

DIVISION 2. - SEVERANCE TAX

TITLE

AN ORDINANCE IMPOSING A LICENSE TAX PURSUANT TO VIRGINIA CODE ANNOTATED SECTION 58-266.1:1 [Code of Virginia, § 58.1-3712], AS AMENDED, UPON ALL PERSONS ENGAGED IN THE BUSINESS OF SEVERING COAL OR GASES FROM LANDS SITUATE IN TAZEWELL COUNTY, VIRGINIA, AND FURTHER REQUIRING PRODUCERS AND COMMON CARRIERS OF COAL OR GASES PRODUCED OR TRANSPORTED FROM TAZEWELL COUNTY, VIRGINIA, TO MAINTAIN RECORDS AND FILE REPORTS SHOWING THE QUANTITIES AND PROCEEDS FROM COAL OR GASES PRODUCED OR TRANSPORTED RESPECTIVELY.

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Sec. 10-111. - Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Gross receipts means the fair market value measured at the time coal or gases regulated under this division are utilized or sold for utilization in the county, or at the time they are placed for transit for shipment from the county. The term "gross receipts" shall include only those receipts derived from property located within this county and shall not include any receipts arising from the sale or other disposition of coal or gases extracted prior to the effective date of this division.

Owner means the owner of legal or equitable interest in coal or gases at the time of severance.

Person includes any person, firm, concern, receiver, trustee, executor, partner or partnership, administrator, agent, institution, association, company, corporation and persons acting under declaration of trust.

Producer means every person engaged in the business of severing coal or gases from the earth in the county, including any owner so engaged.

Severed, severing and severance mean taking from the land or soil situate in the county any coal or gases in any manner whatsoever.

(Ord. of 9-13-78, § B)

Sec. 10-112. - Tax imposed.

A license tax authorized by Code of Virginia, § 58.1-3712 is hereby levied upon all persons severing or extracting coal or gases from lands lying situate within the county, as provided in this division.

(Ord. of 9-13-78, § A)

Sec. 10-113. - Rate of tax.

The license tax adopted in this division shall be at the rate of one percent of the gross receipts from the sales of coal or gases severed or extracted from the county.

(Ord. of 9-13-78, § C)

Sec. 10-114. - Records; filing of returns; payment of tax.

(a) *Responsibility of producer.* Except as otherwise provided in this division, the keeping of records, the filing of returns required in this division and the payment of the tax shall be by the producer actually engaged in the operation of severing, whether it be the owner of the soil or any other person taking the coal or gases.

(b) *Filing of returns.* Returns shall be made on the twentieth day of each month for the preceding calendar month stating the quantity (tonnage or thousand cubic feet) of coal or gases, seams or sands mined, and gross receipts from sale of coal or gases. Such returns shall be accompanied by a statement under oath of the completeness and accuracy of the return as filed.

(c) *Payment of tax.* Taxes due on the gross receipts shown by such returns shall be payable to the treasurer on or before the due date of the return for each calendar month.

(d) *Records.*

(1) Each producer of such coal or gases and any common carrier which transports such coal or gases, or any company owning, operating or using a pipeline by which gases produced in the county are transmitted to a point outside the county to a purchaser thereof shall maintain records showing the source, quantity and gross receipts of coal or gases which they have produced and transported, respectively.

(2) Each such producer, carrier or pipeline owner, operator or user shall make such records available for examination by the commissioner of the revenue of the county, or his authorized agents, at its office where such records are usually kept.

(Ord. of 9-13-78, § D)

Sec. 10-115. - License required; license period.

(a) Any producer engaging in the severance of coal or gases from lands situate in the county shall apply for a license on or before beginning severance. Such license shall be effective only for the calendar month in which issued, with the license tax for that month to be paid within the time prescribed by this division.

(b) Such license for any month shall expire at the close of each calendar month unless renewed by the filing of reports and the payment of tax as set forth in this division; thereupon it shall be

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automatically renewed for the succeeding calendar month subject to the payment prescribed.

(Ord. of 9-13-78, § F)

Sec. 10-116. - Penalty for engaging in business without license.

