

TAX CODE CHAPTER 182. MISCELLANEOUS GROSS RECEIPTS TAXES

TAX CODE

TITLE 2. STATE TAXATION

SUBTITLE G. GROSS RECEIPTS TAXES

CHAPTER 182. MISCELLANEOUS GROSS RECEIPTS TAXES

SUBCHAPTER B. UTILITY COMPANIES

Sec. 182.021. DEFINITIONS. In this subchapter:

(1) "Utility company" means a person:

(A) who owns or operates a gas or water works, or water plant used for local sale and distribution located within an incorporated city or town in this state; or

(B) who owns or operates an electric light or electric power works, or light plant used for local sale and distribution located within an incorporated city or town in this state, or who is a retail electric provider, as that term is defined in Section 31.002, Utilities Code, that makes local sales within an incorporated city or town in this state; provided, however, that a person who owns an electric light or electric power or gas plant used for distribution but who does not make retail sales to the ultimate consumer within an incorporated city or town in this state is not included in this definition.

(2) "Business" means the providing of gas, electric light, electric power, or water.

(3), (4) Repealed by Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 17.06, eff. Sept. 1, 1991.

Acts 1981, 67th Leg., p. 1715, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1991, 72nd Leg., 1st C.S., ch. 3, Sec. 5.02, eff. Sept. 1, 1991; Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 17.06, eff. Sept. 1, 1991; Acts 1999, 76th Leg., ch. 405, Sec. 55, eff. Sept. 1, 1999.

Sec. 182.022. IMPOSITION AND RATE OF TAX. (a) A tax is imposed on each utility company located in an incorporated city or town having a population of more than 1,000, according to the last federal census next preceding the filing of the report.

(b) The tax rates are:

(1) .581 percent of the gross receipts from business done in an incorporated city or town having a population of more than 1,000 but less than 2,500, according to the last federal census next preceding the filing of the report;

(2) 1.07 percent of the gross receipts from business done in an incorporated city or town having a population of 2,500 or more but less than 10,000, according to the last federal census next preceding the filing of the report; and

(3) 1.997 percent of the gross receipts from business done in an incorporated city or town having a population of 10,000 or more, according to the last federal census next preceding the filing of the report.

(c) Notwithstanding any other provision of this chapter, a tax under this chapter may not be imposed on gross receipts from the sale of electricity generated by an advanced clean energy project, as defined by Section 382.003, Health and Safety Code.

Acts 1981, 67th Leg., p. 1715, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1991, 72nd Leg., 1st C.S., ch. 3, Sec. 5.03, eff. Sept. 1, 1991; Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 17.07, eff. Sept. 1, 1991.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1277, Sec. 6, eff. September 1, 2007.

Sec. 182.023. PAYMENT OF TAX. Only one utility company pays the tax on a commodity. If the commodity is produced by one utility company and distributed by another, the distributor pays the tax.

Acts 1981, 67th Leg., p. 1715, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 182.024. POLITICAL SUBDIVISIONS. No city or other political subdivision of this state may impose an occupation tax or charge of any sort on a utility company taxed under this subchapter. Acts 1981, 67th Leg., p. 1715, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 182.025. CHARGES BY A CITY. (a) An incorporated city or town may make a reasonable lawful charge for the use of a city

street, alley, or public way by a public utility in the course of its business.

(b) The total charges, however designated or measured, may not exceed two percent of the gross receipts of the public utility for the sale of gas or water within the city.

(c) The total charges, however designated or measured, relating to distribution service of an electric utility or transmission and distribution utility within the city may not exceed the amount or amounts prescribed by Section 33.008, Utilities Code. The charges paid by an electric utility or transmission and distribution utility under this subsection may be only for distribution service.

(d) If a public utility taxed under this subchapter pays a special tax, rental, contribution, or charge under a contract or franchise executed before May 1, 1941, the city shall credit the payment against the amount owed by the public utility on any charge allowable under Subsection (a) of this section.

(e) In this section:

(1) "Distribution service" has the meaning assigned by Section 33.008, Utilities Code.

(2) "Electric utility" has the meaning assigned by Section 31.002, Utilities Code.

(3) "Public utility" means:

(A) a person who owns or operates a gas or water works or water plant used for local sale and distribution located within an incorporated city or town in this state; or

(B) an electric utility or transmission and distribution utility providing distribution service within an incorporated city or town in this state.

(4) "Transmission and distribution utility" has the meaning assigned by Section 31.002, Utilities Code.

Acts 1981, 67th Leg., p. 1716, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1999, 76th Leg., ch. 405, Sec. 56, eff. Jan. 1, 2002.

