

**Chapter 63**

**UTILITY TAX**

**Revised 06-14-10**

**Sections:**

- 63.01 TAX IMPOSED.**
- 63.02 DEFINITIONS.**
- 63.03 EFFECTIVE DATE.**
- 63.04 COLLECTION OF TAX.**
- 63.05 RESALES.**
- 63.06 BOOKS AND RECORDS.**
- 63.07 CREDITS AND REFUNDS.**
- 63.08 PENALTY.**
- 63.09 REBATES.** (03-60)

**63.01 TAX IMPOSED** (67-33, 73-44, 02-69)

a) A tax is imposed on all persons engaged in the following occupations or privileges:

1. Persons engaged in the business of capturing television signals by tower or other structure, and selling such television signals for use within the corporate limits of DeKalb, Illinois, and not for resale, at the rate of five percent (5%) of the gross receipts therefrom.

2. Pursuant to Section 8-11-2 of the Illinois Municipal Code (65 ILCS 5/8-11-2) and any and all other applicable authority, a tax is imposed upon the privilege of using or consuming electricity acquired in a purchase at retail and used or consumed within the corporate limits of the City at the following rates, calculated on a monthly basis for each purchaser: (98-97, 10-28)

A. For the first 2,000 kilowatt-hours used or consumed in a month; 0.61 cents per kilowatt-hour; (10-28)

B. For the next 48,000 kilowatt-hours used or consumed in a month; 0.40 cents per kilowatt-hour; (10-28)

C. For the next 50,000 kilowatt-hours used or consumed in a month; 0.36 cents per kilowatt-hour; (10-28)

D. For the next 400,000 kilowatt-hours used or consumed in a month; 0.35 cents per kilowatt-hour; (10-28)

E. For the next 500,000 kilowatt-hours used or consumed in a month; 0.34 cents per kilowatt-hour; (10-28)

F. For the next 2,000,000 kilowatt-hours used or consumed in a month; 0.32 cents per kilowatt-hour; (10-28)

**Municipal Code - City of DeKalb**  
**Chapter 63, "Utility Tax"**

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G. For the next 2,000,000 kilowatt-hours used or consumed in a month; 0.315 cents per kilowatt-hour; (10-28)

H. For the next 5,000,000 kilowatt-hours used or consumed in a month; 0.31 cents per kilowatt-hour; (10-28)

I. For the next 10,000,000 kilowatt-hours used or consumed in a month; 0.305 cents per kilowatt-hour; and (10-28)

J. For all electricity used or consumed in excess of 20,000,000 kilowatt-hours in a month; 0.300 cents per kilowatt-hour. (10-28)

b) The tax imposed under this Chapter shall not apply with respect to gross receipts pertaining to bills for the distribution, supply, furnishing or sale of electricity where the use or consumption of the electricity is subject to the tax imposed under this Chapter. (98-97)

c) The tax is in addition to all taxes, fees and other revenue measures imposed by the City, the State of Illinois or any other political subdivision of the State. (98-97)

d) Notwithstanding any other provision of this Chapter, the tax shall not be imposed if and to the extent that imposition or collection of the tax would violate the Constitution or statutes of the United States or the Constitution of the State of Illinois. (98-97)

e) The tax shall be imposed with respect to the use or consumption of electricity by residential customers beginning with the first bill issued on or after September 1, 1998; and with respect to the use or consumption of electricity by nonresidential customers beginning with the first bill issued to such customers for delivery services in accordance with Section 16-104 of the Public Utilities Act (220 ILCS 5/16-104), or the first bill issued to such customers on or after January 1, 2001, whichever issuance occurs sooner. (98-97)

f) Such tax shall be in addition to the payment of money, or value of products or services furnished to this municipality by the taxpayer as compensation for the use of its streets, alleys, or other public places, or installation and maintenance therein, thereon or thereunder of poles, wires, pipes or other equipment used in the operation of the taxpayer's business

## **63.02 DEFINITIONS**

a) For the purposes of this Chapter the following definitions shall apply, unless the context otherwise requires: (98-97)

1. "City" means the City of DeKalb. (98-97)