Any person engaging in the business of extracting coal or gases without a license as required in this division, or continuing in such a business without obtaining a new license, shall be deemed guilty of a misdemeanor.

(Ord. of 9-13-78, § G(1))

Sec. 10-117. - Interest on unpaid tax.

Interest shall accrue on any tax imposed under this division not paid when due at the rate of eight (8) percent per annum until paid, subject to any limitations otherwise prescribed by law.

(Ord. of 9-13-78, § G(2))

Secs. 10-118—10-125. - Reserved.

DIVISION 3. - ROAD IMPROVEMENT LICENSE TAX

TITLE

AN ORDINANCE IMPOSING A LICENSE TAX, FOR USE IN THE IMPROVEMENT OF ROADS USED IN THE TRANSPORTATION OF COAL, PURSUANT TO § 58.1-3713, AS AMENDED, UPON ALL PERSONS ENGAGED IN THE BUSINESS OF SEVERING COAL OR GASES FROM LANDS SITUATE IN TAZEWELL COUNTY, VIRGINIA; REQUIRING PRODUCERS AND COMMON CARRIERS OF COAL OR GASES PRODUCED OR TRANSPORTED FROM TAZEWELL COUNTY, VIRGINIA, TO MAINTAIN RECORDS AND FILE REPORTS SHOWING THE QUANTITIES AND PROCEEDS FROM COAL OR GASES PRODUCED OR TRANSPORTED RESPECTIVELY; AND FURTHER ESTABLISHING THE COAL ROAD IMPROVEMENT FUND AND THE COAL ROAD IMPROVEMENT ADVISORY COMMITTEE AND FURTHER PROVIDING FOR REVENUE TO BE PAID TO THE VIRGINIA COAL ECONOMIC DEVELOPMENT FUND.

[Sec. 10-126. - Definitions.](#)

[Sec. 10-126.1. - Short title.](#)

[Sec. 10-127. - Tax imposed.](#)

[Sec. 10-128. - Rate of tax.](#)

[Sec. 10-129. - Records; filing of returns; payment of tax.](#)

[Sec. 10-130. - License required; license period.](#)

[Sec. 10-131. - Penalty for engaging in business without license.](#)

[Sec. 10-132. - Interest on unpaid tax.](#)

[Sec. 10-133. - Coal and gas road improvement advisory committee.](#)

[Sec. 10-134. - Road improvement fund.](#)

[Sec. 10-135. - Payment to the Virginia Coal Economic Development Fund.](#)

[Secs. 10-136—10-145. - Reserved.](#)

Sec. 10-126. - Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Gross receipts means the fair market value measured at the time coal or gases regulated under this division are utilized or sold for utilization in the county, or at the time they are placed in transit for shipment from the county. The term "gross receipts" shall include only those receipts derived from property located within this county and shall not include any receipts arising from the sale or other disposition of coal or gases extracted prior to February 1, 1979.

Owner means the owner of legal or equitable interest in coal or gases at the time of severance.

Person includes any person, firm, concern, receiver, trustee, executor, partner or partnership, administrator, agent, institution, association, company, corporation and persons acting under declaration of trust.

Producer means every person engaged in the business of severing coal or gases from the earth in the

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county, including any owner so engaged.

Severed, severing and severance mean taking from the land or soil situate in the county any coal or gases in any manner whatsoever.

(Ord. of 1-10-79, § B)

Sec. 10-126.1. - Short title.

This division may hereby be referred to and shall be known by its short title as: The Tazewell County Coal Road Improvement Tax.

(Ord. of 4-9-92, § 1(B))

Sec. 10-127. - Tax imposed.

A license tax authorized by Code of Virginia, § 58.1-3713 is hereby levied upon all persons severing or extracting coal or gases from lands lying situate within the county, as provided in this division. This tax shall be in addition to and not in place of any tax levied by the county under Code of Virginia, § 58.1-3712.

(Ord. of 1-10-79, § A)

Sec. 10-128. - Rate of tax.

The license tax adopted in this division shall for each calendar year be at the rate of one percent of the gross receipts from the sale of coal or gases severed or extracted from the county.

