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CHAPTER 23

License Taxes on Other Businesses

ARTICLE 1

Electric Power

**SECTION 12‑23‑10.** Imposition of tax; rate.

 In addition to all other taxes of every kind imposed by law:

 (1) every person, except the State, a county, a municipality, or an agency or political subdivision of it, engaged in the business of selling electric power for resale within the State is subject to the payment of an excise, license, or privilege tax of five‑tenths of one mill upon each kilowatt hour of electric power sold for resale within the State, except upon such electric power purchased from a vendor, however remote, previously taxed under this subsection. Sales for resale of an electric cooperative to a customer whose sales are taxed under subsection (2) must not be taxed under this subsection; and

 (2) except a municipality, every public utility and electric cooperative engaged in the business of selling electric power within the State to the ultimate user of the power is subject to the payment of an excise, license, or privilege tax of five‑tenths of one mill upon each kilowatt hour sold within the State to the ultimate user, except such electric power purchased from vendors, however remote, taxed under subsection (1).

HISTORY: 1962 Code Section 65‑901; 1952 Code Section 65‑901; 1942 Code Section 2558; 1932 Code Section 2558; 1931 (37) 357; 1935 (39) 275; 1937 (40) 610; 1957 (50) 404; 1969 (56) 740; 1991 Act No. 171, Part II, Section 57B.

**SECTION 12‑23‑20.** Exemptions from tax.

 The provisions of this article shall not apply to:

 (1) Electric power manufactured or generated in another state and brought into this State until such power has lost its interstate character and immunities;

 (2) Electric power or energy generated in the State by plants constructed after May 1, 1951 and exported to another state;

 (3) Any person owning and operating an electric manufacturing or generating plant of ten horsepower or less;

 (4) Any industrial plant manufacturing or generating power for its own use or for use upon its own premises by its bona fide operatives or employees, but the tax shall be paid upon so much thereof as may be sold to other than its employees;

 (5) A municipality manufacturing or generating electricity for the use of its customers; or

 (6) Electric power used in manufacturing or generating hydroelectric power and steam electric power, and electric power used in the operation of such electric power manufacturing or generating plants and auxiliary machinery and equipment necessary thereto; provided, that all such power that is used for generation of power, which is to be exempt from taxation shall be exempt only if it is metered; nor shall they apply:

 (7) When the entire capital stock of a corporation owning and operating a plant manufacturing or generating electric power is owned by an industrial corporation, to such power as may be furnished by such generating corporation to such industrial corporation for use and consumption by such industrial corporation or for use upon the premises of such industrial corporation by its bona fide operatives or employees, but the tax shall be paid upon so much of such power as may be sold to other than such industrial corporation’s employees.

 (8) Electric power sold to industrial customers as a class in excess of the amounts of electric power sold to industrial customers as a class during the corresponding months of the State’s fiscal year 1957‑1958; but all sales of electric power to any class of customer other than industrial customers shall continue to be assessed and taxed as provided in this article. As used in this section, “industrial customers” shall mean that class of customer engaged in the business of manufacture, fabrication, processing and related work.

 (9) electricity used by a technology intensive facility as defined in Section 12‑6‑3360(M)(14)(b) and qualifying for the sales tax exemption provided pursuant to Section 12‑36‑2120(65), and the equipment and raw materials including, without limitation, fuel used by such qualifying facility to generate, transform, transmit, distribute, or manage electricity for use in such a facility. The running of the periods of limitation within which the department may assess taxes pursuant to Section 12‑54‑85 is suspended during the same time period it is suspended in item (65)(d) of Section 12‑36‑2120.

HISTORY: 1962 Code Section 65‑902; 1952 Code Section 65‑902; 1942 Code Section 2558; 1932 Code Section 2558; 1931 (37) 357; 1935 (39) 275; 1937 (40) 610; 1951 (47) 710; 1953 (48) 215; 1969 (56) 740; 2006 Act No. 335, Section 4.C, eff June 6, 2006; 2007 Act No. 110, Section 23.A, eff June 6, 2006; 2007 Act No. 116, Section 29.A, eff June 6, 2006.

