

CHAPTER 21 - TAXATION

ARTICLE I - PUBLIC SERVICE TAX

Sec. 21-1: Definitions

Terms used herein and not otherwise defined herein have the meanings ascribed thereto in F.S. §§ 166.231, 166.232, 166.233 and 166.234.

Sec. 21-2: Communications Services Tax

There is hereby levied, on each and every purchase within the incorporated area of Wellington of communication services, as defined by F.S. § 202.11, which originates and terminates in this state, a local communications services tax in the amount set forth in F.S. 202.20, as amended from time to time. The rate of levy and collection of said tax shall be governed by Chapters 202 and 203, Florida Statutes.

Sec. 21-3: Other Public Service Taxes

- A. There is hereby levied by Wellington on each and every purchase within the incorporated area of Wellington of electricity, a tax at a rate of ten percent of the first \$4,000.00 purchased by a purchaser during a monthly period, a rate of two percent of the next \$2,000.00 purchased by a purchaser during a monthly period, and a rate of one percent of any amount in excess of \$6,000.00 purchased by a purchaser during a monthly period.
- B. There is hereby levied by Wellington on each and every purchase within the incorporated area of Wellington of metered or bottled gas (natural liquefied petroleum gas or manufactured), a tax at a rate of ten percent of the first \$4,000.00 purchased by a purchaser during a monthly period, a rate of two percent of the next \$2,000.00 purchased by a purchaser during a monthly period, and a rate of one percent of any amount in excess of \$6,000.00 purchased by a purchaser during a monthly period.
- C. The monthly period referenced above is the monthly billing cycle of a seller. If a seller bills in any manner other than on a monthly basis, the tax rate for all sales shall be ten percent unless changed by amendment to this article. The tax shall not be applied against any fuel adjustment charge, and such charge shall be separately stated on each bill. The term "fuel adjustment charge" means all increases in the cost of utility services to the ultimate consumer resulting from an increase in the cost of fuel to the utility.

Sec. 21-4: Collection

- A. The tax levied hereby shall be collected by the seller of the taxable item from the purchaser at the time of payment for such service.
- B. The seller shall remit the taxes collected to Wellington monthly on or before the 20th day of each month.
- C. It shall be unlawful for any seller to collect the price of any purchase of electricity, or metered or bottled gas (natural, liquefied petroleum gas or manufactured), sold within the incorporated area of Wellington, without at the same time collecting such tax hereby levied in respect to such purchase or purchases, unless such seller shall elect to assume and pay such tax without

collecting the same from the purchaser or consumer, provided, however, that the seller shall not be liable for the payment of such tax upon uncollected bills.

- D. Any seller failing to collect such tax at the time of collecting the price of any purchase and sale, as aforesaid, where the seller has not elected to assume and pay such tax shall be liable to Wellington for the amount of such tax in like manner as if the same had actually been paid to the seller, and Wellington shall bring and cause to be brought all such suits and actions and take such proceedings as may be necessary for the recovery of such tax.

Sec. 21-5: Recordkeeping; Inspection of Records

- A. Each and every seller of electricity or metered or bottled gas (natural, liquefied petroleum gas or manufactured) within the incorporated area of Wellington, with respect to sales and purchases, on which the tax is hereby levied, shall keep full and complete records showing all purchases and sales of such electricity or metered or bottled gas (natural, liquefied petroleum gas or manufactured) within the incorporated area of Wellington, which records shall show the price charged upon each sale and purchase, the date and period of time covered thereby, and the date of payment thereof.
- B. The records referred above shall, upon 60 days written notice, be open for inspection by duly authorized agents of Wellington during regular business hours of the seller at a place designated by the seller at the sole expense of Wellington. The agents of Wellington shall have the right, power, and authority to make such transcripts or copies thereof as they may desire. Records not prepared by the seller in the ordinary course of business may be provided at Wellington's expense and as Wellington and the seller may agree in writing. Such audit shall be impartial and all audit findings, whether they decrease or increase payment to Wellington, shall be reported to the seller. Wellington's right to examine the records of the seller in accordance with this section shall not be conducted by any third party employed by Wellington whose fee for conducting such audit is contingent upon findings of the audit.

Sec. 21-6: Sellers of Services to be Collection Medium and Agency; Certification of Accuracy Required

- A. The sellers of electricity or metered or bottled gas (natural, liquefied petroleum gas or manufactured) within the incorporated area of Wellington, shall act as the collection medium and collecting agency for the collection from the purchaser of the herein levied tax for the use of Wellington. Wellington may bring such legal action as in its discretion may appear advisable under the terms of this article.
- B. The sellers of electricity or metered or bottled gas (natural, liquefied petroleum gas or manufactured) within the incorporated area of Wellington, shall furnish to Wellington a certification duly executed by one of the officials of the company certifying as to the accuracy and correctness of billings and collections required under the terms of this article, which certification shall accompany the remittance of such tax collected or paid for the preceding month.

