ARTICLE 745
Business and Occupation Tax

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CROSS REFERENCES

Authority to levy - see W. Va. Code 8-13-5
Business and occupation tax - see W. Va. Art. 11-13
Collection of taxes - see W. Va. Code 8-13-15 et seq.

745.01 DEFINITIONS.

When used in this article, the term "person" or the term "company", herein used interchangeably, includes any individual, firm, co-partnership, joint adventure, association, corporation, trust, or any other group or combination acting as a unit, and the plural as well as the singular number, unless the intention to give a more limited meaning is disclosed by the context; and, for the purposes of this article the following words, terms and phrases shall have the meanings respectively ascribed to them by this section:

(a) "Banking business" or "financial organization" means any bank, banking association, trust company, industrial loan company, small loan company or licensee, building and loan association, savings and loan association, credit union, finance company, investment company, investment broker or dealer, and any other similar business organization at least ninety percent (90%) of the assets of which consists of intangible personal property and at least ninety percent (90%) of the gross receipts of which consists of dividends, interest and other charges derived from the use of money or credit.

(b) "Contracting" includes the furnishing of work, or both materials and work, in the fulfillment of a contract for the construction, alteration, repair, decoration or improvement of a new or existing building or structure, or any part thereof, or for the alteration, improvement or development of real property.

(c) "Business" includes all activities engaged in or caused to be engaged in with the object of gain or economic benefit, either direct or indirect. "Business" includes the production of natural resources or manufactured products which are used or consumed by the producer or manufacturer and shall include the activities of a banking business or financial organization.

(d) "Gross income" means the gross receipts of the taxpayer, other than a banking or financial business, received as compensation for personal services and the gross receipts of the taxpayer derived from trade, business, commerce or sales and the value proceeding or accruing from the sale of tangible property (real or personal), or service, or both, and all receipts by reason of the investment of the capital of the business engaged in, including rentals, royalties, fees, reimbursed costs or expenses or other emoluments however designated and include all interest, carrying charges, fees or other like income, however denominated, derived by the taxpayer from repetitive carrying of accounts, in the regular course and conduct of his business, and extension of credit in connection with the sale of any tangible personal property or service, and without any deductions on account of the cost of property sold, the cost of materials used, labor costs, taxes, royalties paid in cash or in kind or otherwise, interest or discount paid or any other expense whatsoever.

(e) "Gross proceeds of sales" means the value, whether in money or other property, actually proceeding from the sale of tangible property without any deduction on account of the cost of property sold or expenses of any kind.

(f) "Gross income" and "gross proceeds of sales" shall not be construed to include:
  (1) Cash discounts allowed and taken on sales;
  (2) The proceeds of sale of goods, wares or merchandise returned by customers when the sale price is refunded in either cash or by credit;
  (3) The amount allowed as "trade-in-value" for any article accepted as part payment for any article sold;
  (4) Excise taxes imposed by this State; or
  (5) Money or other property received or held by a professional person for the sole use and benefit of a client or another person or money received by the taxpayer on behalf of a bank or other financial institution for the repayment of a debt of another.

(g) "Sale," "sales" or "selling" includes any transfer of ownership of, or title to, property, whether for money or in exchange for other property.

(h) "Selling at wholesale" or "wholesale sales" means and includes:
  (1) Sales of any tangible personal property for the purpose of resale in the form of tangible personal property;
  (2) Sales of machinery, supplies or materials which are to be directly consumed or used by the purchaser in the conduct of any business or activity which is subject to the tax imposed by this article;
  (3) Sales of any tangible personal property of the United States of America, its agencies and instrumentalities or to the State, its institutions or political subdivisions.

