

# Code of Ordinances of Volusia County

## CHAPTER 114, ARTICLE V. PUBLIC SERVICE TAX\*

**\*Editor's note:** Ord. No. 01-14, § 2, adopted June 21, 2001, amended Art. V, in its entirety, to read as herein set out. Prior to inclusion of said ordinance, Art. V pertained to similar subject matter. See the Code Comparative Table. It should be noted that the provisions enacted by Ord. No. 01-14, § 2 become effective October 1, 2001.

**Cross references:** Utilities, ch. 122.

Sec. 114-191. Penalty.

Violations of this article are punishable as provided in section 1-7. The county may further bring suit to restrain, enjoin or otherwise prevent the violation of this article, and shall be entitled to reasonable attorney's fees if it prevails in such suit.

(Ord. No. 01-14, § 2, 6-21-01)

Sec. 114-192. Levy; applicability.

There is hereby levied by the county, within the unincorporated area of Volusia County, a public service tax upon each and every purchase of electricity, and metered or bottled gas (natural liquefied petroleum gas or manufactured). The tax on electricity and metered or bottled gas shall be in an amount equal to ten percent of the payments received by the seller of the taxable item or service from the purchaser for the purchase of such item or service. The tax shall not be applied against any fuel adjustment charge, which shall be stated separately on each bill. For purposes of this section, the term "fuel adjustment charge" means all increases in the cost of utility services to the ultimate consumer resulting from the increase in cost of fuel to the utility subsequent to October 1, 1973.

(Ord. No. 01-14, § 2, 6-21-01)

Sec. 114-193. Reserved.

**Editor's note:** Ord. No. 01-14, § 2, adopted June 21, 2001, repealed § 114-103, which pertained to effective date. See the Code Comparative Table.

Sec. 114-194. Collection and remittance.

It shall be the duty of every seller of a taxable item or service to collect from the purchaser, for the use of the county, the public service tax levied by this article, at the time of collecting and selling price charged for each transaction, and to report and pay over, on or before the twentieth day of each calendar month, to the county, all such taxes levied and collected during the preceding calendar month. Except as provided by F.S. §§ 166.233--166.234, it shall be unlawful for any seller to collect a price of any sale for any commodity or service referred to in section 114-192 without, at the same time, collecting the tax levied by this article in respect of such sale, unless such seller shall elect to assume and pay such tax without collecting the same from the purchaser. Except as provided by F.S. §§ 166.233--166.234, any seller failing to collect such tax at the time of collecting the price of any sale, where the seller has not elected to assume and pay such tax, shall be liable to the county for the amount of such tax in like manner as if the same had actually been paid to the seller. The seller shall not be liable for the

payment of tax on uncollected bills until such bills have been duly paid by the purchaser.

(Ord. No. 01-14, § 2, 6-21-01)

Sec. 114-195. Administrative provisions; rights and remedies; interest and penalties. The provisions of F.S. § 166.234 shall be applicable. Interest and penalties for failure to pay any tax when due or to file any required return shall be at the maximum rate authorized therein, provided that the penalty for failure to file a return shall be a minimum \$15.00, and that no penalty shall be due absent willful neglect, willful negligence, or fraud.

(Ord. No. 01-14, § 2, 6-21-01)

Sec. 114-196. Compensation to seller for collection and record keeping.

For the purpose of compensating the seller, the seller shall be allowed one percent of the amount of tax collected and due to the county under this article in the form of a deduction from the amount collected for remittance. The deduction shall be allowed as compensation for keeping records and collection of tax and remitting the same.

(Ord. No. 01-14, § 2, 6-21-01)

Sec. 114-197. Exemptions.

The following purchases are declared to be exempt from the tax imposed by this article:

(1) The purchase of any taxable item by the United States government, the state, any county, school district, municipality or any other public body as defined in F.S. § 1.01 or otherwise exempted by law;

(2) The purchase of any taxable item by any religious institution that possesses a consumer certificate of exemption under F.S. ch. 212;

(3) The purchase of natural gas or fuel oil by a public or private utility, either for resale or for use as fuel in the generation of electricity, or the purchase of fuel oil or kerosene for uses in aircraft engine fuel or propellant or for use in internal combustion engines.

(Ord. No. 01-14, § 2, 6-21-01)

Sec. 114-198. Computation of tax on aggregate amount of sales.

In all cases where the seller of a taxable commodity or service collects the price thereof in monthly periods, the tax levied by this article may be computed on the aggregate amount of sales during such period; providing that the amount of tax to be collected shall be the nearest whole cent to the amount computed.

(Ord. No. 01-14, § 2, 6-21-01)

Sec. 114-199. Conformance to state law.

The provisions of this article shall be deemed to be in conformance with controlling provisions of F.S. §§ 166.231, 166.233, 166.234, and other applicable provisions of state law.

(Ord. No. 01-14, § 2, 6-21-01)

Secs. 114-200--114-210. Reserved.