Sec. 21-7: Failure to Pay Tax; Interest and Penalties

There are hereby assessed interest and penalties as provided below for failure to pay any tax when due or to file any required return, except that no penalty shall be assessed absent willful neglect, willful negligence, or fraud. Interest shall be assessed at the rate of one percent per month of the delinquent tax from the date the tax was due until paid. A penalty is assessed for the failure to file any return

required to be filed in connection with the tax imposed hereby or for the failure to pay any tax required to be paid, but not both, at the rate of five percent per month of the delinquent tax, not to exceed a total penalty of 25 percent except that the minimum penalty for a failure to file a required return shall be \$15.00. The interest and penalty imposed hereby shall be in addition to any other penalties provided for by law.

Sec. 21-8: Additional Exemptions

In addition to exemptions otherwise provided by law, the following purchases of otherwise taxable items are hereby exempted from the tax imposed:

- A. The first 200 kilowatt hours of electricity purchased per month for residential use. This exemption shall apply to each separate residential unit, regardless of whether such unit is on a separate meter or a central meter, and shall be passed on to each individual tenant.
- B. The purchase of taxable items by any public body, as defined in F.S. § 1.01.
- C. The purchase of any taxable item by any recognized church in the State of Florida for exclusively church purposes.

Sec. 21-9: Computation of Tax for Monthly Periods

In all cases where the seller of the taxable commodity or service collects the price thereof in monthly periods, the tax hereby levied shall be computed on the aggregate amount of sales during each monthly period; provided that the amount of tax to be collected shall be the nearest whole cent to the amount computed. When a seller renders a bill to a purchaser to cover purchases made during the particular period of time to which a bill is applicable, the amount of the public service tax shall be stated separately from other governmental charges and taxes and shall not be levied on such taxes and charges.

ARTICLE II - LOCAL BUSINESS TAX RECEIPT

Sec. 21-10: Definitions

The following definitions shall apply to this article as it relates to Local Business Tax Receipts:

Business: All types of vocations, occupations, professions, enterprises, establishments, and all types of commercial activities and matters, together with all devices, machines, vehicles, structures, and appurtenances used therein, any of which are conducted for private profit or benefit, either directly or indirectly.

Business Tax Official: The person(s) designated by the Village Manager to administer Chapter 21, Article II of the Code of Ordinances.

Business Tax Receipt (BTR): The document that is issued by Wellington, annually, for vocations, occupations, professions, enterprises, establishments, and all types of activities and matters once the person or entity has submits an application with all required/requested documentation that illustrates compliance with the provisions of this Article.

Classification: the method by which a business or group of businesses is identified according to the U.S. North American Industry Classification System Manual.

Person: any individual, firm, partnership, joint venture, syndicate, other group, or combination acting as a unit, association, corporation, estate, trust, business trust, trustee, executor, administrator, receiver, or other fiduciary; any officers, agents, employees, factors, or any kind of personal representatives, in any capacity, acting either for himself, or for another person, under either personal appointment or pursuant to law.

Professional: any person engaged in the practice of any profession, business, or occupation regulated by law and required to obtain a license issued by the state.

Sec. 21-~~40~~11: Tax Imposed

A local business tax is hereby imposed by Wellington upon:

- A. Any person who maintains a permanent business location or branch office within Wellington for the privilege of engaging in or managing any business within Wellington's jurisdiction.
- B. Any person who maintains a permanent business location or branch office within Wellington, for the privilege of engaging in or managing any profession or occupation within its jurisdiction.
- B.C. Any person who engages in a home-based business, residential rental property, and/or equestrian stall rentals within Wellington.
- C.D. Any person who does not qualify under the above, and who transacts any business or engages in any occupation or profession in interstate commerce, if the business tax is not prohibited by Section 8, Article 1 of the United States Constitution.

Sec. 21-~~41~~12: Applicability of Exemptions

The exemptions from municipal local business taxes provided by law shall be applicable in Wellington.

Sec. 21-~~42~~13: Places of Business; Vehicles

Vehicles used by any person licensed under this article for the sale and delivery of tangible personal property, at either wholesale or retail, from their place of business on which a tax is paid, shall not be construed to be separate places of business.

Sec. 21-~~43~~14: Additional/Separate Fees

A local business tax shall grant the privilege of engaging in or managing all vocations, occupations, professions, enterprises, establishments, and all types of commercial activities and matters within Wellington's jurisdiction. It shall not excuse or be in lieu of any fee charged for a license, permit, registration, examination, or inspection that is hereby deemed to be regulatory and in addition to and not in lieu of the local business tax imposed under the provisions of this article.

