

**CHAPTER 3.30  
UTILITY OCCUPATIONAL TAX**

Sections:

- 3.30.010 Exercise of Taxing Authority
- 3.30.020 Definitions
- 3.30.050 Occupations Subject to Tax - Amount
- 3.30.055 Street Overlay, Repair, and Reconstruction Fund
- 3.30.060 Exceptions and Deduction
- 3.30.070 Payment of Tax
- 3.30.080 Sale or Transfer of Business
- 3.30.090 Taxpayer to Keep Books and Records - Returns Confidential
- 3.30.100 Cost of Audit
- 3.30.110 Overpayment or Underpayment of Tax
- 3.30.120 Remedy for Nonpayment of Tax
- 3.30.130 Appeals to City Council
- 3.30.150 False Returns
- 3.30.160 Notification of Annexation
- 3.30.180 Rules
- 3.30.190 Penalty

3.30.010 Exercise of Taxing Authority: Provisions of this chapter shall be deemed an exercise of the authority of the city to tax for revenue. (Ord. 2160, 4/27/04)

3.30.020 Definitions: In construing the provisions of this chapter, save when otherwise plainly declared or clearly apparent from the context, the following definitions shall be applied:

- A. Competitive Telephone Service means the providing by any person of telephone equipment, apparatus, or service, other than toll service, which is of a type which can be provided by persons that are not subject to regulation as telephone companies under Title 80 RCW and for which a separate charge is made.
- B. Gross Operating Income means the value proceeding or accruing from the sale of tangible property or service, installation fees, and receipts by reason of the investment of capital in the business engaged in, including rentals, royalties, fees or other emoluments, however, designated (excluding receipts or proceeds from the use or sale of notes, bonds, mortgages, or other evidences of indebtedness, or stock and the like) and without any deduction on account of the cost of the property sold, the cost of materials used, labor costs, interest or discount paid or any expense whatsoever.
- C. Person or Persons means persons of either sex, firms, co-partnerships, corporations and other associations of natural persons, whether acting by themselves or by servants, agents or employees.
- D. Taxpayer means any person liable for the license fee or tax imposed by this chapter.
- E. Tax Year or Taxable Year means the year commencing January first and ending on the last day of December of the same year, or in lieu thereof, the taxpayer's fiscal year when permission is obtained from the Finance Director to use the same as the tax period.
- F. Telephone means every primary station and shall exclude extensions.
- G. Telephone Business means the business of providing access to a local telephone network, local telephone network switching service, toll service, or coin telephone services, or providing telephonic, video, data, or similar communication or transmission for hire, via a local telephone network, toll line, or channel, or similar communication or transmission system. It includes cooperative or farmer line telephone companies or associations operating an exchange. The term does not include the providing of competitive telephone service, nor the providing of cable television service. (Ord. 2489, 7/28/09; Ord. 1044, 1981)

3.30.050 Occupations Subject to Tax - Amount: There is hereby levied upon, and there shall be collected from, every person engaged in carrying on the following businesses for hire or for the sale of a commodity, or service within or partly within the corporate limits of the city the tax for the privilege of so doing business as herein after defined, as follows:

- A. Upon every person engaged in or carrying on the business of selling, furnishing, delivering, or distributing any telephone service for residential, commercial, or industrial use a tax equal to 6% of the first one hundred thousand dollars (\$100,000) of total annual gross operating revenue of sales of telephone service to each customer within the limits of the city.

Gross operating income for this purpose shall not include charges which are passed on to the subscribers by a telephone company pursuant to tariffs required by regulatory order to compensate for the cost to the company of the tax imposed by this chapter.