(i) "Service business or calling" includes all activities engaged in by a person for other persons for a consideration, which involve the rendering of a service as distinguished from the sale of tangible property, but shall not include the services rendered by an employee to his employer. The term shall include, but not be limited to:
  (1) Persons engaged in manufacturing, compounding or preparing for sale, profit, or commercial use, articles, substances or commodities which are owned by another or others;
  (2) Persons engaged as independent contractors in producing natural resource products which are owned by another or others, as personal property, immediately after the same are served, extracted, reduced to possession and produced;
  (3) The repetitive carrying of accounts, in the regular course and conduct of business, and extension of credit in connection with the sale of any tangible property or service, except as to persons taxed pursuant to the provisions of Section 745.14. (Passed 6-7-83)

745.02 INTERSTATE AND FOREIGN COMMERCE REVENUE EXCLUDED IN MEASURING TAX.

The measure of tax assessed in this article shall not include gross income derived from commerce between this State and other states of the United States or between this State and foreign countries. (Passed 6-7-83)

745.03 ADMINISTRATION AND CONSTRUCTION.

The administration of this article is vested in and shall be exercised by the City Manager, who shall prescribe forms and reasonable rules or procedure in conformity with this article, subject to the approval of Council, for the making of returns and for the ascertainment, assessment and collection of the taxes imposed hereunder. The enforcement of any of the provisions of this article in any of the courts of the State shall be under the exclusive jurisdiction of the City Manager who shall require the assistance and act through the City Attorney. (Passed 6-7-83)

745.04 IMPOSITION OF PRIVILEGE TAX.

(a) There is hereby levied and shall be collected annual privilege taxes against the persons, on account of the business and other activities, and in the amounts to be determined by the application of rates against values or gross income as set forth in Sections 745.05 to 745.14 inclusive of this article.

(b) If any person liable for any tax under Sections 745.05 to 745.14 shall ship or transport his products or any part thereof out of the City without making sale of such products, the value of the products in the condition or from in which they exist immediately before transportation out of the City shall be the basis for the assessment of the tax imposed in those sections. The City Manager shall prescribe equitable and uniform rules for ascertaining such value.

(c) In determining value, however, as regards sales from one to another of affiliated companies or persons, or under other circumstances where the relation between the buyer and seller is such that the gross proceeds from the sales are not indicative of the true value of the subject matter of the sale, the City Manager shall prescribe uniform and equitable rules for determining the value upon which such privilege tax shall be levied, corresponding as nearly as possible to the gross proceeds from the sale of similar products of like quality or character where no common interest exists between the buyer and the seller but the circumstances and conditions are otherwise similar.

(d) Gross income in the measure of the tax under Section 745.14, except in the case of production of natural gas, shall neither be added nor deducted in computing the tax levied under the other sections of this article.

(e) A person exercising any privilege taxable under Sections 745.05 to 745.15 and engaging in the business of selling his natural resources or manufactures products at retail in this City shall be required to make returns of the gross proceeds of such retail sales and pay the tax imposed in Section 745.07 for the privilege of engaging in the business of selling such natural resources or manufactured products at retail in this City. But any person exercising any privilege taxable under Sections 745.05 to 745.14 and engaging in the business of selling his natural resources or manufactured or manufacturers, wholesalers or jobbers, and in the case of limestone, sand, gravel or other mineral products, to commercial consumers, shall not be required to pay the tax imposed in Section 745.07 for the privilege of selling such natural resource products or manufactured products at wholesale.

(f) Manufacturers exercising any privilege taxable under Section 745.06 shall not be required to pay the tax imposed in Section 745.07 for the privilege of selling their manufactured products for delivery outside of the City, but the gross income derived from the sale of such manufactured products outside of the City shall be included in determining the measure of the tax imposed on such manufacturer in Section 745.07.