2. "Gross receipts" means the consideration received for distributing, supplying, furnishing or selling electricity for use or consumption and not for resale; the consideration received for distributing, supplying, furnishing or selling television signals for use or consumption and not for resale; and for all services rendered in connection therewith valued in money, whether received in money or otherwise, including cash, credit, services and property of every kind and material and for all services rendered therewith; and shall be determined without any deduction on account of the cost of such television signals, without any deduction on account of the cost of the service, product or commodity supplied, the cost of materials used, labor or service cost, or any other expenses whatsoever provided, however, gross receipts shall not include receipts received from the City of DeKalb for the sale to said City of any of the utility products or services mention in Section 63.01 hereof. (81-44)

**Municipal Code - City of DeKalb**  
**Chapter 63, "Utility Tax"**

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3. "Person" means any natural, individual, firm, trust, estate, partnership, association, joint stock company, joint adventure, corporation, limited liability company, municipal corporation, the State or any of its political subdivisions, any State university created by statute, or a receiver, trustee, conservator or other representative appointed by order of any court. (98-97)

4. "Person maintaining a place of business in this State" means any person having or maintaining within this State, directly or by a subsidiary or other affiliate, an office, generation, facility, distribution facility, transmission facility, sales office or other place of business, or any employee, agent, or other representative operating within this State under the authority of the person or its subsidiary or other affiliate, irrespective of whether such place of business or agent or other representative is located in this State permanently or temporarily, or whether such person, subsidiary or other affiliate is licensed or qualified to do business in this State. (98-97)

5. "Purchase at retail" means any acquisition of electricity by a purchaser for purposes of use or consumption, and not for resale, but shall not include the use of electricity by a public utility, as defined in Section 8-11-2 of the Illinois Municipal Code (65 ILCS 5/8-11-2), directly in the generation, production, transmission, delivery or sale of electricity. (98-97)

6. "Purchaser" means any person who uses or consumes, within the corporate limits of the City, electricity acquired in a purchase at retail. (98-97)

7. "Exempt Purchaser" means the City of DeKalb for the sale to said City of any of the utility products or services mentioned in this Ordinance. (98-97)

8. "Tax collector" means the person delivering electricity to the purchaser. (98-97)

### **63.03 EFFECTIVE DATE**

a) This ordinance shall take effect after publication and the tax provided for herein shall be based on the gross receipts, as herein defined, actually paid to the taxpayer for services billed on or after the 1st day of October, 1973.

### **63.04 COLLECTION OF TAX**

a) On or before the last day of November, 1973, each taxpayer shall make a return to the Finance Division for the month of October, 1973, stating:

1. His/her name;
2. His/her principal place of business;
3. His/her gross receipts during those months upon the basis of which the tax is imposed;
4. Amount of tax; and,
5. Such other reasonable and related information as the corporate authorities may require.

b) On or before the last day of every month thereafter, each taxpayer shall make a like return to the Finance Division for the preceding month.

**Municipal Code - City of DeKalb**  
**Chapter 63, "Utility Tax"**

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c) The taxpayer making the return herein provided for shall, at the time of making such return, pay to the Finance Division the amount of tax herein imposed; provided that in connection with any return the taxpayer may, if he so elects, report and pay an amount based upon his total billings of business subject to the tax during the period for which the a, return is made (exclusive of any amounts previously billed) with prompt adjustments of later payments based upon any differences between, such billings and the taxable gross receipts.

d) If it shall appear that an amount of tax has been paid which was not due under the provisions of this Chapter, whether as the result of a mistake of fact or an error of law, then such amount shall be credited against any tax due, or to become due, under this Chapter, from the taxpayer who made the erroneous payment; provided that no amounts erroneously paid more than three (3) years prior to the filing of a claim therefor shall be so credited.

e) No action to recover any amount of tax due under the provisions of this Chapter shall be commenced more than three (3) years after the due date of such amount.

