WEST VIRGINIA CODE: §8-13-5A

PART I. POWERS OF TAXATION

§8-13-5a. Public utilities tax.

Every municipality has the plenary power and authority to levy and collect an excise tax on the privilege of purchasing, using or consuming, within the corporate limits of the municipality, public utility services and tangible personal property from public utilities subject to the jurisdiction of the Public Service Commission of West Virginia. The tax is computed on the basis of an amount not to exceed two percent of the gross amount of each periodic statement rendered purchasers or consumers by public utilities: Provided, That sales of tangible personal property such as appliances or the like, as distinguished from the public service supplied, are not included in the gross amount subject to the measure of this tax: Provided, however, That this tax does not apply to sales of telecommunications services to another telecommunications provider for the purposes of access, interconnection or resale to consumers. Charges or fees for items on the periodic statement that are not public utility services, including surcharges for telecommunications relay services for the deaf or hard of hearing and fees for enhanced emergency telephone systems, are not included in the gross amount subject to the measure of this tax. The purchasers or consumers shall pay to the public utilities the amount of the tax levied pursuant to this section which is added to and constitutes a part of the cost of the service or property so purchased or consumed and is collectible as such by the public utilities who shall account to the municipality levying same for all tax paid by the purchasers or consumers pursuant to the provisions of any ordinance imposing the tax.

Any ordinance imposing the tax shall require the collection thereof uniformly from all purchasers and consumers of all the services and property within the corporate limits of the municipality and contain reasonable rules governing the collection thereof by the utilities and the method of its payment and accounting to the municipality: Provided, That the tax is not effective until the municipality gives 60 days written notice by certified mail to any utility doing business therein of the effective date of the ordinance. Any required separation of gross income shall occur in the ordinance whenever necessary to comply with state or federal law: Provided, however, That the tax authorized by this section may not be levied upon charges for telephone services which are paid by the insertion of coins into coin-operated telephones, and specific charges for telephone calls to points outside the taxing municipality: Provided further, That specific charges for telephone calls to points outside the taxing municipality is construed to mean separately itemized or bulk-billed charges for long distance telecommunications service to points outside the local exchange service area. The charges subject to the tax authorized by this section include local usage charges applicable to telephone calls originating within the corporate limits of the municipality which imposes the tax, regardless of where the calls terminate, and also include the federal subscriber line charge.

WV Legislature

Notwithstanding any other provisions of the law to the contrary contained in the Code of West Virginia, 1931, as amended, the provisions of this section are in addition to all other taxing authority heretofore granted municipalities.

WV Legislature