(g) A person exercising privileges taxable under the other sections of this article, producing coal, oil, natural gas, minerals, timber or other natural resource products, the production of which is taxable under Section 745.05, and using or consuming the same in his business, shall be deemed to be engaged in the business of mining and producing coal, oil, natural gas, minerals, timber or other natural resource products for sale, profit or commercial use, and shall be required to make returns on account of the production of the business showing the gross proceeds or equivalent in accordance with uniform and equitable rules responding as nearly as possible to the gross proceeds from the sale of similar products of like quality of character by other taxpayers, which rules the City Manager shall prescribe. (Passed 6-7-83)

745.05 NATURAL RESOURCE PRODUCTS.

(a) Upon every person engaging or continuing within the City in the business of producing for sale, profit or commercial use any natural resource products, the amount of such tax to be equal to the value of the articles produced as shown by the gross proceeds derived from the sale thereof by the producer, except as hereinafter provided, multiplied by the respective rates as follows: Coal, (0.1%); limestone or sandstone, quarried or mined, (1.5%); oil, (6%); natural gas, in excess of the value of five thousand dollars ($5,000), (6%); blast furnace slag, (3%); sand, gravel or other mineral products, not quarried or mined, (3%); timber, (1.5%); other natural resource products, (2%). The measure of this tax is the value of the entire production of this City, regardless of the place of sale or the fact that delivery may be made to points outside of the City; provided, that for the purposes of the production of oil classification, and the production of natural gas classification, as set forth in this section, multiple co-owners of oil or natural gas, in place, lessees thereof, or others being vested with the title and ownership to part or all of the oil and gas, as personal property, immediately after severance, extraction, reduction to possession and production, except royalty recipients, in kind, shall be deemed to be a "group or combination acting as a unit" and one "person", as defined in Section 745.01, if not otherwise defined therein, whenever engaged in the business of producing oil or natural gas through common use, by joint or separately executed contracts, of the same independent contractor, driller or operator's services; and notwithstanding provisions of private contractors for separate deposit of gross receipts in separate members' accounts or for members of such group or combination to take in kind any proportionate part of such natural resources.

(b) Lessees, sublessees or other denominated lessees are considered to be producers of all of the oil or natural gas produced, regardless of any payment, in kind, to lessors, sublessors or other denominated lessors of a part

of such natural resources as rents or royalties. Recipients of royalties or rents, in kind, in cash or otherwise are taxable on their gross income pursuant to the provisions of Section 745.07. (Passed 6-7-83)

745.06 MANUFACTURING, COMPOUNDING OR PREPARING PRODUCTS; EXCEPTIONS.

Upon every person engaging or continuing within this City in the business of manufacturing, compounding, or preparing for sale, profit, or commercial use, either directly or through the activity of others in whole or part, any article or articles, substance or substances, commodity or commodities, or electric power produced by public utilities or others and not taxed under other provisions of this article, substance, commodities or electric power manufactured, compounded or prepared for sale, as shown by the gross proceeds derived from the sale thereof by the manufacturer or person compounding or preparing the same except as hereinafter provided, multiplied by a rate of (.22%). The measure of this tax is the value of the entire product manufactured, compounded, or prepared in this City for sale, profit or commercial use, regardless of the place of sale or the fact the deliveries may be made to points outside the City. However, the dressing and processing of food by a person, firm or corporation, which food is to be sold on a wholesale basis by such person, firm or corporation shall not be considered as manufacturing or compounding, but the sale of these products on a wholesale basis shall be subject to the same tax as is imposed on the business of selling at wholesale as provided in Section 745.07. (Passed 6-7-83)

745.07 BUSINESS OF SELLING TANGIBLE PROPERTY; EXCEPTIONS.

Upon every person engaging or continuing within this City in the business of selling any tangible property whatsoever, real or personal, including the sale of food, and the services incident to the sale of food in hotels, restaurants, cafeterias, confectionaries, and other public eating houses, except sales by any person engaging or continuing in the business of horticulture, agriculture or grazing, or of selling stocks, bonds or other evidences of indebtedness, there is likewise hereby levied, and shall be collected, a tax equivalent to two-tenths of one percent of the gross income of the business, except that in the case of selling at wholesale (or jobber) the tax shall be equal to (.13%) of the gross income of the business. (Passed 6-7-83)