f) Subject to the resale provisions of this Chapter regarding the delivery of electricity to resellers, the tax imposed under this Chapter shall be collected from purchasers by the person maintaining a place of business in this State who delivers electricity to such purchasers. This tax shall constitute a debt of the purchaser to the person who delivers the electricity to the purchaser and is recoverable at the same time and in the same manner as the original charge for delivering the electricity. (98-97)

g) Any tax required to be collected by this Chapter, and any tax in fact collected, shall constitute a debt owed to the City by the person delivering the electricity, provided, that the person delivering electricity shall be allowed credit for such tax related to deliveries of electricity the charges for which are written off as uncollectible, and provided further, that if such charges are thereafter collected, the delivering supplier shall be obligated to remit such tax. (98-97)

h) Persons delivering electricity shall collect the tax from the purchaser by adding such tax to the gross charge for delivering the electricity. Persons delivering electricity shall also be authorized to add to such gross charge an amount equal to 3% of the tax they collect to reimburse them for their expenses incurred in keeping records, billing customers, preparing and filing returns, remitting the tax and supplying data to the City upon request. For purposes of this Chapter, any partial payment of a billed amount not specifically identified by the purchaser shall be deemed to be for the delivery of electricity. (98-97)

**63.05 REALES.** (98-97)

a) Electricity that is delivered to a person in this City shall be considered to be for use and consumption by that person unless the person receiving the electricity has an active resale number issued by the City's Accounting Services Manager and furnishes that number to the person who delivers the electricity, and certifies to that person that the sale is either entirely or partially nontaxable as a sale for resale. (98-97)

b) If a person who receives electricity in the City claims to be an authorized reseller of electricity, that person shall apply to the City's Accounting Services Manager for a resale number. The applicant shall state facts showing why it is not liable for the tax imposed by this Chapter on any purchases of electricity and shall furnish such additional information as the City's Accounting Services Manager may reasonably require. (98-97)

c) Upon approval of the application, the City's Accounting Services Manager shall assign a resale number to the applicant and shall certify the number to the applicant. (98-97)

**Municipal Code - City of DeKalb**  
**Chapter 63, "Utility Tax"**

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d) The City's Accounting Services Manager may cancel the resale number of any person if the person fails to pay any tax payable under this Chapter for electricity used or consumed by the person, or if the number: (1) was obtained through misrepresentation, or (2) is no longer necessary because the person has discontinued making re-sales. (98-97)

e) If a reseller has acquired electricity partly for use or consumption and partly for resale, the reseller shall pay the tax imposed by this Chapter directly to the City's Accounting Services Manager pursuant to the tax remittance and return provisions of this Chapter on the amount of electricity that the reseller uses or consumes, and shall collect the tax pursuant to this Chapter and remit the tax pursuant to the tax imposed provisions of this Chapter on the amount of electricity delivered by the reseller to a purchaser. (98-97)

f) Any person who delivers electricity to a reseller having an active resale number and complying with all other conditions of this Chapter shall be excused from collecting and remitting the tax on any portion of the electricity delivered to the reseller, provided that the person reports to the City's Accounting Services Manager the total amount of electricity delivered to the reseller, and such other information that the City's Accounting Services Manager may reasonably require. (98-97)

**63.06 BOOKS AND RECORDS.**

a) Every tax collector, and every taxpayer required to pay the tax imposed by this Chapter, shall keep accurate books and records of its business or activity, including contemporaneous books and records denoting the transactions that gave rise, or may have given rise, to any tax liability under this Chapter. The books and records shall be subject to and available for inspection at all times during business hours of the day. (98-97)

**63.07 CREDITS AND REFUNDS.**

a) Notwithstanding any other provision of this Chapter, in order to permit sound fiscal planning and budgeting by the City, no person shall be entitled to a refund of, or credit for, a tax imposed under this Chapter unless the persons files a claim for refund or credit within one year after the date on which the tax was paid or remitted to the City's Accounting Services Manager. (98-97)

**63.08 PENALTY**

a) Any taxpayer who fails to make a return or who files a late return or who fails to pay the tax herein imposed shall pay, in addition to the tax imposed, a civil penalty of 2/3% of the tax due per month or any fraction of a month thereof.

b) Any taxpayer who fails to make a return, or who makes a fraudulent return, or who willfully violates any other provision of this Chapter is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00) and in addition shall be liable in a civil action for the amount of tax due.

**63.09 REBATES**

a) Persons who are eligible for reduced water rates under the provisions of Section 7.18, b), of Chapter 7 and free refuse collection under Section 15.05, b), of this Municipal Code shall be eligible for a rebate of the tax paid under this Chapter 63 upon proper submittal of appropriate documentation. (03-60)

**(This ordinance inserted in the Municipal Code by Ord. 03-01)**