**SECTION 12‑23‑30.** Authority to suspend tax on power sold to Atomic Energy department.

 The State Fiscal Accountability Authority may suspend the payment of the electric energy generating and sales tax on electricity sold to the Savannah River Plant of the Atomic Energy department from plants located in this State when, in the judgment of said authority, such suspension is for the best interest of the State.

HISTORY: 1962 Code Section 65‑903; 1952 Code Section 65‑903; 1951 (47) 710.

Code Commissioner’s Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1), effective July 1, 2015.

**SECTION 12‑23‑40.** department shall administer, enforce, and collect tax; rules and regulations.

 Such tax shall be paid to and collected by the department, and the department shall administer and enforce the tax and shall make rules and regulations pertinent to such enforcement, which shall have the full force and effect of law.

HISTORY: 1962 Code Section 65‑904; 1952 Code Section 65‑904; 1942 Code Sections 2558, 2559; 1932 Code Sections 2558, 2559; 1931 (37) 357, 358; 1935 (39) 275; 1937 (40) 610.

**SECTION 12‑23‑50.** Certain instruments and records shall be kept; examinations by department; violations.

 Every person engaged in the business of manufacturing, generating or selling electric power in this State shall provide himself with and keep the necessary instruments to show the amount of electric power manufactured, generated or sold, expressed in kilowatt hours, and shall keep permanent, legible records showing the amount of power, expressed in kilowatt hours, manufactured, generated or sold each day. Such records and instruments shall be subject to examination by the department or its duly authorized representatives at any time during business hours, and the department may enter upon the premises of any taxpayer and examine, or cause to be examined, any of the instruments, books, records, and other property of any such person and secure any other information directly or indirectly concerned in the enforcement of this article.

 Any person required to keep the necessary instruments or records prescribed in this section shall be subject to a penalty of one hundred dollars per day for each day’s omission to keep either such required instruments or required records. Such penalties shall be collected in the same manner as provided in this article for the collection of delinquent taxes.

HISTORY: 1962 Code Section 65‑905; 1952 Code Section 65‑905; 1942 Code Section 2559; 1932 Code Section 2559; 1931 (37) 358.

**SECTION 12‑23‑60.** Monthly returns and remittance of tax required.

 Every person subject to the provisions of this article shall on or before the twentieth day of each month make a true and correct return to the department in such form as it may prescribe, showing the exact amount of electric power manufactured, generated or sold, expressed in kilowatt hours, during the previous month, and remit the tax therewith.

HISTORY: 1962 Code Section 65‑906; 1952 Code Section 65‑906; 1942 Code Section 2560; 1932 Code Section 2560; 1931 (37) 359; 1994 Act No. 516, Section 35.

**SECTION 12‑23‑90.** Taxes and penalties deemed a debt; lien thereof.

 The taxes and all penalties provided for in this article shall be held as a debt payable to the State by the person against whom they shall be charged and all such taxes, penalties and assessments shall be a first lien in all cases whatsoever upon all property of the person charged therewith.

HISTORY: 1962 Code Section 65‑909; 1952 Code Section 65‑909; 1942 Code Section 2560; 1932 Code Section 2560; 1931 (37) 359.

**SECTION 12‑23‑120.** Use of tax.

 The revenue derived under the provisions of this article shall be turned into the State Treasury for the support of the State government.

HISTORY: 1962 Code Section 65‑913; 1952 Code Section 65‑913; 1942 Code Section 2563; 1932 Code Section 2564; 1931 (37) 361.

**SECTION 12‑23‑130.** Exemption of South Carolina Public Service Authority from taxation.

 Nothing contained in Sections 12‑23‑10, 12‑23‑20, or 12‑37‑220, shall be construed or interpreted to impose any tax liability on the South Carolina Public Service Authority, and all property leased to and operated by the South Carolina Public Service Authority for the generation or transmission of electric power shall, for all tax purposes, be considered the property of the Authority.

HISTORY: 1969 (56) 740.

