



CITY SCHOOL DISTRICT OF ALBANY UTILITY TAX

RESOLUTION of the Board of Education of the City School District of the City of Albany, New York, imposing a tax on sales of gas, electricity, refrigeration and steam and related services, and of telephone and telegraph service, pursuant to Article twenty-nine of the Tax Law of the State of New York.

Be it enacted by the Board of Education of the City School District of the City of Albany, New York as follows:

Section 1: Definitions. When used in this resolution the following terms shall mean:

- (a) **Person** -An individual, partnership, society, association, joint stock company, corporation, estate, receiver, trustee, assignee, referee, and any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and any combination of the foregoing.
- (b) **Purchaser** -A person who purchases property or to whom are rendered services, the receipts from which are taxable under this resolution.
- (c) **Receipt.** The amount of the sale price of any property and the charge for any service taxable under this resolution valued in money, whether received in money or otherwise, including any amount for which credit is allowed by the vendor to the purchaser, without any deduction for expenses or early payment discounts.
- (d) **Sale, selling or purchase** -Any transfer of title or possession or both, exchange or barter, rental, lease or license to use or consume, conditional or otherwise, in any manner or by any means whatsoever for a consideration, or any agreement therefore, including the rendering of any service, taxable under this resolution for a consideration or any agreement therefor.
- (e) **Vendor** - The term “vendor” includes:
 - 1. A person making sales of property or services, the receipts from which are taxed by this resolution; and
 - 2. The State of New York, any of its agencies, instrumentalities, public corporations (including a public corporation created pursuant to agreement or compact with another state or Canada) or political subdivisions when such entity calls services or property of a kind ordinarily sold by private persons.

Section 2: Imposition of tax

On and after the first day of September, nineteen hundred and ninety, there is hereby imposed and there shall be paid a tax of 3% upon the receipts from every sale, other than sales for resale, of gas, electricity, refrigeration and steam, and gas, electric, refrigeration and steam service of whatever nature, and from every sale, other than sales for resale of telephony and telegraphy and telephone and telegraph service of whatever nature except interstate and international telephone and telegraphy and telephone and telegraph service.

Section 3: Transitional provisions

The tax imposed by this resolution shall be paid with respect to receipts for property or services sold on or after the 1st day of September 1990, although made under a prior contract. Where property or service is sold on a monthly, quarterly or other term basis and the bills for such property or service are based on meter readings, the amount received on each bill for such property or service for a month or other term shall be a receipt subject to the tax, but such tax shall be applicable to all bills based on meters read on or after the 1st day of September 1990 only where more than one-half of the number of days included in the month or other period bill are days subsequent to the 31st day of August 1990; provided, however, that where such bills are for telephone or telegraph service tax shall apply to all receipts on such bills dated on or after the 1st day of September 1990, for which no previous bill was rendered excepting, however, charges for services furnished before the date of the first of such bills.

Section 4: Exemptions

Receipts from the following shall be exempt from the tax imposed by this resolution:

- (a) Gas, electricity, refrigeration and steam and gas, electric, refrigeration and steam service of whatever nature for use or consumption directly and exclusively in the production of tangible personal property, gas, electricity, refrigeration or steam, for sale, by manufacturing, processing, assembling, generating, refining, mining, extracting, farming, agriculture, horticulture or floriculture.
- (b) Gas, electricity, refrigeration and steam and gas, electric, refrigeration and steam service of whatever nature for use or consumption directly and exclusively in research and development in the experimental or laboratory sense. Such research and development shall not be deemed to include the ordinary testing or inspection of materials or products for quality control, efficiency surveys, management studies, consumer surveys, advertising, promotions or research in connection with literacy, historical or similar projects.
- (c) Telephony and telegraphy and telephone and telegraph service used by newspapers, radio broadcasters and television broadcasters in the collection or dissemination of news, if the charge for such services is a toll charge or a charge for mileage services, including the associated station terminal equipment.
- (d) Telephone and telegraph service paid for by inserting coins in coin operated telephones where the charge is ten cents or less.

Section 5: Exempt organizations

- (a) Except as otherwise provided in this section, any sale by or to any of the following shall not be subject to the tax imposed under this resolution:
 - (1) The State of New York, or any of its agencies, instrumentalities, public corporations (including a public corporation created pursuant to agreement or compact with another state or Canada) or political subdivisions where it is the purchaser, user or consumer, or where it is a vendor of services or property of a kind not ordinarily sold by private persons;
 - (2) The United States of America, and any of its agencies instrumentalities, insofar as it is immune from taxation where it is the purchaser, user or consumer, or where it sells services or property of a kind not ordinarily sold by private persons; and

- (3) The United Nations or any international organization of which the United States of America is a member where it is the purchaser, user or consumer, or where it sells services or property of a kind not ordinarily sold by private persons; and
- (4) Any corporation, association, trust or community chest, fund or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literacy or educational purposes, or for the prevention of cruelty to children or animals, not part of the net earnings of which inures the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation, and which does not participate in, or intervene in (including the publishing or distributing of statements), and political campaign on behalf of any candidate for public office.
- (5) A post or organization of war veterans, or an auxiliary unit or society of, or a trust or foundation for, any such post or organization:
 - (a) organized in this State;
 - (b) at least seventy-five percent of the members of which are war veterans and substantially all of the other members of which are individuals who are veterans (but not war veterans), or are cadets, or are spouses, widows or widowers of war veterans or such individuals, and
 - (c) no part of the net earnings of which inures to the benefit of any private shareholder or individual.
- (6) Nothing in this section shall exempt retail sales of gas, electricity, refrigeration or steam by any shop or store operated by an organization described in paragraph (4) of subdivision (a) of this section from the tax imposed hereunder, unless the purchaser is an organization exempt under this section.

Section 6: Territorial limitations

The tax imposed under the authority of this resolution shall apply only within the territorial limits of this school district, which are coterminous with the territorial limits of the City of Albany, New York, a city having a population of less than 125,000.

Section 7: Administration and collection

The tax imposed by this resolution shall be administered and collected by the State Tax Commission in the same manner as the taxes imposed under Article twenty-eight of the Tax Law of the State of New York are administered and collected by such Commission, all of the provisions of said Article twenty-eight relating to or applicable to the administration and collection of the taxes imposed by that Article shall apply to the taxes imposed by this resolution, including but not limited to sections eleven hundred one, eleven hundred eleven and eleven hundred thirty-one through eleven hundred forty-seven, with the same force and effect as if those provisions had been incorporated in full into this resolution except as otherwise provided in section twelve hundred fifty of the Tax Law.

Section 8: Disposition of revenues

Net collections distributed to this school district by the State Tax Commission pursuant to section twelve hundred sixty-one of the Tax Law of the State of New York shall be paid into the treasury of the School District and shall be available for any lawful purpose of this school district, under the provisions of the Education Law.

Section 9: Construction and enforcement

This resolution shall be construed and enforced in conformity with Articles twenty-eight and twenty-nine of the Tax Law of the State of New York. Pursuant to which the same is enacted.

Section 10: Separability

If any provision of this resolution or the application thereof shall for any reason be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this resolution but shall be confined in its operation to the provision thereof directly involved in the controversy in which such judgment shall have been rendered and the application of such provision to other persons or circumstances shall not be affected thereof.

Section 11: Effective date

This resolution shall take effect on the first day of September, nineteen hundred and ninety, except that certificates of registration may be filed with the State Tax Commission and certificates of registration may be filed with the State Tax may be issued by the State Tax Commission prior to said date.

Section12: Termination date

No termination date.