- B. Upon every person engaged in or carrying on the business of selling, furnishing, delivering, or distributing electric light and power or electrical energy service for residential, commercial, or industrial use a tax equal to six percent (6%) of the first one hundred thousand dollars (\$100,000) of annual total gross operating revenue from distributing electric light and power or electrical energy to each customer within the limits of the city.
- C. Upon every person engaged in or carrying on the business of selling or furnishing water service for residential, commercial, or industrial use a tax equal to ten percent (10%) of the first one hundred and fifty thousand dollars (\$150,000) of total annual gross operating revenue for selling or furnishing water service to each customer within the limits of the city.
- D. Upon every person engaged in or carrying on the business of selling or furnishing sewer service for residential, commercial, or industrial use a tax equal to eight percent (8%) of the first one hundred and fifty thousand dollars (\$150,000) of total annual gross operating revenue for selling or furnishing sewer service to each customer within the limits of the city.
- E. Upon every person engaged in or carrying on the business of selling or furnishing stormwater management service for residential, commercial, or industrial use within the City there shall be levied a tax equal to eight percent (8%) of the total annual gross operation revenue.
- F. Upon every person engaged in or carrying on the business of selling or furnishing of natural, manufactured, or mixed gas service for residential, commercial, or industrial use a tax equal to six percent (6%) of the first one hundred thousand dollars (\$100,000) of total annual gross operating revenue from selling or furnishing natural, manufactured, or mixed gas service to each customer within the limits of the city.
- G. Upon every person engaged in or carrying on the business of selling or furnishing garbage facilities and/or service for domestic or industrial use within the city there shall be levied a tax equal to eight percent (8%) of the total annual gross operating revenue.
- H. Upon every person engaged in or carrying on the business of furnishing a cable subscription system for television signal distribution within the city there shall be levied a tax equal to three percent (3%) of the total annual gross operating revenue. It is not the intent of this section to classify the business as a public utility.
- I. Upon every person engaged in or carrying on the business of furnishing competitive telephone service, including but not limited to, cellular telephone service within the city there shall be levied a tax equal to eight percent (8%) of the total annual gross operating revenue.
- J. Total annual gross operating revenue shall be calculated on a calendar year basis beginning January 1 of any year and ending on December 31 of the same year. (Ord. 2572, 7/27/10; Ord. 2554, 3/23/10; Ord. 2059, 5/14/02; Ord. 1930, 4/25/00; Ord. 1878, 11/9/99; Ord. 1860, 7/13/99; Ord. 1852, 4/13/99; Ord. 1520, 1992; Ord. 1216, 1986; Ord. 1089, 1983; Ord. 1044, 1981)

3.30.055 Street Overlay, Repair, and Reconstruction Fund: Of the utility occupational tax levied in Section 3.30.050 (C), (D), (F), and (G), three percent (3%) shall be deposited in the City's "Street Repair and Reconstruction Fund" to be used solely for the repair and reconstruction of the streets in the City. Furthermore, of the utility occupational tax levied in Section 3.30.050 (A), (B), and (F), one percent (1%) shall be deposited in the "Street Repair and Reconstruction Fund" to be used solely for the same purposes. (Ord. 2554, 3/23/10; Ord. 1357, 1989; Ord. 1230, 1986; Ord. 1089, 1983; Ord. 1044, 1981)

3.30.060 Exceptions and Deductions: In computing said tax, there shall be deducted from said gross operating income the following items:

- A. The amount of credit losses and uncollectibles actually sustained by the taxpayer;
- B. Amounts derived from interstate or foreign commerce or from any business which the city is prohibited from taxing under the Constitutions of the United States or the State of Washington;
- C. Amounts derived by the taxpayer from the City of Moses Lake.

Any person subject to payments of a license fee or tax under the provisions of any ordinance of the city, other than this chapter, on account of engaging in any activity for which he is liable to tax under this chapter, may deduct the amount of such fee or tax imposed by this chapter on account of such activity except when the taxes imposed in this chapter are paid by the customer, but such person shall nevertheless, in the manner provided for in this chapter, apply for and procure an Occupation License. (Ord. 1044, 1981)

3.30.070 Payment of Tax: The tax imposed by this chapter shall be due and payable in quarterly installments and remittance shall be made on or before the 30th day of the month next succeeding the end of the quarterly period for which the tax accrued unless the prior year's annual tax is two hundred dollars (\$200) or less, then payment may be made on the same basis as the fourth quarter. Such quarterly periods are as follows:

- 1st quarter - January, February, March
- 2nd quarter - April, May, June
- 3rd quarter - July, August, September
- 4th quarter - October, November, December

The first payment made hereunder shall be made by April 30, 1982 for the three month period ending March 1982. On or before said due date the taxpayer shall file with the Finance Director a written return, upon such form and setting forth such information as the Finance Director shall reasonably require, together with the payment of the amount of the tax. (Ord. 1959, 8/8/00; Ord. 1044, 1981)

3.30.080 Sale or Transfer of Business: Upon the sale or transfer during any tax year of a business on account of which a fee or tax is required, the purchaser or transferee shall, if the fee or tax has not been paid in full for the year, be responsible for its payment for that portion of the year during which he carried on such business. (Ord. 1044, 1981)

3.30.090 Taxpayer to Keep Books and Records - Returns Confidential: It shall be the duty of each taxpayer taxed upon his gross income to keep and enter in a proper book or set of books or records an account which shall accurately reflect the amount of his gross income which account shall always be open to the inspection of the Finance Director or his duly authorized agent, and from which the officer or his agent may verify the return made by the taxpayer. The applications, statements or returns made to the Finance Director pursuant to this chapter shall not be made public nor shall they be subject to the inspection of any person except the City Manger, the City Attorney, the Finance Director or his authorized agent, and members of the City Council. (Ord. 2489, 7/28/09; Ord. 1044, 1981)