Sec. 21-~~44~~15: Filing of Application

- A. Any person required by Sec.21-11 to apply for a local business tax receipt with Wellington shall submit an application on the form provided and obtain a BTR before engaging in or managing any business, profession, or occupation within Wellington's jurisdiction.

B. All applications shall be submitted with the required backup documentation based on the type of business, including, but not limited to, the following (if applicable):

1. Application Fee(s)
2. Inventory affidavit
3. Fictitious Name Registration
4. Articles of Incorporation
5. Valid State license for professionals
6. Driver's License or Government ID
7. Copy of the Certificate of Completion/Occupancy (CC/CO)
8. Fire Inspection Sign Off
9. Lease Agreement
10. Bill of Sale (for change of ownership)
11. Palm Beach County Business Tax Receipt Application
12. PBC Animal Care and Control Application for Operational Permit (Stall Rentals)
13. Special Use Permit (Vacation Rentals)

C. State Regulated Businesses may have additional submittal requirements such as those regulated by, but not limited to, the following agencies:

1. Department of Business and Professional Regulations (DBPR)
2. Department of Agriculture and Consumer Services
3. Division of Hotels and Restaurants
4. Health Department
5. Division of Alcohol and Tobacco
6. Office of Financial Regulations
7. Agency for Health Care Administration
8. Department of Children and Families

D. A Palm Beach County BTR shall be obtained by the applicant once the Wellington BTR is obtained, but prior to engaging in or managing any vocations, occupations, professions, enterprises, establishments, and all types of commercial activities and matters within Wellington's jurisdiction.

E. The Business Tax Official may require additional information once the application is reviewed.

Sec. 21-~~45~~16: When Taxes are Due; Expiration; Penalty for Delinquency

All local ~~business tax receipts-BTRs~~ shall be sold beginning August 1 of each year, shall be due and payable before September 30 of each year, and shall expire on September 30 of the succeeding year. If September 30 falls on a weekend or holiday, the tax is due and payable on or before the first working day following September 30. Those receipts not renewed by October 1 shall be considered delinquent and subject to a delinquency penalty of ten percent for the month of October, plus an additional five percent penalty for each month of delinquency thereafter until paid, provided that the total delinquency penalty shall not exceed 25% of the local business tax for the delinquent establishment.

Sec. 21-~~46~~17: Engaging in Business without Business Tax Receipt; Penalties

Any person engaging in or managing any vocations, occupations, professions, enterprises, establishments, and all types of commercial activities and matters business, occupation, or profession without obtaining a local business tax receiptBTR required under this article shall be subject to a penalty of 25 percent of the tax determined to be due. Any person who engages in any business, occupation, or profession covered by this article, who does not pay the required local business taxBTR within 150 days after the initial notice of tax due, and who does not obtain the required local business tax receiptBTR, is subject to civil actions and penalties, including court costs, reasonable attorneys' fees, additional administrative costs incurred as a result of collection efforts, and a penalty of up to \$250.00. Any person engaging in any trade, business, profession, or occupation under a local business tax receipt-BTR issued upon false statements made by such person or on their behalf, shall, upon conviction thereof, be punished as provided by law.

Sec. 21-~~17~~18: Issuance of Receipt

Upon payment of the taxes-BTR required by this article, Wellington shall issue to the person paying the same a receipt, which receipt shall expire at the end of the period for which such receipt is issued as specified in this article.

Sec. 21-~~18~~19: Period of Local Business Tax Receipt; Issuance

Unless otherwise provided, the amount of the local business tax specified by this article shall be on the basis of one year covering the period from October 1 to September 30 next succeeding, but receipts shall be issued in accordance with the following:

- A. Receipts issued between September 30 and March 30 shall require payment of the full amount.
- B. Receipts issued between April 1 and September 30 shall require payment of one-half of the full amount.

Sec. 21-~~19~~20: Expiration Date

No receipt shall be issued for more than one year, and all receipts shall expire on September 30 of each year unless otherwise provided.

Sec. 21-~~20~~21: Transfer to New Ownership; Fee

- A. *Change of Owner:* All local business tax receiptsBTRs may be transferred to a new owner when there is a bona fide sale of the business upon payment of a transfer fee of 10% of the annual local business tax, but not less than \$3.00 and not more than \$25.00, and presentation of evidence of the sale, and the original receipt.
- B. *Change of Location:* Upon written request and presentation of the original receipt, any receipt may be transferred from one location to another location within Wellington upon payment of a transfer fee of ten percent of the annual local business tax, but not less than \$3.00 and not more than \$25.00.