Sec. 182.026. SUBCHAPTER NOT APPLICABLE. (a) This subchapter does not apply to a utility company owned and operated by

a city, town, county, water improvement district, or conservation district.

(b) This subchapter does not:

(1) affect collection of ad valorem taxes; or

(2) impair or alter a provision of a contract, agreement, or franchise made between a city and a public utility company relating to a payment made to the city.

Acts 1981, 67th Leg., p. 1716, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1991, 72nd Leg., 1st C.S., ch. 3, Sec. 5.04, eff. Sept. 1, 1991; Acts 1991, 72nd Leg., 1st C.S., ch. 5, Sec. 17.08, eff. Sept. 1, 1991.

Sec. 182.027. NO EXEMPTION. Notwithstanding anything to the contrary in Chapter 161, Utilities Code, this subchapter applies to a retail electric provider as defined in Section 31.002(17), Utilities Code, that is owned, operated, or controlled by an electric cooperative.

Added by Acts 1999, 76th Leg., ch. 405, Sec. 57, eff. Sept. 1, 1999.

SUBCHAPTER E. TAX COLLECTIONS AND BUSINESS PERMITS

Sec. 182.081. REPORTS. (a) A person required to pay a tax under this chapter shall report to the comptroller on the last day of January, April, July, and October of each year.

(b) A report must include a statement of the gross receipts from business done, as defined in this chapter for each taxpayer, during the preceding quarterly period.

Acts 1981, 67th Leg., p. 1717, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1983, 68th Leg., p. 1379, ch. 284, Sec. 10, eff. Sept. 1, 1983.

Sec. 182.082. TAX PAYMENTS: DUE DATE. Except as provided in Section 182.083 of this code, the taxes imposed by this chapter are due and payable to the comptroller on the last day of January, April, July, and October of each year.

Acts 1981, 67th Leg., p. 1717, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1983, 68th Leg., p. 1379, ch. 284, Sec. 10, eff. Sept. 1, 1983; Acts 1997, 75th Leg., ch. 1423, Sec. 19.117, eff.

Sept. 1, 1997.

Sec. 182.083. PAYMENT OF TAX IF BUSINESS BEGUN AFTER BEGINNING OF QUARTER. (a) Except as provided in Subsection (b) of this section, if a person taxed under this chapter begins business on or after the first day of the quarter, then in lieu of the gross receipts tax provided for in this chapter, the tax for that quarter is \$50, payable to the comptroller in advance.

(b) If a person that begins business on or after the first day of the quarter is an incorporation, reincorporation, or survivor of a merger of a person or persons that were previously subject to a tax under this chapter, its report required under Section 182.081 of this code must show the combined gross receipts during the preceding quarterly period of the person or persons that were incorporated, reincorporated, or merged to form the new entity. The gross receipts tax provided for in this chapter must be paid on the reported combined gross receipts required under this subsection.

Acts 1981, 67th Leg., p. 1717, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1985, 69th Leg., ch. 31, Sec. 2, eff. Aug. 26, 1985; Acts 1997, 75th Leg., ch. 1423, Sec. 19.118, eff. Sept. 1, 1997.

Sec. 182.084. ADDITIONAL REPORTS. The comptroller may require a person required to report under this chapter to supply additional or supplemental reports containing information necessary to compute the tax due.

Acts 1981, 67th Leg., p. 1717, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 182.085. FORMS. The comptroller shall prepare forms for use in making the reports required by this chapter.

Acts 1981, 67th Leg., p. 1718, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 182.086. PERMIT REQUIRED; FORM OF PERMIT. (a) Each person taxed under this chapter must have a permit to transact business.

(b) The comptroller shall issue the permit in a form prescribed by the attorney general.

(c) A permit shows:

- (1) the name of the person to whom it is issued;
- (2) the business to be transacted; and
- (3) that the holder has complied with this chapter.

(d) The permit must be publicly displayed at the principal office of the person to whom it is issued.

Acts 1981, 67th Leg., p. 1718, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 182.087. APPLICATION AND ISSUANCE OF PERMIT. (a) The comptroller shall prescribe the form of the application for the permit to transact business.

(b) The application must show:

(1) to the satisfaction of the comptroller the facts required under Section 182.086 of this code; and

(2) that the applicant has paid the taxes required by this chapter or, if the applicant is the buyer of a going business, that the seller has paid all taxes due or to become due under this chapter.

(c) After determining that all taxes due under this chapter have been paid, the comptroller shall issue the permit to transact business.

