

VIRGINIA ACTS OF ASSEMBLY -- 2001 RECONVENED SESSION

CHAPTER 861

An Act to amend and reenact §§ 58.1-2901 and 58.1-3731 of the Code of Virginia, relating to public utility local license tax.

[S 1421]

Approved April 5, 2001

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-2901 and 58.1-3731 of the Code of Virginia are amended and reenacted as follows:

§ 58.1-2901. Collection and remittance of tax.

A. The service provider shall collect the tax from the consumer by adding it as a separate charge to the consumer's monthly statement. Until the consumer pays the tax to such service provider, the tax shall constitute a debt of the consumer to the Commonwealth, localities, and the State Corporation Commission. If any consumer receives and pays for electricity but refuses to pay the tax on the bill that is imposed by § 58.1-2900, the service provider shall notify the State Corporation Commission of the name and address of such consumer. If any consumer fails to pay a bill issued by a service provider including the tax that is imposed by § 58.1-2900, the service provider shall follow its normal collection procedures with respect to the charge for electric service and the tax, and upon collection of the bill or any part thereof shall (i) apportion the net amount collected between the charge for electric service and the tax and (ii) remit the tax portion to the State Corporation Commission and the appropriate locality. After the consumer pays the tax to the service provider, the taxes collected shall be deemed to be held in trust by such provider until remitted to the State Corporation Commission and the appropriate locality.

When determining the amount of tax to collect from consumers of an electric utility that is a cooperative which purchases, for the purpose of resale within the Commonwealth, electricity from a federal entity that made payments during such taxable period to the Commonwealth in lieu of taxes in accordance with a federal law requiring such payments to be calculated on the basis of such federal entity's gross proceeds from the sale of electricity, the service provider shall deduct from each of the respective tax amounts calculated in accordance with § 58.1-2900 an amount equal to the calculated tax amounts multiplied by the ratio that the total cost of the power, including facilities rental, supplied by said federal entity to said cooperative for resale within the Commonwealth bears to said cooperative's total operating revenue within the Commonwealth for the taxable period. The State Corporation Commission may audit the records and books of said cooperative to verify that the tax imposed by this chapter has been correctly determined and properly remitted.

B. A service provider shall remit monthly to the Commission the amount of tax paid during the preceding month by the service provider's consumers, except for (i) amounts added on the bills to utilities owned and operated by municipalities which are collected by the entity providing transmission directly to such utilities (or an association or agency of which the municipality is a member), which they shall remit directly to the Commission and (ii) the portion which represents the local consumption tax, which portion shall be remitted to the locality in which the electricity was consumed and shall be based on such locality's license fee rate which it imposed. Amounts of the tax that are added on the bills to utilities owned and operated by municipalities, which are collected by the entity providing transmission directly to such utilities (or an association or agency of which the municipality is a member), shall be remitted monthly by such entity to the Commission, except that the portion which represents the local consumption tax shall be remitted to the locality in which the electricity was consumed and shall be based on such locality's license fee rate which it imposed.

C. The electric utility consumption tax shall be remitted monthly, on or before the last day of the succeeding month of collection. Those portions of the electric utility consumption tax that relate to the state consumption tax and the special regulatory tax shall be remitted to the Commission; the portion that relates to the local consumption tax shall be remitted to the localities. Failure to remit timely will result in a ten percent penalty.

D. Taxes on electricity sales in the year ending December 31, 2000, relating to the local ~~consumption~~ license tax, shall be paid in accordance with § 58.1-3731. Monthly payments in accordance with subsection C shall commence on February 28, 2001.

E. For purposes of this section, "service provider" means the person who delivers electricity to the consumer.

F. The portion of the electric utility consumption tax relating to the local consumption tax replaces and precludes localities from imposing a license tax in accordance with § 58.1-3731 and the business, professional, occupation and license tax in accordance with Chapter 37 (§ 58.1-3700 et seq.) on electric suppliers subsequent to December 31, 2000, except as provided in subsection D. If the license fee rate

imposed by a locality is less than the equivalent of the local consumption tax rate component of the consumption tax paid under subsection A of § 58.1-2900, the excess collected by the Commission shall constitute additional state consumption tax revenue and shall be remitted by the Commission to the state treasury.

G. The Department of Taxation may audit the books and records of any electric utility owned and operated by a municipality (or an association or agency of which the municipality is a member) to verify that the tax imposed by this chapter has been correctly determined and properly remitted to the Commission.

§ 58.1-3731. Certain public service corporations; rate limitation.

Every county, city or town is hereby authorized to impose a license tax, in addition to any tax levied under Chapter 26 (§ 58.1-2600 et seq.) of this title, on (i) telephone and telegraph companies; (ii) water companies; and (iii) heat, light and power companies (except electric suppliers, gas utilities and gas suppliers as defined in § 58.1-400.2 and pipeline distribution companies as defined in § 58.1-2600) at a rate not to exceed one-half of one percent of the gross receipts of such company accruing from sales to the ultimate consumer in such county, city or town. However, in the case of telephone companies, charges for long distance telephone calls shall not be included in gross receipts for purposes of license taxation. After December 31, 2000, the license tax authorized by this section shall not be imposed on pipeline distribution companies as defined in § 58.1-2600 or on gas suppliers, gas utilities or electric suppliers as defined in § 58.1-400.2, except *upon gross receipts for calendar year 2000* as provided in §§ 58.1-2901 D and 58.1-2905 D.