745.08 PUBLIC SERVICE OR UTILITY BUSINESS.

Upon any person engaging or continuing within this City in any public service or utility business, except railroad, railroad car, express, pipe line, telephone and telegraph companies, water carriers by steamboat or steamship and motor vehicle carriers, there is likewise hereby levied and shall be collected taxes on account of the business engaged in equal to the gross income of the business multiplied by the respective rates as follows: street and inter-urban and electric railways, one percent; water companies, four percent, except as to income from municipality owned water plants; electric light and power companies, three percent on sales and demand charges for domestice purposes and commercial lighting and three percent on sales and demand charges for all other purposes, except as to income from municipally owned plants producing or purchasing electricity and distributing the same; natural gas companies, three percent on the gross income for this purpose to

be determined by deducting from gross income from all sales to consumers the amount of the tax paid by the taxpayers under Section 745.05; toll bridge companies, three percent; and upon all other public service or utility business, two percent. The measure of this tax shall not include gross income derived from commerce between this City and other localities. The measure of the tax under this section shall include only gross income received from the supplying of public services. The gross income of the taxpayer from any other activity shall be included in the measure of the tax imposed upon the appropriate section or sections of this article. (Passed 6-7-83)

745.09 BUSINESS OF CONTRACTING.

Upon every person engaging or continuing within this City in the business of contracting, the tax shall be two dollars ($2.00) on each one hundred dollars ($100.00) of the gross income of the business. (Passed 6-7-83)

745.10 BUSINESS OF OPERATING AMUSEMENTS.

Upon every person engaging or continuing within this City in the business of operating a theater, opera house, moving picture show, vaudeville, amusement park, dance hall, skating rink, race track, radio broadcasting station or any other part at which amusements are offered to the public, the tax shall be equal to (.10%) of the gross income of the business (Passed 6-7-83)

745.11 SERVICE BUSINESS OR CALLING NOT OTHERWISE SPECIFICALLY TAXED.

Upon every person engaging or continuing within this City in any service business or calling not otherwise specifically taxed under this article, there is likewise hereby levied and shall be collected a tax equal to (.50%) of the gross income of any such business. (Passed 6-7-83)

745.12 BUSINESS OF FURNISHING PROPERTY FOR HIRE.

Upon every person engaging or continuing within this City in the business of furnishing any real or tangible personal property which has a tax site in this City, or any interest therein, for hire, loan, lease or otherwise, whether the return be in the form of rentals, royalties, fees or otherwise, the tax shall be (.25%) of the gross income of any such activity.

The term "tangible personal property" as used herein, shall not include money or public securities. (Passed 6-7-83)

745.13 SMALL LOAN AND INDUSTRIAL LOAN BUSINESSES.

Every person engaging or continuing within this City in the business of making loans of money, credit goods, or things in action, who because of such activity is required under the provisions of West Virginia Code Article 47-7A to obtain a license from the commissioner of banking of the State of West Virginia, and each and every industrial loan company shall be subject to the provisions of, and shall pay the taxes specified in, Section 745.14. (Passed 6-7-83)

745.14 BANKING AND OTHER FINANCIAL BUSINESS.

(a) Upon every person engaging or continuing within this City in the business of banking or financial business, the tax shall be equal to (.28%) of the gross income received from interest, premiums, discounts, dividends,

service fees or charges, commissions, fines, rents from real or tangible personal property, however denominated, royalties, charges for bookkeeping or data processing, receipts from check sales, charges for fees, and receipts from the sale of tangible personal property; provided, that gross income shall not include (1) interest received on the obligations of the United States, its agencies and instrumentalities, (2) interest received on the obligations of this State, territory or possession of the United States or any political subdivision of any of the foregoing or of the District of Columbia, or (3) interest received on investments or loans primarily secured by first mortgages or deeds of trust on residential property occupied by nontransients; provided, further, that all interest derived on activities exempt under (a)(1) hereof, shall be reported, as to amounts, on the return of a person taxable under the provisions of this section.