- 3.30.100 Cost of Audit: Upon the failure or refusal of the taxpayer to furnish the information called for by the Finance Director or if the books and records of the taxpayer are complicated, or do not readily disclose the information required for making a complete or satisfactory return without the assistance of a skilled accountant, then the Finance Director may in his discretion employ a skilled accountant, and such clerical assistance as is necessary, to make an audit of the books and records of the taxpayer and such expenses shall be collected from the taxpayer in the manner provided for the collection of the license or tax. (Ord. 2489, 7/28/09; Ord. 1044, 1981)
- 3.30.110 Overpayment or Underpayment of Tax: If the Finance Director upon investigation or upon checking returns finds that the fee or tax paid is more than the amount required of the taxpayer, he shall, upon request of the taxpayer, refund the amount overpaid by warrant upon the General Fund, or credit the amount against any tax due or to become due from such taxpayer hereunder. If the Finance Director finds that the fee or tax paid is less than required, he shall send a statement to the taxpayer showing the balance due, who shall within ten (10) days of the receipt of the statement pay the amount shown thereon. (Ord. 2489, 7/28/09; Ord. 1044, 1981)
- 3.30.120 Remedy for Nonpayment of Tax: If any taxpayer fails to apply for a license or make his return, or to pay the fee or tax therefore, or the cost of any audit required by the Finance Director or any part thereof by the due date referred to in Section 3.30.070, the Finance Director shall ascertain the amount of the fee or tax or installment thereof and/or cost of audit due, and shall add to such amount interest which shall be assessed at twelve percent (12%) per annum figured on a daily basis and a penalty of fifteen percent (15%) of the total amount past due, and shall notify such taxpayer therefore, who shall be liable therefore in any suit or action by the city for collection thereof. The penalty which is assessed shall not be considered as interest. The Finance Director shall also notify the City Attorney in writing of the name of such delinquent taxpayer and the amount due from him and the City Attorney shall with the assistance of the Finance Director collect the same by any appropriate means or by any suit or action in the name of the City of Moses Lake. (Ord. 2489, 7/28/09; Ord. 1089, 1983; Ord. 1044, 1981)
- 3.30.130 Appeals to City Council: All taxpayers aggrieved by the amount of the fee or tax found by the Finance Director to be required under the provisions of this chapter may appeal to the City Council from such finding by filing a written notice of appeal with the Finance Director within five (5) days from the time such taxpayer was given notice of such amount. The Finance Director shall, as soon as practicable, fix a time and place for the hearing of such appeal, which time shall be not later than the next scheduled regular City Council meeting more than six (6) days after the filing of the notice of appeal, and he shall cause a notice of the time and place thereof to be delivered or mailed to the appellant. At such hearing, the taxpayer shall be entitled to be heard and to introduce evidence in his own behalf. The City Council shall thereupon ascertain the correct amount of the fee or tax by resolution and the Finance Director shall immediately notify the appellant thereof, which amount, together with costs of appeal, if appellant is unsuccessful therein, must be paid within three (3) days after such notice is given. (Ord. 2489, 7/28/09; Ord. 1044, 1981)
- 3.30.150 False Returns: It is unlawful for any person liable to tax under this chapter to fail or refuse to make application for return for license or to pay the fee or tax or installment thereof when due, or for any person to make any false or fraudulent application or return or any false statement or representation, in, or in connection with, any such application or return, or to aid or abet another in any attempt to evade payment of the fee or tax, or any part thereof, or for any person to fail to appear, and/or testify in response to subpoena issued pursuant hereto, or to testify falsely upon an investigation of the correctness of a return, or upon the hearing of any appeal, or in any manner to hinder or delay the city or any of its officers or auditors in carrying out the provisions of this ordinance. (Ord. 1044, 1981)
- 3.30.160 Notification of Annexation: Whenever the boundaries of said city are extended by annexation, all persons subject to this chapter shall be provided copies of all annexation ordinances by the city. (Ord. 1044, 1981)

- 3.30.180 Rules: The Finance Director is hereby authorized to adopt, publish, and enforce, from time to time, such rules and regulations for the proper administration of this chapter as shall be necessary, and it shall be a violation of this chapter to violate or fail to comply with any such rule or regulation lawfully promulgated hereunder. (Ord. 2489, 7/28/09; Ord. 1044, 1981)
- 3.30.190 Penalty: Any person who violates any of the provisions of this chapter shall be punishable as defined in Chapter 1.08 of the Moses Lake Municipal Code by a penalty of up to one thousand dollars (\$1,000) together with all penalties and assessments imposed by law for each violation. (Ord. 1645, 1994; Ord. 1044, 1981)