

**CHAPTER 22**

**PUBLIC UTILITY TAX—WATER AND SEWERAGE**

**Authority**

N.J.S.A. 54:30A-30 and 54:50-1.

**Source and Effective Date**

R.2009 d.349, effective October 21, 2009.  
See: 41 N.J.R. 2637(a), 41 N.J.R. 4311(a).

**Chapter Expiration Date**

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 22, Public Utility Tax—Water and Sewerage, expires on October 21, 2016. See: 43 N.J.R. 1203(a).

**Chapter Historical Note**

Chapter 22, Public Utility Corporations, was adopted and became effective prior to September 1, 1969.

Pursuant to Executive Order No. 66(1978), Chapter 22, Public Utility Corporations, was readopted as R.1984 d.99, effective April 2, 1984. See: 16 N.J.R. 233(a), 16 N.J.R. 747(b).

Pursuant to Executive Order No. 66(1978), Chapter 22, Public Utility Corporations, was readopted as R.1989 d.148, effective February 24, 1989. See: 21 N.J.R. 17(a), 21 N.J.R. 779(b).

Pursuant to Executive Order No. 66(1978), Chapter 22, Public Utility Corporations, was readopted as R.1994 d.145, effective February 24, 1994. See: 26 N.J.R. 335(a), 26 N.J.R. 1370(b).

Subchapter 14, Municipal Purposes Tax Assistance Fund, was adopted as R.1995 d.195, effective April 3, 1995. See: 27 N.J.R. 473(a), 27 N.J.R. 1441(a).

Pursuant to Executive Order No. 66(1978), Chapter 22, Public Utility Corporations, was readopted as Chapter 22, Public Utility Tax—Water and Sewerage, by R.1999 d.88, effective February 19, 1999, and Subchapter 2, Returns by Telephone, Telegraph, Messenger Systems and Certain Interstate Transmission Systems, Subchapter 3, Excise Tax Payable to the State by Telephone, Telegraph and Messenger Systems, Subchapter 4, Franchise Tax Payable to Municipalities by Telephone, Telegraph and Messenger Systems, Subchapter 5, Tax Revenues From Telephone, Telegraph and Messenger Systems Apportioned to Municipalities, Subchapter 6, Payment and Collection of Taxes Payable to Municipalities by Telephone, Telegraph and Messenger Systems, Subchapter 13, Water Corporations, Subchapter 14, Municipal Purposes Tax Assistance Fund, Appendix I and Appendix II were repealed and Subchapter 13, Energy Tax Receipts Property Tax Relief Fund, was adopted as new rules by R.1999 d.88, effective March 15, 1999. See: 31 N.J.R. 118(a), 31 N.J.R. 777(d).

Chapter 22, Public Utility Tax—Water and Sewerage, was readopted as R.2004 d.268, effective June 14, 2004. See: 36 N.J.R. 1346(a), 36 N.J.R. 3415(a).

Chapter 22, Public Utility Tax—Water and Sewerage, was readopted as R.2009 d.349, effective October 21, 2009. See: Source and Effective Date. See, also, section annotations.

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**SUBCHAPTER 1. DEFINITIONS AND GENERAL PROVISIONS**

**18:22-1.1 (Reserved)**

Repealed by R.2004, d.268, effective July 19, 2004.  
See: 36 N.J.R. 1346(a), 36 N.J.R. 3415(a).  
Section was "Imposition of excise tax under Act".

**18:22-1.2 (Reserved)**

Repealed by R.2004 d.268, effective July 19, 2004.  
See: 36 N.J.R. 1346(a), 36 N.J.R. 3415(a).  
Section was "Purpose of Act".

**18:22-1.3 Definitions**

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

"Director" means the Director of the Division of Taxation, Department of the Treasury.