(Ord. of 1-10-79, § C)

Sec. 10-129. - Records; filing of returns; payment of tax.

(a) *Responsibility of producer.* Except as otherwise provided in this division, the keeping of records, the filing of returns required in this division and the payment of the taxes shall be by the producer actually engaged in the operation of severing, whether it be the owner of the soil or any other person taking the coal or gases.

(b) *Filing of returns.* Returns shall be made to the commissioner of the revenue on the twentieth day of each month, for the preceding calendar month, stating the quantity (tonnage or thousand cubic feet) of coal or gases, seams or sands mined, and gross receipts from the sale of coal or gases. Such returns shall be accompanied by a statement under oath of the completeness and accuracy of the return as filed.

(c) *Payment of tax.* Taxes due on the gross receipts shown by such returns shall accompany each return and shall be made payable to the treasurer of the county.

(d) *Records.*

(1) Each producer of such coal or gases and any common carrier which transports such coal or gases, or any company owning, operating or using a pipeline by which gases produced in the county are transmitted to a point outside the county to a purchaser thereon, shall maintain records showing the source, quantity and gross receipts of coal and gases which they have produced and transported, respectively.

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(2) Each such producer, carrier or pipeline owner, operator or user shall make such records available for examination by the commissioner of revenue of the county, or his authorized agents, at its offices where such records are usually kept.

(Ord. of 1-10-79, § D)

Sec. 10-130. - License required; license period.

(a) Any producer engaging in the severance of coal or gases from lands situate in the county shall apply for a license on or before beginning severance. Such license shall be effective only for the calendar month in which issued, with the license tax for that month to be paid within the time prescribed by this division.

(b) Such license for any month shall expire at the close of each calendar month unless renewed by the filing of reports and the payment of tax as set forth in this division; thereupon it shall be automatically renewed for the succeeding calendar month subject to the payment prescribed.

(Ord. of 1-10-79, § F)

Sec. 10-131. - Penalty for engaging in business without license.

Any person engaging in the business of extracting coal or gases without a license as required in this division, or continuing in such a business without obtaining a new license, shall be deemed guilty of a misdemeanor.

(Ord. of 1-10-79, § I(1))

Sec. 10-132. - Interest on unpaid tax.

Interest shall accrue on any tax imposed under this division not paid when due at the rate of eight (8) percent per annum until paid, subject to any limitations otherwise prescribed by law.

(Ord. of 1-10-79, § I(2))

Sec. 10-133. - Coal and gas road improvement advisory committee.

(a) There is hereby established a coal and gas road improvement advisory committee which shall be composed of such members, for such terms, and be selected such as prescribed by Code of Va., § 58.1-3713, as amended.

(b) The coal road improvement advisory committee shall develop, on or before July 1 of each year, a plan for improvement of roads during the following fiscal year.

(1) Such plan must have the approval of three (3) of the members of the committee.

(2) Such plan shall be submitted to the board of supervisors for approval and must be approved by a vote of majority. The board may make no changes without the unanimous consent of the committee.

(Ord. of 1-10-79, § G; Ord. of 4-9-92, § 1(C); Ord. of 9-5-06)

Cross reference— Administration, Ch. 2.

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Sec. 10-134. - Road improvement fund.

Three-fourths ($\frac{3}{4}$) of the monies collected from the tax imposed by this division shall be paid into a special fund to be called the coal and gas road improvement fund of Tazewell County, and shall be spent for such improvements to public roads as the coal and gas road improvement advisory committee and the board of supervisors may determine under section 10-133. The funds may be used in the improvement of city or town roads provided the consent of the city or town council is obtained. The funds to be expended from the coal and gas road improvement fund of Tazewell County may be expended by vote of the Board of Supervisors of Tazewell County, Virginia, to appropriate such funds and authorize the payment of such funds, provided that the use and payment of such funds is in accordance with the plan approved under section 10-133.

(Ord. of 1-10-79, § H; Ord. of 4-9-92, § 1(D))

Sec. 10-135. - Payment to the Virginia Coal Economic Development Fund.