ARTICLE 3

Carriers

**SECTION 12‑23‑210.** Municipal privilege or license tax on railroads; maximum allowable amounts.

 The maximum amount of privilege or license tax which the several municipalities within this State may annually assess and collect of persons operating railroads in this State as common carriers for the privilege of doing intrastate business within the limits of such municipalities, whether such companies are incorporated under the laws of this State or any other state or whether incorporated at all or not, is fixed as follows: In municipalities having a population of not exceeding two hundred and fifty inhabitants, ten dollars; in municipalities having a population of more than two hundred and fifty inhabitants and not exceeding five hundred inhabitants, fifteen dollars; in municipalities having a population of more than five hundred inhabitants and not exceeding seven hundred and fifty inhabitants, twenty dollars; in municipalities having seven hundred and fifty to one thousand inhabitants, twenty‑five dollars; in municipalities having a population of more than one thousand inhabitants and not exceeding five thousand inhabitants, twenty‑five dollars for the first one thousand inhabitants and twenty‑five dollars for each additional one thousand inhabitants or a major fraction thereof; in municipalities having a population of more than five thousand inhabitants and not exceeding ten thousand inhabitants, twenty‑five dollars for the first one thousand inhabitants and thirty dollars for each additional one thousand inhabitants or major fraction thereof; and in municipalities having a population of more than ten thousand inhabitants, twenty‑five dollars for the first one thousand inhabitants and thirty‑five dollars for each additional one thousand inhabitants or major fraction thereof. But in no case shall any municipality assess or collect such a privilege or license tax exceeding two thousand dollars.

 In arriving at the amount of privilege or license tax which may be assessed and collected under the provisions of this section the population of the several cities and towns shall be computed and based upon the Federal census next preceding the year for which such license tax is assessed from year to year.

HISTORY: 1962 Code Section 65‑921; 1952 Code Section 65‑921; 1942 Code Section 7241‑3; 1932 Code Section 7436; Civ. C. ‘22 Section 4548; 1920 (31) 921.

**SECTION 12‑23‑220.** Local licenses for carriers shall be good for interurban carriage.

 Any person who shall have paid a license or occupation tax in the city, town or county in which his principal place of business is situated for the purpose of conducting the business of transporting passengers or baggage for hire by means of carriage, hacks, omnibuses, drays or motor vehicles shall be exempt from the payment of any license or occupation tax in any other county, city or town to which or from which such passengers or baggage are transported and a license issued by an occupation tax paid to any county, city or town within the State by a person engaged in any such business shall be good in every county, city or town within the State. But nothing contained in this section shall permit the carrying on of the business exempted in this section within any incorporated city or town or within any other county, except the city, town or county in which the license is obtained or tax paid, except for the purpose of taking on and discharging passengers and baggage which is destined for another city, town or county, and this section shall apply to interurban business only.

HISTORY: 1962 Code Section 65‑922; 1952 Code Section 65‑922; 1942 Code Section 7241‑2; 1932 Code Section 7385; 1924 (33) 985.

ARTICLE 5

Foreign Land Associations

**SECTION 12‑23‑310.** Imposition of tax; rate.

 Every foreign land association and other business of a like class not incorporated under the laws of this State shall each, before transacting business in this State, pay an annual license fee of one hundred dollars to the Department of Insurance of this State on or before the thirty‑first day of March in each year, to be deposited by him in the State Treasury. Such license shall expire on the thirty‑first day of March of the succeeding year.

HISTORY: 1962 Code Section 65‑941; 1952 Code Section 65‑941; 1947 (45) 322; 1948 (45) 1734; 1960 (51) 1646; 1993 Act No. 181, Section 154.

ARTICLE 7

Theatrical Shows, Carnivals and Circuses

**SECTION 12‑23‑410.** Imposition of tax on plays and shows in towns or villages not incorporated; rate; payment; disposition.

 All persons representing publicly, for gain or reward, any play, comedy, tragedy, interlude, farce or other entertainment of the stage, or any part therein, and those who exhibit wax figures or shows of any kind whatsoever shall pay a tax of three dollars per day when they make such exhibitions at towns or villages that are not incorporated. Such sum of three dollars shall be paid into the hands of the clerks of the circuit courts, respectively, who shall be bound to pay it over into the county treasury.

