured), fuel oil,
25 water service or telecommunications service to collect from the
26 purchaser for the use of the City the tax levied by the preceding
27 section, at the time of collecting the selling price charged for
28 each transaction and to report and remit on or before the
29 twentieth (20th) day of each calendar month, or if the twentieth
30 day is either a legal holiday or is not a City business day, then
31 on or before the first City business day, that is not also a
32 legal holiday, following the twentieth day of the month, unto the
33 Treasurer of the City all such taxes levied and collected during
34 the preceding calendar month. It shall be unlawful for any
35 seller to collect the price of any sale of electricity, metered
36 or bottled gas, (natural or manufactured), fuel oil, water
37 service or telecommunications service without, at the same time,
38 collecting the tax hereby levied in respect to such sales, unless
39 such seller shall elect to assume and pay such tax without
40 collecting the same from the purchaser. Any seller failing to
41 collect such tax at the time of collecting the price of any sale
42 where the seller has not elected to assume and pay such tax shall
43 be liable to the City for the amount of such tax in like manner
44 as if the same had actually been paid to the seller, and the
45 Mayor of the City shall cause to be brought all suit actions and
46 to take all proceedings in the name of the City as may be
47 necessary for the recovery of such tax; provided, however, that
48 the seller shall not be liable for the payment of such tax upon

1 uncollected charges. If any purchaser shall fail, neglect or
2 refuse to pay to the seller the seller's charge and the tax
3 hereby imposed and as hereby required on account of the sale for
4 which such charge is made, or either, the seller shall have and
5 is hereby vested with the right, power and authority to
6 immediately discontinue further service to such purchaser until
7 the tax and the seller's bill shall have been paid in full.

8
9 (b) For the purpose of compensating the seller of
10 telecommunications service, the seller shall be allowed one
11 percent (1%) of the amount of the tax collected and due to the
12 City in the form of a deduction from the amount collected for
13 remittance. The deduction shall be allowed as compensation for
14 keeping of records and for the collection of, and the remitting
15 of, the tax. This deduction shall not be allowed in the event of
16 an untimely return, unless the seller has in writing requested
17 and been granted an extension of time for filing such return in
18 accordance with §166.231(9)(f), F.S.

19
20 (c) Sellers remitting tax collections of ten thousand
21 dollars (\$10,000) or more, on average, per month over a period of
22 three (3) consecutive months shall thereafter, beginning in the
23 month immediately following the third (3rd) consecutive month,
24 make all tax remittances to the City's primary bank by electronic
25 transfer using the ACH system, or other electronic means as may
26 be approved by the City Treasurer on a case by case basis. Those
27 sellers meeting this criteria shall continue remittances by
28 electronic transfer regardless of whether the seller's average
29 collections fall below the ten thousand dollar (\$10,000)
30 threshold for any subsequent consecutive three (3) month period.

31
32 (d) Notwithstanding any other provision of this section, in
33 the event the total amount of tax anticipated to be collected
34 within a calendar quarter does not exceed \$120, the seller of
35 such service may, with the written authorization of the City,
36 remit the taxes collected during such calendar quarter to the
37 City quarterly. In such case, the tax shall be due on or before
38 the 20th day of the month following the end of the calendar
39 quarter in which the taxes were collected.

40
41 (e) All other sellers may remit by hand-delivery, postal
42 service or electronic transfer. However, if a seller elects to
43 remit by electronic transfer, that seller shall thereafter always
44 remit by electronic transfer.

45
46 Sec. 54A.04. Same--Exemptions and exclusions from payment of
47 tax.
48

1 (a) Purchases by the United States Government, this State,
2 and all counties, school districts, and municipalities of the
3 State, and by public bodies exempted by law or court order, are
4 exempt from the tax authorized by Section 54A.02. However,
5 governmental bodies which sell or resell taxable service to
6 nonexempt end users must collect and remit the tax levied under
7 Section 54A.02.