One-fourth ($\frac{1}{4}$) of the revenue collected from the tax imposed by this division shall be paid to the Virginia Coal Economic Development Fund in accordance with the ordinances and/or resolutions previously adopted by the Board of Supervisors of Tazewell County, Virginia, or hereinafter adopted by the Board of Supervisors of Tazewell County, Virginia.

(Ord. of 4-9-92, § 1(E))

Secs. 10-136—10-145. - Reserved.

DIVISION 4. - ADDITIONAL TAX ON GAS

TITLE

AN ORDINANCE IMPOSING AN ADDITIONAL LICENSE TAX ON GASES SEVERED FROM LANDS LOCATED IN TAZEWELL COUNTY IN ACCORDANCE WITH SECTION 58.1-3713.4 THE CODE OF VIRGINIA (1950) AS AMENDED.

[Sec. 10-146. - Definitions.](#)

[Sec. 10-147. - Statutory authority.](#)

[Sec. 10-148. - Tax imposed.](#)

[Sec. 10-149. - Tax additional.](#)

[Sec. 10-150. - Deposit of revenue.](#)

[Sec. 10-151. - Rate of tax.](#)

[Sec. 10-152. - Records; filing of returns; payment of tax.](#)

[Sec. 10-153. - License required; license period.](#)

[Sec. 10-154. - Penalty for engaging in business without license.](#)

[Sec. 10-155. - Interest on unpaid tax.](#)

[Sec. 10-156. - Denial, revocation or suspension of license.](#)

[Sec. 10-157. - Assessment of tax on failure to file return.](#)

[Sec. 10-158. - Bond.](#)

[Sec. 10-159. - Penalty for failure to file return, filing false return.](#)

[Secs. 10-160—10-180. - Reserved.](#)

Sec. 10-146. - Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Gross receipts means the fair market value measured at the time gases regulated under this division are utilized or sold for utilization in the county, or at the time they are placed in transit for shipment from the county. The term "gross receipts" shall include only those receipts derived from property located within the county.

Owner means the owner of legal or equitable interest in gases at the time of severance.

Person includes any person, firm, concern, receiver, trustee, executor, partner or partnership, administrator, agent, institution, association, company, corporation and person acting under declaration of trust.

Producer means every person engaged in the business of severing gases from the earth in the county, including any owner so engaged.

Severed, severing and *severance* mean the taking of gases from the earth or soil situate in the county, in any manner whatsoever.

(Ord. of 11-13-90(2), § B)

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Sec. 10-147. - Statutory authority.

This division is adopted pursuant to the authority vested in the county and the board of supervisors by Code of Virginia, § 58.1-3713.4.

(Ord. of 11-13-90(2), § K)

Sec. 10-148. - Tax imposed.

In addition to any license tax in effect at the time of adoption of this division, there is hereby levied an additional license tax of one percent upon the gross receipts from the sale of gases severed from lands lying situate within the county, on every person engaged in the business of severing gases from the earth.

(Ord. of 11-13-90(2), § A)

Sec. 10-149. - Tax additional.

The one-percent tax imposed in this division is imposed notwithstanding the rate limitations established in Code of Virginia, §§ 58.1-3712 and 58.1-3713, and is in addition to the tax assessed pursuant to such sections.

(Ord. of 11-13-90(2), § I)

Sec. 10-150. - Deposit of revenue.

The revenue received from the tax imposed in this division shall be paid as follows:

- (1) One-half of the revenue received shall be paid into the general fund of the county.
- (2) The remaining one-half of the revenue collected shall be paid to the Commonwealth Coalfield Economic Development Fund.

(Ord. of 11-13-90(2), § C)

Sec. 10-151. - Rate of tax.

The additional license tax imposed in this division shall be at the rate of one percent of the gross receipts from the sale of gases severed within the county.

(Ord. of 11-13-90(2), § D)

Sec. 10-152. - Records; filing of returns; payment of tax.

(a) *Responsibility of producer.* Except as otherwise provided in this division, the keeping of records, the filing of returns required in this division and the payment of the tax shall be by the producer actually engaged in the operation of severing, whether it be the owner of the soil or any other person taking the gases.