(b) Persons taxed pursuant to the provisions of this section shall not be taxed under Sections 745.05 to 745.13 inclusive.

(c) Council hereby finds and declares that it is the intent of Council to subject national banking associations and other financial organizations to the tax imposed by this article, in accordance with the authorization contained in Sections 5219 of the Revised Statutes of the United States as amended by Public Law 91-156 by the Congress of the United States on December 24, 1969. (Passed 6-7-83)

745.15 EXEMPTIONS.

(a) There shall be an exemption in every case of fifty dollars ($50.00) in amount of tax computed under the provisions of this article. A person exercising a privilege taxable hereunder for a fractional part of a tax year shall be entitled to an exemption of the sum bearing the proportion of fifty dollars ($50.00) that the period of time the privilege is exercised bears to a whole year. Only one exemption shall be allowed to any one person, whether he exercised one or more privileges taxable hereunder.

(b) The provisions of this article shall not apply to:

(1) Insurance companies which pay the State a tax upon premiums; provided, that such exemption shall not extend to that part of a gross income of insurance companies which is received for the use of real property, other than property in which any such company maintains its office or offices in this City, whether such income be in the form of rentals or royalties;

(2) Nonprofit cemetery companies organized and operated for the exclusive benefit of their members;

(3) Fraternal societies, organizations and associations organized and operated for the exclusive benefit of their members and not for profit; provided, that this exemption shall not extend to that part of the gross income arising from the sale of alcoholic beverages, food and related services, of such fraternal societies, organizations and associations which are licensed as private clubs under the provisions of West Virginia Code Article 60-7;

(4) Corporations, associations and societies organized and operated exclusively for religious or charitable purposes;
(5) Production credit association, organized under the provisions of the Federal "Farm Credit Act of one thousand nine hundred thirty-three";
(6) Any credit union organized under the provisions of West Virginia Code Ch. 31; provided, that the exemptions of this section shall not apply to corporations or cooperative associations organized under the provisions of West Virginia Code Article 19-4. (Passed 6-7-83)

745.16 TAX CREDIT FOR INDUSTRIAL EXPANSION; REGULATIONS.

(a) There shall be allowed as a credit against tax imposed by this article the amount determined under West Virginia Code Article 11-13C, relating to tax credit for industrial expansion.

(b) The City Manager shall prescribe such regulations as may be necessary to carry out the purposes of this section and the above cited State law as it may be applicable within this City. (Passed 6-7-83)

745.17 COMPUTATION OF TAX; REMITTANCE.

(a) The taxes levied hereunder shall be due and payable in quarterly installments on or before the expiration of one month from the end of the quarter in which they accrue. The taxpayer shall, within one month from the expiration of each quarter, make out an estimate of the tax for which he is liable for such quarter, sign it and mail it, together with a remittance, in the form required by Section 745.21, of the amount of tax to the office of the City Manager. In estimating the amount of tax due for each quarter, the taxpayer may deduct one-fourth of the tax credit for industrial expansion allowable for the taxable year and one-fourth of the total exemption allowed for the year. When the total tax for which any person is liable under this chapter does not exceed the sum of one hundred dollars ($100.00) in any year, the taxpayer may pay the same quarterly as aforesaid, or with the consent in writing of the City Manager, at the end of the month next following the close of the tax year.