8
9 (b) The following purchases of bottled gas and/or fuel oil
10 are hereby excluded from the tax levied by Section 54A.02:

11
12 (1) Purchases of special fuels as defined in
13 §206.86(1), F.S., to be used in an internal combustion
14 engine or motor to propel any form of vehicle.

15
16 (2) Purchases of fuel oil for use as an aircraft
17 engine fuel or propellant.

18
19 (3) Fuel oil to be used as a raw material in a
20 manufacturing process or to be used as a cleaning agent or
21 solvent when certified by the purchaser that such fuel oil
22 shall be used only as a raw material or cleaning agent or
23 solvent. Such purchases and certification shall be
24 reflected monthly on forms prescribed by the Treasurer.

25
26 (c) Purchases by any recognized church in the City for use
27 exclusively for church purposes and purchases made by any
28 religious institution that possesses a consumer certificate of
29 exemption issued under §212, F.S., are hereby exempted from
30 payment of the tax levied by Section 54A.02.

31
32 (d) Notwithstanding the tax imposed by Section 54A.02 of
33 this Chapter, the tax on fuel oil shall not exceed four (4) cents
34 per gallon and, the maximum tax on fuel oil shall bear the same
35 proportion to four (4) cents which the tax levied under Section
36 54A.02 of this Chapter bears to the maximum rate allowable under
37 §166.231(1), F.S., provided that said maximum tax on fuel oil
38 does not impair in any manner the rights of holders of City of
39 Orlando Sewer Refunding and Improvement Bonds, Series 1972, or
40 the rights of holders of any other bonds, issued by the City
41 prior to June 23, 1978, to which the tax has been pledged. In
42 the event the aggregate amount of the tax collected by the City
43 is insufficient to pay the principal of and interest on said
44 bonds or to make all other payments provided for in the
45 ordinances approving said bonds, then the Director of Finance
46 shall certify such insufficiency to the City Council. Upon such
47 certification, the provisions of this Subsection (3) shall be
48 waived and the Director of Finance shall levy and collect the

1 fuel oil tax imposed by Section 54A.02 of this Chapter. Upon the
2 elimination of the aforementioned insufficiency of the tax to
3 meet the obligations imposed by said bonds, the Director of
4 Finance shall certify to the City Council the sufficiency of the
5 tax and the maximum tax on fuel established by this Subsection
6 (d) shall be reimposed.

7
8 (e) Purchases of telecommunications service for use in the
9 conduct of a telecommunications service for hire or otherwise for
10 resale are exempt from the tax levied by section 54A.02.

11
12 Sec. 54A.05. Same--Computation of tax when seller collects the
13 price thereof in monthly periods.

14
15 In all cases where the seller of electricity, metered or
16 bottled gas, (natural or manufactured), fuel oil, water service
17 or telecommunications service collects the price thereof in
18 monthly periods, the tax hereby levied may be computed on the
19 aggregate amount of sales during such period; provided, that the
20 amount of tax to be collected shall be to the nearest whole cent
21 to the amount computed, and shall not exceed the rates set forth
22 in Section 54A.02 for any monthly period on each separate
23 service. Such service shall be classified as a separate service
24 in case of metered electricity, gas or water, whenever an
25 individual meter is used for the measuring thereof.

26
27
28 Sec. 54A.06. Records to be kept by seller; General
29 administrative audit plan for enforcement of
30 ordinance; Authority of City to audit such
31 records.

32
33 (a) Each and every seller of electricity, metered or
34 bottled gas, (natural or manufactured), fuel oil, water service
35 and telecommunications service shall keep at its principal place
36 of business complete records showing all sales in the City of
37 such commodities or service, which records shall show the price
38 charged upon such sale, the amount of tax charged upon each sale,
39 the date of the sale, the date of payment thereof, the date such
40 tax was remitted to the City, the period of time covered by such
41 remittance and other related information that may be required to
42 verify proper collection and remittance of said taxes.