(b) *Filing of returns.* Returns shall be made on the twentieth day of each month, for the preceding calendar month, stating the quantity (thousand cubic feet) of gases severed, and gross receipts from sale of gases. Such returns shall be accompanied by a statement under oath of the completeness and accuracy of the return as filed.

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(c) *Payment of tax.* Taxes due on the gross receipts shown by such returns shall be payable to the treasurer on or before the due date of the return for each calendar month.

(d) *Records.*

(1) Each producer of such gases and any common carrier which transports such gases, or any company owning, operating or using a pipeline by which gases produced in the county are transmitted to a point outside the county to purchasers thereof, shall maintain records showing the source, quantity and gross receipts of the gases which they have produced and transported, respectively.

(2) Each such producer, carrier or pipeline owner, operator or user shall make such records available for examination by the commissioner of the revenue of the county, or his authorized agents, at its office where such records are usually kept.

(Ord. of 11-13-90(2), § E)

Sec. 10-153. - License required; license period.

(a) Any producer engaging in the severance of gases from lands situate in the county shall apply for a license on or before beginning severance. Such license shall be effective only for the calendar month in which issued, with the license tax for that month to be paid within the time prescribed by this division.

(b) Such license for any month shall expire at the close of each calendar month unless renewed by the filing of reports and the payment of tax as set forth in this division; thereupon it shall be automatically renewed for the succeeding calendar month subject to the payment prescribed.

(Ord. of 11-13-90(2), § G)

Sec. 10-154. - Penalty for engaging in business without license.

Any person engaging in the business of extracting gases without a license as required in this division, or continuing in such a business without obtaining a new license, shall be subject to the penalties provided by Code of Virginia, § 58.1-3916. Such section is incorporated as part of this division by reference as if fully set out herein.

(Ord. of 11-13-90(2), § H(1))

Sec. 10-155. - Interest on unpaid tax.

Interest shall accrue on any tax imposed under this division not paid when due at the rate of ten (10) percent per annum until paid, subject to any limitations otherwise prescribed by law.

(Ord. of 11-13-90(2), § H(2))

Sec. 10-156. - Denial, revocation or suspension of license.

Whenever any person fails to comply with any provision of this division the commissioner of revenue may hold a hearing after giving such person ten (10) days' notice in writing specifying the time and place of hearing and requiring him to show cause why his license should not be revoked or suspended or his application for renewal denied. He may revoke or suspend or deny reissuance of any one or more of the licenses held by such person.

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(Ord. of 11-13-90(2), § H(3))

Sec. 10-157. - Assessment of tax on failure to file return.

If any operator fails to make a return as provided in this division it shall be the duty of the commissioner of the revenue to make an assessment based on an estimate for the taxable period. The commissioner may require such operator to appear before him and require such operator to answer interrogatories under oath.

(Ord. of 11-13-90(2), § H(4))

Sec. 10-158. - Bond.

The commissioner of revenue may, when in his judgment it is necessary and advisable to do so in order to secure the collection of the tax levied by this division, require any person subject to such tax to file with him a bond secured by a surety company authorized to do business in this state as surety, in such reasonable amount as the commissioner of revenue may fix, to secure the payment of any tax, penalty or interest due or which may become due from such person.

(Ord. of 11-13-90(2), § H(5))

Sec. 10-159. - Penalty for failure to file return, filing false return.

Pursuant to Code of Virginia, § 58.1-3916.1, if any person willfully fails or refuses to file a return under this division at the times required in this division, or makes any false statements with intent to defraud in such returns, he shall be guilty of a class 3 misdemeanor if the amount of tax lawfully assessed is one thousand dollars (\$1,000.00) or less. If such tax which is lawfully assessed is in excess of one thousand dollars (\$1,000.00), such person shall be guilty of a class 1 misdemeanor. For purposes of this section, class 3 misdemeanor and class 1 misdemeanor shall have the definitions set out in Code of Virginia, § 18.2-11.

(Ord. of 11-13-90(2), § H(6))

Secs. 10-160—10-180. - Reserved.