(b) Any other provision of this section notwithstanding, the City Manager, if he deems it necessary to insure payment of the tax, may require the return and payment under this section for periods of shorter duration than quarter-year periods. (Passed 6-7-83)

745.18 RETURN AND REMITTANCE BY TAXPAYER.

On or before the expiration of one month after the end of the tax year each taxpayer shall make a return for the entire year showing the gross proceeds of sales or gross income of business, trade or calling, and compute the amount of tax chargeable against him in accordance with the provisions of this chapter and deduct the amount of quarterly payments, as hereinbefore provided, if any, and transmit with his report a remittance in the form required by Section 745.17 covering the residue of the tax chargeable against him to the office of the City Manager; such return shall be signed by the taxpayer, if made by an individual, or by the president, vice president,

secretary or treasurer of a corporation, if made on behalf of a corporation. If made on behalf of a partnership, joint adventure, association, trust, or any other group or combination acting as a unit, any individual delegated by such firm, co-partnership, joint adventure, association, trust or any other group or combination acting as a unit shall sign the return on behalf of the taxpayer. The City Manager, for good cause shown, may extend the time for making the annual return or the application of any taxpayer and grant such reasonable additional time within which to make the same as may, by him, be deemed advisable. (Passed 6-7-83)

745.19 ERRONEOUS COMPUTATION.

(a) If the taxpayer shall make any error in computing the tax assessable against him, the City Manager shall correct such error or reassess the proper amount of taxes, and notify the taxpayer of his action by mailing to him promptly a copy of the corrected assessment, and any additional tax for which such taxpayer may be liable shall be paid within ten days after the receipt of such statement.

(b) If the amount already paid exceeds that which should have been paid on the basis of the tax so recomputed, the excess so paid shall be immediately refunded to the taxpayer upon the requisition of the City Manager and shall be payable out of any funds available for the purpose. The taxpayer may, at his election, apply an overpayment credit to taxes subsequently accruing hereunder. (Passed 6-7-83)

745.20 FAILURE TO MAKE RETURN; ASSESSMENT BY CITY MANAGER.

If any person shall fail or refuse to make a return, either in whole or in part, or if the City Manager has reasonable ground to believe that any return made is so deficient as not to form the basis of a satisfactory assessment of the tax, he may proceed as he deems best to obtain information on which to base the assessment of the tax. The City Manager may, in person or by duly appointed agent, make examination of the books, records and papers, and audit the accounts of any such person, and may take the evidence, on oath, of any person whom he may believe shall be in possession of any relevant information. As soon as possible after procuring such information as the City Manager may be able to obtain as to any person failing or refusing to make a return, he shall proceed to assess the tax and shall notify the person assessed of the amount of the tax. The assessment of the tax by the City Manager shall be final as to any person who refuses to make a return. (Passed 6-7-83)

745.21 JEOPARDY ASSESSMENTS.

(a) If the City Manager believes that the collection of any tax which he is required to administer will be jeopardized by delay, he shall thereupon make an assessment of the tax, noting that fact upon the assessment. The amount assessed shall be immediately due and payable. Unless the taxpayer against whom a jeopardy assessment is made petitions for reassessment within twenty days after service of notice of the jeopardy assessment, such an assessment becomes final.

(b) A petition for reassessment by a person against whom a jeopardy assessment has been made must be accompanied by such security as the City Manager may deem necessary to insure compliance with this article. (Passed 6-7-83)

745.22 NOTICE OF ASSESSMENT; PETITION FOR REASSESSMENT; HEARING.

The City Manager shall give to the taxpayer written notice of any assessment made pursuant to this article. Unless the taxpayer to whom a notice of assessment is directed shall, within thirty days after thereof (except in the case of jeopardy assessments), either personally or by certified mail, file with the City Manager a petition in writing, verified under oath, such taxpayer or his duly appointed agent, having knowledge of the facts, setting forth with definiteness and particularity the items of the assessment objected to, together with the reasons for such objections, such assessment shall become and be deemed conclusive and the amount thereof shall be payable at the end of a thirty-day period. In every case where a petition for reassessment as above described is filed, the City Manager shall assign a time and place for the hearing thereof and shall notify the petitioner of such hearing by written notice at least twenty days in advance thereof and such hearing shall be held within sixty days from the filing of the petition for reassessment unless continued by agreement or by the City Manager for good cause. The hearing shall be informal and may be conducted by an examiner designated by the City Manager. At such hearing evidence may be offered to support the assessment or to prove that it is incorrect. After such hearing the City Manager shall, within a reasonable time, give notice in writing of the decision. Unless an appeal is taken within thirty days from service of this notice, the City Manager's decision shall be final. (Passed 6-7-83)