HISTORY: 1962 Code Section 65‑961; 1952 Code Section 65‑961; 1942 Code Section 6322; 1932 Code Section 6322; Civ. C. ‘22 Section 5170; Civ. C. ‘12 Section 3426; Civ. C. ‘02 Section 2315; G. S. 1754; R. S. 1866; 1813 (5) 711.

**SECTION 12‑23‑420.** Clerks and magistrates shall issue executions for failure to pay tax.

 If any person who is required to pay the tax provided in Section 12‑23‑410 shall neglect to do so before such representation or exhibition, the clerk of the court or any magistrate for the county in which such neglect shall occur shall issue an execution for double the amount of tax so imposed, which may be directed to any sheriff or constable of this State and against the body and goods of the person so being liable and which may be levied in any county in the State. Every magistrate who shall so issue execution shall cause the amount of it to be paid to the clerk of the court for his county and the clerk of court shall pay into the county treasury all such taxes as may come into his hands. Nothing in this section shall apply to such a tax in any incorporated city or town.

HISTORY: 1962 Code Section 65‑962; 1952 Code Section 65‑962; 1942 Code Section 6323; 1932 Code Section 6323; Civ. C. ‘22 Section 5171; Civ. C. ‘12 Section 3427; Civ. C. ‘02 Section 2316; G. S. 1755; R. S. 1867; 1843 (11) 246.

**SECTION 12‑23‑430.** Municipalities may collect tax.

 The intendants and wardens of all incorporated cities and towns may collect the tax from persons representing, publicly, within their respective corporate limits, for gain or reward, any play or show of whatever nature or kind which, by Section 12‑23‑410, is made payable to the clerks of courts, such tax to be used for the purposes of such corporations, respectively.

HISTORY: 1962 Code Section 65‑963; 1952 Code Section 65‑963; 1942 Code Section 6324; 1932 Code Section 6324; Civ. C. ‘22 Section 5172; Civ. C. ‘12 Section 3428; Civ. C. ‘02 Section 2317; G. S. 1756; R. S. 1868; 1835 (6) 532.

**SECTION 12‑23‑440.** County license fees for circuses and similar traveling shows; amount; disposition.

 Any circus or other such traveling show exhibiting under canvas or outdoors for gain shall, before exhibiting in any county of this State, obtain a license from the clerk of the court of such county and shall pay to such clerk for such license one hundred dollars for each day such circus or other show shall be exhibited. The clerk shall forthwith pay over to the county treasurer of such county all the moneys by him received on account of any such license, to be applied to the use of the county.

HISTORY: 1962 Code Section 65‑965; 1952 Code Section 65‑965; 1942 Code Section 6327; 1935 (39) 288.

**SECTION 12‑23‑450.** County license fees for carnivals and similar shows other than a circus; amount; disposition.

 Any carnival company or other such traveling show, exhibiting under canvas or outdoors for gain, other than a circus, shall, before exhibiting in any county of this State, obtain a license from the clerk of the court of such county and shall pay to the clerk for such license twenty‑five dollars for each day such carnival company or other show shall be exhibited. The clerk shall pay over to the county treasurer of such county all the moneys by him received on account of any such license, to be applied to the use of the county. Provided, that the license fee in counties having a population in excess of two hundred ten thousand inhabitants according to the latest official United States census shall be fifty dollars for each day the carnival company or other show shall be exhibited.

HISTORY: 1962 Code Section 65‑966; 1952 Code Section 65‑966; 1942 Code Section 6327; 1935 (39) 288; 1962 (52) 2222.

**SECTION 12‑23‑460.** County license not required in certain instances.

 No county license shall be required under the provisions of Sections 12‑23‑440 and 12‑23‑450 when any of the traveling shows and circuses named therein shall pay a town or city license of the amount set forth therein.

HISTORY: 1962 Code Section 65‑967; 1952 Code Section 65‑967; 1942 Code Section 6327; 1935 (39) 288.

**SECTION 12‑23‑470.** Municipal authorities of incorporated city or town may require license.

 Nothing contained in this article shall be construed to prevent the municipal authorities of any incorporated city or town in this State from levying and collecting such fines or licenses as may be imposed by such municipal authorities.