"Gross receipts" means all receipts from the taxpayer's business over, on, in, through or from the whole of its lines or mains, excluding only the following:

1. Any sum or sums of money received by the taxpayer in payment for water sold and furnished to another public utility which is also subject to the payment of a tax based upon gross receipts or to a gas, electric or gas and electric public utility subject to the payment of taxes pursuant to P.L. 1997, c.162;

2. Receipts derived from interstate commerce;

3. Any sum or sums of money received by the taxpayer in payment for water sold or furnished that is used to generate electricity that is sold for resale or to an end user other than the one on-site end user upon whose property is located a co-generation facility or self-generation unit that generated the electricity or upon the property purchased or leased from the on-site end user by the person owning the co-generation facility or self-generation unit if such property is contiguous to the user's property and is the property upon which is located a co-generation facility or self-generation unit that generated the electricity.

4. In the case of a sewerage corporation an amount equal to any sum or sums of money payable by such sewerage corporation to any board, commission, department, branch, agency or authority of the State or of any county or municipality, for the treatment, purification or disposal of sewerage or other wastes.

5. In the case of a water purveyor, the amount equal to any sum or sums of money paid in accordance with the water tax imposed by section 11 of P.L. 1983, c.443 (N.J.S.A. 58:12A-21) and which is included in the tariff altered pursuant to section 6 of P.L. 1983, c.443 (N.J.S.A. 58:12A-17).

"Pre-tax year" means the calendar year immediately preceding the tax year.

"Public street, highway, road or other public place" means any street, highway, road or other public place which is open and used by the public, even though the same has not been formally accepted as a public street, highway, road or other public place. For purposes of computing the tax in connection with lines or mains installed after February 19, 1991, the term

includes without limitation dead end streets, cul-de-sacs, alleys, water or riparian ways, and non-restricted roadways, such as extended residential, commercial or recreational facility driveways, or dead end streets, cul-de-sacs or alleys which are connected to public roadways and are for access to or the use of supermarkets, shopping malls, planned communities (such as apartment complexes and condominium developments), commercial enterprises, and recreation facilities (such as marinas, golf clubs, drag strips, etc.) and the connecting roads within or around the above facilities whether these roadways shall be located on public or on private property. The term "public street, highway road or other public place" shall not include restricted residential communities that control, by way of a permanently manned gate, access to or through said community.

"Real estate" means lands and buildings of taxpayers, but does not include pipes, conduits, bridges, viaducts, dams and reservoirs (except that the lands upon which dams and reservoirs are situated are real estate), machinery, apparatus and equipment, notwithstanding any attachment to lands or buildings.

"Service connections" means the pipes connecting the building or place where the service or commodity supplied by the taxpayer is used or delivered, or is made available for use or delivery, with a supply line or supply main.

"Taxpayer" means any person, co-partnership, association or corporation subject to taxation under the provisions of the Act.

"Tax year" means the calendar year in which the tax is payable under the Act.

Amended by R.1989 d.148, effective March 20, 1989.  
See: 21 N.J.R. 17(a), 21 N.J.R. 779(b).

"Cogenerator" added. Under "Gross receipts," exclusions defined as "only" the following; new 4 added and existing 4 renumbered 5; 6 added.

Amended by R.1991 d.70, effective February 19, 1991.  
See: 22 N.J.R. 2249(a), 23 N.J.R. 419(a).

Definition of public street specified in detail.  
Amended by R.1992 d.505, effective December 21, 1992.  
See: 24 N.J.R. 2531(b), 24 N.J.R. 4559(a).

Added definitions "Class" and "Corresponding terms of gas"; revised "Public street, highway, road or other public place".  
Amended by R.1999 d.88, effective March 15, 1999.  
See: 31 N.J.R. 118(a), 31 N.J.R. 777(d).

Deleted "Unit value".  
Amended by R.2004 d.268, effective July 19, 2004.  
See: 36 N.J.R. 1346(a), 36 N.J.R. 3415(a).

Deleted "Apportionment value" or "apportionment valuation", "Class", "Cogenerator", "Corresponding terms of gas" or "corresponding kilowatthours of electricity", and "Scheduled property"; amended "Gross receipts", "Real estate", and "Service connections".

**Statutory References**

As to definition, see N.J.S.A. 54:30A-17, 50.

**18:22-1.4 (Reserved)**

Repealed by R.2004 d.268, effective July 19, 2004.  
See: 36 N.J.R. 1346(a), 36 N.J.R. 3415(a).  
Section was "Persons subject to tax".