745.23 APPEAL; CORRECTION OF ASSESSMENT; INJUNCTION.

If any person, having made the return and paid the tax as provided by this article, feels aggrieved by the assessment so made upon him for any year by the City Manager, he may apply to Council by petition, in writing, within thirty days after notice is mailed to him by the City Manager, for a hearing and correction of the amount of the tax so assessed upon him by the City Manager, in which petition shall be set forth the reasons why such hearings should be granted and the amount of tax should be reduced. Council shall promptly consider such petition, and may grant such hearing or deny it. If denied, the petitioner shall be forthwith notified thereof; if granted, the Council shall notify the petitioner of the time and place fixed for such hearing. After such hearing, Council may make such order in the matter as may appear to it just and lawful, and shall furnish a copy of such order to the petitioner. Any person improperly charged with any tax required to be paid by him may recover the amount so paid, together with interest, in any proper action or suit against the City as may be authorized by law. (Passed 6-7-83)

745.24 TAX YEAR.

The assessment of taxes herein made and the returns required therefor shall be for the year ending on the December 31. If the taxpayer, in exercising a privilege taxable under this article, keep the books reflecting the same on a basis other that such year, he may, with the consent of the City Manager, make his annual returns and pay taxes for the year covering his accounting period, as shown by the method of keeping his books. (Passed 6-7-83)

745.25 TAX CUMULATIVE.

The tax imposed by this article shall be in addition to all other licenses and taxes levied by the Business and Taxation Code and other City ordinances as a condition precedent to engaging in any business, trade or calling. A person exercising a privilege taxable under this article, subject to payment of all licenses and charges which are a condition precedent to exercising the privilege taxed, may exercise the privilege for the current tax year upon the condition that he shall pay the tax accruing under this article. (Passed 6-7-83)

745.26 PAYMENT; PENALTY FOR NONPAYMENT.

(a) Every remittance of taxes imposed by this article shall be made by bank draft, certified check, money order, or certificate of deposit to the City Manager, who shall issue his receipt therefor to the taxpayer and pay the money into the City treasury to be kept and accounted for as provided by law.

(b) If any taxpayer fails to make the return required by this article, or makes his return but fails to remit in whole or in part the proper amount of tax, there shall be added to the amount of tax unpaid, from the date such tax should have been paid, a penalty in the amount of five percent (5%) of the tax for the first month, or fraction thereof, of delinquency and one percent (1%) of the tax for each succeeding month, or fraction of delinquency; provided, that if such failure is due to reasonable cause, the City Manager may waive or remit in whole or in part these penalties.

(c) If the failure to pay is due to fraud or intent to evade this article and the rules and regulations promulgated thereunder, there shall be added an additional penalty of twenty-five percent (25%) of the amount of the tax exclusive of penalties.

(d) The penalties so added shall be collected at the same time and in the same manner and as part of the tax. (Passed 6-7-83)

745.27 LIEN OF TAX DUE AND UNPAID.

A tax due and unpaid under this article shall be a debt to the City. It shall be a personal obligation of the taxpayer and shall be a lien upon the property of the taxpayer; provided, that no such tax lien shall be enforceable against a purchaser (including lien creditor) for valuable consideration without notice, unless docketed in the office of the county court of such county. (Passed 6-7-83)

745.28 ENFORCEMENT OF COLLECTION.

The City may use any means for the collection of the taxes imposed by this article as are provided by law for the enforcement and collection of similar taxes of the State. (Passed 6-7-83)

745.29 PAYMENT UPON SALE OF BUSINESS; LIABILITY OF SUCCESSOR.

(a) Any person exercising any privilege taxable under this article who shall sell out his business or stock of goods, or shall cease doing business, shall file the return prescribed by Section 745.18 and remit the entire tax that may be chargeable against him because of all business done, within thirty days after selling out his business or stock of goods, or ceasing to do such business.

