

ARLINGTON COUNTY CODE

Chapter 63

UTILITY TAX*

* **Editor's Note:** Ord. No. 07-08, adopted May 5, 2007, amended Ch. 63, in its entirety, to read as herein set out.

§ 63-1. Definitions.

§ 63-2. Levy; Tax Rate; Rate Payment.

§ 63-3. Collection.

§ 63-4. Records to be Kept by the Seller.

§ 63-5. Exemptions from Tax.

§ 63-6. Penalty for Violation of Chapter.

§ 63-7. Effective Date.

§ 63-8. Severability Clause.

§ 63-1. Definitions.

“CCF” means the volume of gas at standard pressure and temperature in units of one hundred (100) cubic feet.

“Consumer” means every person who, individually or through agents, employees, officers, representatives or permittees, makes a taxable purchase of electricity or natural gas services in this jurisdiction.

“Gas utility” means a public utility authorized to furnish natural gas service in Virginia.

“Interruptible gas users” means users who receive gas service, pursuant to executed contracts, which may be interrupted by the provider of gas service under tariffs approved by the State Corporation Commission of Virginia.

“Kilowatt hours (kWh) delivered” means one thousand (1,000) watts of electricity delivered in a one (1) hour period by an electric provider to an actual consumer, except that in the case of eligible customer-generators (sometimes called cogenerators) as defined in Virginia Code § 56-594, it means kWh supplied from the electric grid to such customer-generators, minus the kWh generated and fed back to the electric grid by such customer-generators.

“Person” includes individuals, firms, partnerships, associations, corporations and combinations of individuals of whatever form and character.

“Pipeline distribution company” means a person, other than a pipeline transmission company which transmits, by means of a pipeline, natural gas, manufactured gas or crude petroleum and the products or byproducts thereof to a purchaser for purposes of furnishing heat or light.

“Residential consumer” means the owner, occupant or tenant of property used primarily for residential purposes who pays for utility service in or for such property and shall include, whether or not master metered, apartment houses and other multiple-family dwellings.

“Service provider” means a person who delivers electricity to a consumer or a gas utility or pipeline distribution company which delivers natural gas to a consumer.

“Treasurer” means the Treasurer of Arlington County.

“Used primarily” relates to the larger portion of the use for which the utility service is furnished, and for the purposes of this chapter in the determination of the primary use for which a utility service is furnished, the primary or larger portion of that use shall be determined by the relative load for each use or the relative time of operation of each.

“Utility service” means electric and gas service, excluding bottled gas, furnished within the boundaries of Arlington County.
(Ord. No. 89-5, 7-1-89; Ord. No. 89-9, 7-1-89; Ord. No. 00-26, 10-21-00; Ord. No. 07-08, 5-5-07, effective 7-1-07)

§ 63-2. Levy; Tax Rate; Rate Payment.

There is hereby imposed and levied by Arlington County upon each and every consumer of a utility service a tax in the following amounts with respect to each utility service, which tax in every case shall be collected by the service provider from the consumer and shall be paid to the service provider for the use of Arlington County at the time the purchase price or such charge shall become due and payable under the agreement between the consumer and the service provider. There shall be no tax computed on bills submitted on sales of electric utility service for resale.

A. *Electric utility consumer tax.* In accordance with Virginia Code § 58.1-3814, there is hereby levied a monthly tax on each purchase of electricity delivered to consumers by a service provider, classified as determined by such provider, as follows:

1. *Commercial consumers* --Such tax shall be one dollar and fifteen cents (\$1.15) plus the rate of \$0.00681 on each kWh delivered monthly to commercial consumers.
2. *Industrial consumers* --Such tax shall be one dollar and fifteen cents (\$1.15) plus the rate of \$0.01043 on each kWh delivered monthly to industrial consumers.
3. *Residential consumers* --For electricity consumption such tax shall be \$0.01110 on each kWh delivered monthly to residential consumers not to exceed three dollars (\$3.00) per month; provided, however, in the case of any multi-family dwelling served by a master meter or meters, such tax shall be \$0.01110 on each kWh delivered monthly with the tax not to exceed three dollars (\$3.00) multiplied by the number of individual dwelling units served by the master meter or meters.

B. *Local natural gas utility consumer tax.* In accordance with Virginia Code § 58.1-3814, there is hereby levied a monthly tax on each purchase of natural gas delivered to consumers by pipeline distribution companies and gas utilities classified by "class of consumers" as such term is defined in Virginia Code § 58.1-3814 J., as follows:

1. *Commercial and industrial consumers* --Such tax shall be \$0.845 plus the rate of \$0.06848 on each CCF delivered monthly to commercial and industrial consumers.
2. *Interruptible nonresidential consumers* --Such tax shall be four dollars and fifty cents (\$4.50) plus the rate of \$0.01187 on each CCF delivered monthly to nonresidential consumers of interruptible gas service.
3. *Residential consumers* --For natural gas consumption such tax shall be \$1.038 on each CCF delivered monthly to residential consumers not to exceed \$3.00 per month; provided, however, in the case of any multi-family dwelling served by a master meter or meters, such tax shall be \$1.38 on each CCF delivered monthly with the tax not to exceed three dollars (\$3.00) multiplied by the number of individual dwelling units served by the master meter or meters.