(d) Repealed by Acts 1993, 73rd Leg., ch. 587, Sec. 35, eff. Oct. 1, 1993.

(e) Repealed by Acts 1983, 68th Leg., p. 4769, ch. 840, Sec. 1, eff. Aug. 29, 1983.

Acts 1981, 67th Leg., p. 1718, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1983, 68th Leg., p. 4769, ch. 840, Sec. 1, eff. Aug. 29, 1983; Acts 1993, 73rd Leg., ch. 587, Sec. 35, eff. Oct. 1, 1993.

Sec. 182.088. SUSPENSION OF PERMIT. (a) If taxes due under this chapter are not paid before the expiration of 30 days after the due date, the comptroller shall mail a written notice to the delinquent taxpayer at the last known address stating that:

(1) the tax is unpaid; and

(2) the comptroller will suspend the permit to transact business if the tax is not paid within 10 days of the date of the notice.

(b) The mailing of the notice is sufficient compliance with this law.

(c) If the tax and accrued penalties are not paid before the expiration of 15 days after the mailing of the notice, the comptroller shall:

(1) Note on the records that the permit to transact business of the delinquent taxpayer has been suspended, giving the date of suspension;

(2) immediately certify the suspension to the attorney general; and

(3) have published a notice of suspension of the permit in a daily or weekly newspaper published in the county of the delinquent taxpayer's business or, if there is no newspaper published in that county, in a daily newspaper with statewide circulation.

Acts 1981, 67th Leg., p. 1718, ch. 389, Sec. 1, eff. Jan. 1, 1982.

SUBCHAPTER F. PENALTIES

Sec. 182.102. PENALTY FOR FAILURE TO FILE REPORT OR TO PAY TAX. (a) A person who fails to file a report as required by this chapter or who fails to pay a tax imposed by this chapter when due forfeits five percent of the amount due as a penalty, and if the person fails to file the report or pay the tax within 30 days after the day on which the tax or report is due, the person forfeits an additional five percent.

(b) The minimum penalty imposed by this section is \$1.
Acts 1981, 67th Leg., p. 1719, ch. 389, Sec. 1, eff. Jan. 1, 1982.
Amended by Acts 1983, 68th Leg., p. 452, ch. 93, Sec. 5, eff. Sept. 1, 1983.

Sec. 182.103. SUITS. (a) The attorney general shall bring suits to collect penalties under this chapter.

(b) The courts of Travis County have concurrent jurisdiction of a violation under this chapter.

Acts 1981, 67th Leg., p. 1719, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 182.104. TRANSACTING BUSINESS WITHOUT A PERMIT:

PENALTY. (a) A person commits an offense if the person is required by Section 182.086 of this code to have a permit and the person transacts business without a valid permit.

(b) An offense under Subsection (a) of this section is punishable by a fine of not less than \$50 nor more than \$500. Each day on which a violation occurs is a separate offense.

Acts 1981, 67th Leg., p. 1719, ch. 389, Sec. 1, eff. Jan. 1, 1982.

SUBCHAPTER G. NATURE AND ALLOCATION OF TAX

Sec. 182.121. NATURE OF TAX. A tax imposed by this chapter is an occupation tax.

Acts 1981, 67th Leg., p. 1719, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Text of section effective until September 01, 2020

Sec. 182.122. ALLOCATION OF TAX. (a) Revenues collected under this chapter are allocated:

- (1) one-fourth to the foundation school fund; and
- (2) three-fourths to the general revenue fund.

(b) The comptroller shall transfer to the advanced clean energy project account the first \$30 million of the revenues collected under this chapter that are allocated to the general revenue fund under Subsection (a)(2) in any state fiscal biennium.

Acts 1981, 67th Leg., p. 1719, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Amended by Acts 1981, 67th Leg., p. 2778, ch. 752, Sec. 9(h), eff. Jan. 1, 1982; Acts 1984, 68th Leg., 2nd C.S., ch. 28, art. II, part B, Sec. 5, eff. Sept. 1, 1984.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1277, Sec. 7, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1277, Sec. 8, eff. September 1, 2020.

Text of section effective on September 01, 2020

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Acts 1981, 67th Leg., p. 1719, ch. 389, Sec. 1, eff. Jan. 1, 1982.
Amended by Acts 1981, 67th Leg., p. 2778, ch. 752, Sec. 9(h), eff.
Jan. 1, 1982; Acts 1984, 68th Leg., 2nd C.S., ch. 28, art. II, part
B, Sec. 5, eff. Sept. 1, 1984.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1277, Sec. 7, eff. September
1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1277, Sec. 8, eff. September
1, 2020.