(b) The successor in business of any such person shall withhold so much of the purchase money as will satisfy the taxes and penalty which may be due until the former owner shall produce a receipt from the City Manager evidencing the payment of such taxes and penalty. If the purchaser of a business or stock of goods shall fail to withhold purchase money as above provided, and the taxes and penalty shall remain unpaid after expiration of the thirty day period allowed for payment thereof, he shall be personally liable for the payment of all such taxes and penalty, and the same shall be recoverable by the City Manager as provided by Section 745.28. (Passed 6-7-83)

745.30 RECORDING OF TAX LIENS.

The City Manager, for the more effective collection of the tax, may file with the clerk of the appropriate county court a certified copy of an assessment of taxes under this article for recordation. Upon payment of the taxes delinquent under this article, the lien of which shall have been recorded, the City Manager shall certify in duplicate the fact and amount of payment and the balance due, if any, and shall forward the certificates, one to the taxpayer and one to the clerk of county court of the county in which such lien has been recorded. From the date that such certificate is admitted to record the land of the taxpayer in the City shall be free from any lien for taxes under this article accrued to the date that the certificate was issued. (Passed 6-7-83)

743.31 COLLECTION BY DISTRAINT; SUIT TO ENFORCE LIEN.

The City Manager may distraint upon any goods, chattels or intangibles represented by negotiable evidences of indebtedness of any taxpayer delinquent under this article for the amount of all taxes and penalties accrued and unpaid hereunder. The lien created by this article on real estate may be enforced by suit in equity and any other means provided by law. (Passed 6-7-83)

745.32 AUTHORITY TO REVOKE LICENSES.

In addition to the penalties provided in Section 745.99 the failure of any taxpayer to make any required return to pay the tax imposed upon him by this article, either or both, within five days following the prescribed date for the filing of such return or the payment of such tax shall constitute good cause for Council to revoke or to refuse to renew, either or both, the City license of such taxpayer to engage in the business taxed under this article, as well as any other City business license held by him. (Passed 6-7-83)

745.33 UNAUTHORIZED DISCLOSURE OF TAX INFORMATION.

No officer or employee of the City shall release to any person any tax information obtained by virtue of a reciprocal exchange of tax information agreement between the State and the City, unless the person receiving the information is the authorized counsel of the State or the City and shall be using the information only for the purpose of administering business and occupation taxes or carrier income taxes, or the person who filed the return has authorized, in writing, its release, thereby waiving his right to secrecy. Unauthorized disclosure of tax information shall be a misdemeanor, and upon conviction, punishable by a fine of not more than one thousand dollars ($1,000) or imprisonment for not more than one year, or both, together will all costs of prosecution. (Passed 6-7-83)

745.99 PENALTY.

No person shall refuse to make any return required to be made by this article; or make any false or fraudulent return or false statement in any return, with intent to defraud the City or to evade the payment of the tax, or any part thereof, imposed by this article, or for any person to aid or abet another in any attempt to evade the payment of the tax, or any part thereof, imposed by this article, or for the president, vice president, secretary or treasurer of any corporation to make or permit to be made for any corporation or association any false return or any false statement in any return required in this article, with the intent to evade the payment of any tax hereunder. Any person violating any of the provisions of this article shall, on conviction thereof, be fined not more than one thousand dollars ($1,000) or imprisoned not exceeding thirty days, or punished by both fine and imprisonment, at the discretion of the court, within the limitations knowingly swear to or verify any false or fraudulent return, or any return containing any false or fraudulent statement with the intention aforesaid shall be guilty of the offense of false swearing and, on conviction thereof, shall be punished in the manner provided by law. Any corporation for which a false return, or a return containing a false statement, as aforesaid, shall be punished by a fine of not more than one thousand dollars ($1,000). (Passed 6-7-83)