43
44 (b) To assure proper administration of the provisions of
45 this Chapter, the City will, where possible and practical,
46 conduct a periodic audit of such sales records of all businesses
47 in connection with which a tax is imposed under this Chapter.

1 Failure to conduct such an audit will not eliminate the liability
2 of the seller for collection and remittance of such tax.

3
4 (c) Pursuant to §166.234, F.S., the City may, during the
5 seller's normal business hours at the official location of the
6 seller's books and records, audit the records of any seller of a
7 service that is taxable by the City under §166.231 or §166.232,
8 F.S., for the purpose of ascertaining whether taxable services
9 have been provided or the correctness of any return that has been
10 filed or payment that has been made, if the City's power to
11 assess tax or grant a refund is not barred by the applicable
12 limitations period. Each such seller must provide to the City,
13 upon 60 days' written notice of intent to audit from the City,
14 access to applicable records for such service, except an
15 extension of this 60-day period must be granted if reasonably
16 requested by the seller. The seller may at its option waive the
17 60-day notice requirement. If either the City or the seller
18 requires an additional extension, it must give notice to the
19 other no less than 30 days before the existing extension expires,
20 except in cases of bona fide emergency or waiver of the notice
21 requirement by the other party. In an audit, the seller is
22 liable only for its taxable accounts collected which correspond
23 to the information provided to it by the City under §166.233(3),
24 F.S. As used in this section, "applicable records" means records
25 kept in the ordinary course of business which establish the
26 collection and remittance of taxes due. Such applicable records
27 may be provided to the City on an electronic medium if agreed to
28 by the seller and the City. However, any information received by
29 the City in connection with such audit is confidential and is not
30 subject to the provisions of §119.07(1), F.S., in accordance with
31 §166.231(9)(c), F.S.

32
33 Sec. 54A.07. Interest and penalties for late payments and
34 returns.

35
36 Any seller of electricity, metered or bottled gas (manufac-
37 tured or natural), fuel oil, water service and telecommunications
38 service failing to remit to the City on or before the twentieth
39 (20th) day of each calendar month or quarter if applicable, or if
40 the twentieth day is either a legal holiday or is not a City
41 business day, then on or before the first City business day, that
42 is not also a legal holiday, following the twentieth day of the
43 month or quarter, all such taxes levied and collected during the
44 preceding tax period shall be liable for interest on the unpaid
45 amount of tax at the rate of one percent (1%) per month, from the
46 date the tax was due until paid. In addition, penalties will be
47 assessed at a rate of 5 percent per month of the delinquent tax,
48 not to exceed a total penalty of 25 percent, except that in no

1 event will the penalty for failure to file a return be less than
2 \$15. In the case of a fraudulent return or a willful intent to
3 evade payment of the tax, the seller making such fraudulent
4 return or willfully attempting to evade payment of the tax, shall
5 be liable for a specific penalty of 100 percent of the tax.
6 Interest and penalties shall be computed on the net tax due after
7 application of any overpayments. The interest and penalties
8 shall accrue from the due date until the date such taxes are
9 paid, provided however, that the Treasurer may settle or
10 compromise any interest due pursuant to this section as is
11 reasonable under the circumstances.

12
13

14 Sec. 54A.08. Penalty for violation of Sections 54A.02 to
15 54A.07.
16

17 (a) Any purchaser willfully violating or refusing to pay
18 the tax imposed by Section 54A.02, where the seller has not
19 elected to assume and pay such tax, and any seller willfully
20 violating the provisions of Sections 54A.02 to 54A.07, or any
21 officer, agent or employee of any seller willfully violating the
22 provisions of Sections 54A.02 to 54A.07, shall, upon conviction,
23 be subject to a fine of not more than three hundred dollars
24 (\$300.00) or imprisonment for not more than thirty (30) days, or
25 to both fine and imprisonment for each and every violation.

26
27 (b) Additional fees may be assessed against sellers not
28 complying with any provision of this Chapter, said fee being
29 based upon the actual costs incurred by the City in collecting
30 the tax or information due.

31 - - -
32