WEST VIRGINIA CODE: §8-13C-4

§8-13C-4. Municipal sales and service taxes.

(a) Pension relief municipal sales tax. -– On and after July 1, 2005, each qualifying municipality, as defined in section two of this article, has the plenary power and authority to impose, by ordinance, a pension relief municipal sales and service tax at a rate not to exceed one percent, subject to the provisions of this article: Provided, That: (1) The tax does not apply to any purchase of tangible personal property, custom software or the results of taxable services in a transaction completed within the corporate limits of the municipality before July 1, 2008, or before such later date specified in the ordinance of the municipality imposing the tax; and (2) the effective date of the tax, or of a change in the rate of the tax, shall be no earlier than the first day of a calendar quarter that at a minimum begins one hundred eighty days after notice of the tax, or of a change in the rate of tax, is provided to the Tax Commissioner as provided in section six of this article.

(b) Alternative municipal sales tax. -– On and after July 1, 2005, notwithstanding subsection (a) of this section, and in addition thereto in the case of a qualifying municipality, any municipality that does not impose, or ceases to impose, the business and occupation or privilege tax authorized by section five, article thirteen of this chapter has the plenary power and authority to impose, by ordinance, an alternative municipal sales and service tax at a rate not to exceed one percent, subject to the provisions of this article: Provided, That: (1) The tax does not apply to any purchase of tangible personal property, custom software or the results of taxable services in a transaction completed within the corporate limits of the municipality before July 1, 2008, or before such later date specified in the ordinance of the municipality imposing the tax; and (2) the effective date of the tax, or of a change in the rate of the tax, shall be no earlier than the first day of a calendar quarter that at a minimum begins one hundred eighty days after notice of the tax, or of a change in the rate of tax, is provided to the Tax Commissioner as provided in section six of this article.

(c) Uniformity of tax base. -– Any municipal sales and service tax imposed under the authority granted by this section is subject to the following:

(1) The base of a municipal sales and service tax imposed pursuant to this section shall be identical to the base of the consumers sales and service tax imposed pursuant to article fifteen, chapter eleven of this code on sales made and services rendered within the boundaries of the municipality, subject to the following:

(A) Except for the exemption provided in section nine-f, article fifteen, chapter eleven of this code, all exemptions and exceptions from consumers sales and service tax apply to a municipal sales and service tax imposed pursuant to this section; and

(B) Sales of gasoline and special fuel are not subject to a municipal sales and service tax imposed pursuant to this section;

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(2) Any municipal sales and service tax imposed pursuant to this section applies solely to tangible personal property, custom software and services that are sourced to the municipality. The sourcing rules set forth in article fifteen-b, chapter eleven of this code, including any amendments thereto, apply to municipal sales and use taxes levied pursuant to this article.

(d) Notification of Tax Commissioner. -- Any municipality that imposes a municipal sales and service tax pursuant to this section or changes the rate of a municipal sales and service tax imposed pursuant to this section shall notify the Tax Commissioner pursuant to section six of this article.

(e) State level administration required. -- Any municipality that imposes a municipal sales and service tax pursuant to this section may not administer or collect the tax, but shall use the services of the Tax Commissioner to administer, enforce and collect the tax.

(f) Tax in addition to state use tax. -- Any municipal sales and service tax imposed pursuant to this section shall be imposed in addition to the consumers sales and service tax imposed pursuant to article fifteen, chapter eleven of this code on sales made and services rendered within the boundaries of the municipality and, except as exempted or excepted, all sales made and services rendered within the boundaries of the municipality shall remain subject to the tax levied by that article.

(g) Tax in addition to special district tax. -- Any municipal sales and service tax imposed pursuant to this section shall be imposed in addition to any tax imposed pursuant to section one, article eighteen, chapter seven of this code, sections six and seven, article thirteen of this chapter and section twelve, article thirty-eight of this chapter.

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