(Ord. No. 89-5, 7-1-89; Ord. No. 89-9, 7-1-89; Ord. No. 00-26, 10-21-00; Ord. No. 05-01, 4-16-05, effective 7-1-05; Ord. No. 07-08, 5-5-07, effective 7-1-07; Ord. No. 17-07, 5-23-17, effective 7-1-17; Ord. No. 18-01, 4-21-18,

effective 7-1-18)

§ 63-3. Collection.

A. It shall be the duty of every service provider in acting as the tax collecting medium or agency for Arlington County to collect from the purchaser for the use of Arlington County the tax hereby imposed and levied at the time of collecting the purchase price charged therefore and the taxes collected during each calendar month shall be reported and paid by each service provider to the Treasurer and the seller shall remit the amount of tax shown by said report to the Treasurer on or before the last working day of the first calendar month thereafter, together with the name and address of any purchaser who has refused to pay his tax.

Such taxes shall be paid by the service provider to the Treasurer, and the service provider shall act in accordance with Virginia Code § 58.1-3814, paragraphs F, G, H, and I, and Virginia Code § 58.1-2901. Any tax paid by the consumer to the service provider shall be deemed to be held in trust by such provider until remitted to the Treasurer.

If any consumer fails to pay a bill issued by a service provider, including the taxes imposed by this chapter, the service provider shall follow its normal collection procedures and upon collection of the bill or any part thereof shall apportion the net amount collected between the charge for utility service and the tax and remit the tax portion to this jurisdiction.

B. Bills shall be considered as monthly bills for the purposes of this chapter if submitted twelve (12) times per year of approximately one (1) month each. Accordingly, the tax for a bi-monthly bill (approximately sixty (60) days) shall be determined as follows: (i) the CCF will be divided by two (2); (ii) a monthly tax will be calculated using the rates set forth above; (iii) the tax determined by (ii) shall be multiplied by two (2); (iv) the tax in (iii) may not exceed twice the monthly "maximum tax."
(Ord. No. 89-5, 7-1-89; Ord. No. 00-26, 10-21-00; Ord. No. 07-08, 5-5-07, effective 7-1-07)

§ 63-4. Records to be Kept by the Seller.

Each and every seller shall keep complete records showing all purchases in Arlington County, which records shall show the price charged against each purchaser with respect to each purchase, the date of purchase, the date of payment, and the amount of tax imposed, and such records shall be kept open for inspection by the duly authorized agents of Arlington County who shall have the right, power and authority to make such copies thereof during such times as they may desire.
(Ord. No. 89-5, 7-1-89; Ord. No. 07-08, 5-5-07, effective 7-1-07)

§ 63-5. Exemptions from Tax.

The United States of America, the Commonwealth of Virginia, and the political subdivisions, boards, commissions and authorities thereof, and persons exempted from payment of real property taxes within Arlington County under state or federal law, are hereby exempted from the payment of tax imposed and levied by this chapter with respect to the purchase of utility services.
(Ord. No. 89-5, 7-1-89; Ord. No. 07-08, 5-5-07, effective 7-1-07; Ord. No. 09-08, 4-28-09)

§ 63-6. Penalty for Violation of Chapter.

Any consumer of electricity or natural gas failing, refusing or neglecting to pay the tax hereby levied, and any officer, agent or employee of any seller service provider violating the provisions hereof shall, upon conviction, be subject to penalty not to exceed those prescribed by general law for a Class 3 misdemeanor if the amount of tax due is one thousand dollars (\$1,000.00) or less, or a Class 1 misdemeanor if the amount of the tax due is more than one thousand dollars (\$1,000.00). Each failure, refusal, neglect or violation and each day's continuance shall constitute a separate offense. Such conviction shall not relieve any person from the payment, collection and remittance of the tax as provided in this chapter.
(Ord. No. 89-5, 7-1-89; Ord. No. 00-26, 10-21-00; Ord. No. 07-08, 5-5-07, effective 7-1-07)

§ 63-7. Effective Date.

The tax levied or imposed under this chapter shall become effective on the later of July 1, 1989, or on the day immediately after sixty (60) days' written notice by certified mail to the registered agent of the service provider required to collect the tax.

(Ord. No. 89-5, 7-1-89; Ord. No. 00-26, 10-21-00; Ord. No. 05-01, 4-16-05, effective 7-1-05; Ord. No. 07-08, 5-5-07, effective 7-1-07)

Editors Note: Ord. No. 05-01, adopted April 16, 2005, repealed former Ch. 63, § 63-7(b).

§ 63-8. Severability Clause.

It is hereby declared to be the intention of the County Board that the sections, paragraphs, sentences, clauses and phrases of this chapter are severable, and if any phrase, clause, sentence, paragraph or section of this chapter shall be declared unconstitutional or invalid by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this chapter.

(Ord. No. 89-5, 7-1-89; Ord. No. 07-08, 5-5-07, effective 7-1-07)