Sec. 21-~~21~~22: Issuance of Local Business Tax Receipt to Licensed Professionals

No local business tax receiptBTR shall be issued to a licensed professional or business office unless the professional possesses a certificate from the state or applicable industry licensing board. Any licensed professional, employed by a local business or an independent contractor, shall provide satisfactory evidence that the certificate or license referred to in this section is in full force and effect.

Sec. 21-~~2223~~: Issuance of Local Business Tax Receipt to Contractor

No ~~local business tax receipt~~BTR shall be issued to a contractor unless the contractor possesses a certificate from the state construction industry licensing board or a license from the Construction Industry Management Council of Palm Beach County. Before the issuance by Wellington, the applicant must produce satisfactory evidence that the certificate or license referred to in this section is still in force and effect.

Sec. 21-~~2324~~: Local Business Tax Receipt Required for Additional Trades, Business, etc.

Any person engaged in two or more trades, vocations, businesses, or professions for which a ~~local business tax receipt~~BTR is required shall be required to pay a local business tax for each separate line of trade, business, vocation, or profession.

Sec. 21-~~2425~~: Exemptions for Local Business Tax Receipts

Any individual who engages in or manages a business, profession, or occupation as an employee of another person is not required to apply for an exemption from a local business tax, pay a local business tax, or obtain a ~~local business tax receipt~~BTR. For the purposes of this section, an individual licensed and operating as a broker associate or sales associate is considered an employee. A principal or employer who is required to obtain a ~~local business tax receipt~~BTR may be required to provide licensing information for individuals exempt under this section in order to obtain a ~~local business tax receipt~~BTR. An individual acting in the capacity of an independent contractor is not an employee and is required to obtain a local business tax receipt as provided in this article.

Sec. 21-~~2526~~: Display of Local Business Tax Receipt

Each person holding a ~~local business tax receipt~~BTR under this article shall keep the receipt posted in a conspicuous place, and the receipt shall be shown to any officer of Wellington requiring to inspect it.

Sec. 21-~~2627~~: Classification and Rate Schedule

A ~~local business tax~~BTR classification and rate schedule is hereby adopted by reference and is attached as Exhibit A to Ordinance No. 2012-014.

ARTICLE III - ADDITIONAL HOMESTEAD EXEMPTION

Sec. 21-~~2728~~: Additional Homestead Exemption for Persons 65 Years and Older

A. *Purpose and Intent:* The purpose of this article is to provide an additional homestead exemption for persons 65 years of age and older in accordance with F.S. § 196.075, as amended from time to time.

B. *Definitions:*

Household: a person or group of persons living together in a room or group of rooms as a housing unit, but the term does not include persons boarding or renting a portion of a dwelling.

Household Income: the adjusted gross income, as defined in Section 62 of the United States Internal Revenue Code, of all members of the household.

C. *General:*

1. *Wellington taxes only:* Pursuant to and in accordance with F.S. § 196.075, the additional homestead exemption set forth in this section shall apply only to taxes levied by Wellington, including, if any, dependent special districts and municipal service taxing units.
2. *Amount of additional homestead exemption:* Any person(s) who meets the requirements set forth in the subsection below, shall be eligible for an additional \$50,000.00 homestead exemption.

D. *Requirements to obtain additional homestead exemption:* Any person(s) who on January 1 has attained the age of 65 years will be entitled to an additional homestead exemption if all of the following requirements are met:

1. The person has legal or beneficial title in equity to real estate;
2. The person maintains thereon and in good faith makes the same their permanent residence or the permanent residence of another or others legally or naturally dependent upon such person;
3. The person's household income does not exceed \$20,000.00 as adjusted herein below;
4. The taxpayer claiming the exemption submits annually to the Palm Beach County Property Appraiser, not later than March 1, a sworn statement of household income on a form prescribed by the Florida Department of Revenue;
5. In accordance with rules of the Florida Department of Revenue, a statement is filed which is supported by copies of any federal income tax returns for the prior year, any wage and earnings statements (W-2 forms), and any other documents which the Florida Department of Revenue deems necessary, for each member of the household. Such documentation must be submitted by June 1 and the statement shall attest to the accuracy of such copies; and
6. The property appraiser approves the exemption after provided with all required documentation.

E. *Household Income:* For purposes of the subsection above, the \$20,000.00 household income limitation shall be calculated in accordance with F.S. § 196.075(3) and shall have been adjusted annually, since January 2001, and continue to be adjusted annually, on January 1, by the percentage change in the average cost-of-living index within the period January 1 through December 31 of the immediate prior year compared with the same period for the year prior to that. The index is the average of the monthly consumer-price-index figures for the state 12-month period, relative to the United States as a whole, issued by the United States Department of Labor.

F. If title is held jointly with the right of survivorship, the person residing on the property and otherwise qualifying may receive the entire amount of the additional homestead exemption.