HISTORY: 1962 Code Section 65‑972; 1952 Code Section 65‑972; 1942 Code Section 6328; 1932 Code Section 6328; Civ. C. ‘22 Section 5176; Civ. C. ‘12 Section 3432; Civ. C. ‘02 Section 2320; G. S. 1760; R. S. 1871; 1875 (15) 845.

ARTICLE 11

Indigent Health Care

**SECTION 12‑23‑810.** Tax on licensed hospitals.

 (A) Every hospital licensed as a general hospital by the Department of Health and Environmental Control is subject to the payment of an excise, license, or privilege tax. Each hospital’s tax must be based on the total expenditures of each hospital as a percentage of total hospital expenditures statewide.

 (B) [Reserved].

 (C) Total annual revenues from the tax, exclusive of penalties and interest, in subsection (A) of this section initially must equal two hundred sixty‑four million dollars. The amount of a general hospital’s tax must be derived from Schedule B, Part 1 of the hospital’s cost report. The initial annual tax must be collected, beginning July 1, 2006, based upon the reconciled account of a general hospital subject to this article, considering partial payments and an uncollected portion of the previous assessment pursuant to this article for the fiscal year ending June 30, 2006. Upon notification from the Department of Revenue, on behalf of and based on calculations performed by the Department of Health and Human Services, a general hospital shall remit the balance due based on a payment schedule as determined by the Department of Health and Human Services.

HISTORY: 1989 Act No. 189, Part II, Section 35I; 1991 Act No. 105, Section 1; 1992 Act No. 501, Part II Section 19A; 1998 Act 419, Part II, Section 41A; 1999 Act No. 100, Part II, Section 7; 2006 Act No. 386, Section 15, eff June 14, 2006.

**SECTION 12‑23‑815.** Information to form basis for assessments.

 The Department of Revenue shall issue assessments for the tax provided by this article based on information provided by the Department of Health and Environmental Control and the Office of Research and Statistics of the Revenue and Fiscal Affairs Office.

HISTORY: 1992 Act No. 361, Section 40; 1993 Act No. 181, Section 155; 1998 Act No. 419, Part II, Section 41B.

Code Commissioner’s Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1).

**SECTION 12‑23‑820.** Department of Revenue to administer article; collection of tax.

 The Department of Revenue shall administer and enforce the provisions of this article, and may promulgate regulations to enforce such provisions. The hospital tax levied pursuant to this article must be collected in accordance with the provisions of Chapter 54 of Title 12.

HISTORY: 1989 Act No. 189, Part II, Section 35I; 1993 Act No. 181, Section 156.

**SECTION 12‑23‑830.** Payment of tax; schedule of payments.

 (A) On the first day of each quarter, each general hospital shall remit one‑fourth of its annual tax to the Department of Revenue. The tax must be paid for each quarter a hospital is in operation. If a hospital ceases operations, the taxes not paid as a result of the cessation of operations must be apportioned among other hospitals in operation.

 (B) Beginning July 1, 2006, on the first day of each quarter, a general hospital shall remit to the Department of Revenue one‑fourth of a second, and each successive, annual tax as calculated pursuant to subsection (A), based upon operations conducted during fiscal year ending June 30, 2007, and each successive state fiscal year. The tax must be paid for each quarter a hospital is in operation. If a hospital ceases operation, the taxes unpaid as a result of the cessation of operation, must be apportioned among other hospitals remaining in operation.

HISTORY: 1989 Act No. 189, Part II, Section 35I; 1991 Act No. 105, Section 2; 1992 Act No. 361, Section 41; 1993 Act No. 181, Section 157; 2006 Act No. 386, Section 16, eff June 14, 2006.

**SECTION 12‑23‑840.** Disposition of tax revenues.

 Revenues derived under the provisions of this article must be deposited in the Medicaid Expansion Fund created by Section 44‑6‑155. In addition to the purposes specified in Section 44‑6‑155, monies in the Medicaid Expansion Fund must be used to provide health care coverage to the Medicaid‑eligible and uninsured populations in South Carolina.

HISTORY: 1989 Act No. 189, Part II, Section 35I; 2006 Act No. 386, Section 17, eff June 14, 2006.