

CHAPTER 22**PUBLIC UTILITY TAX—WATER AND SEWERAGE****Authority**

N.J.S.A. 54:30A-15 et seq. and 54:50-1.

Source and Effective Date

R.1999 d.88, effective February 19, 1999.
See: 31 N.J.R. 118(a), 31 N.J.R. 777(d).

Executive Order No. 66(1978) Expiration Date

Chapter 22, Public Utility Tax—Water And Sewerage, expires on February 19, 2004.

Chapter Historical Note

Chapter 22, Public Utility Corporations, was filed 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13, Water Corporations, Subchapter 14, Municipal Purposes Tax Assistance Fund, Appendix I and Appendix II were repealed and Subchapter 13, Energy Tax Receipts Property Tax Relief Fund, was adopted as new rules by R.1999 d.88, effective March 15, 1999.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: Source and Effective Date. See, also, section annotations.

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SUBCHAPTER 1. DEFINITIONS AND GENERAL PROVISIONS**18:22-1.1 Imposition of excise tax under Act**

The Act imposes an excise tax upon persons, co-partnerships, associations or corporations, other than street railway, traction, sewerage, water, gas and electric light, heat and power corporations, municipal corporations and corporations taxable under P.L. 1941, c.291, using or occupying

public streets, highways, roads or other public places by virtue of a franchise or authority or permission from the State or any of its municipalities except for the operation of autobuses or autocabs commonly called taxicabs.

Statutory References

As to Imposition of the Excise Tax, see N.J.S.A. 54:30A-18.

18:22-1.2 Purpose of Act

The purpose of the Act is to provide for the taxation of certain franchises held by certain persons, co-partnerships, associations and corporations; the reimbursement to the State of certain costs and expenses incurred in the imposition and apportionment of taxes and apportionment of certain taxes among the municipalities in which franchises are exercised upon the fixed standard set forth in this Chapter; and to supersede Section 54:31-1 to 54:31-28 of the Revised Statutes, (N.J.S.A. 54:31-1 to 28) inclusive, and P.L. 1938, c.7.

Statutory References

As to the purpose of the Act, see N.J.S.A. 54:30A-16.

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:

“Apportionment value” or “apportionment valuation” means the result obtained by multiplying the quantities of each class or type of scheduled property of a taxpayer by the applicable unit value, and the addition of results.

“Class” means any segment, grouping or other division of an electric company’s or gas company’s customers which is established for the purpose of charging rates for electric or gas service. Any such class shall be designated to be in the residential class category or nonresidential class category. The Board of Regulatory Commissioners may permit gas and electric light, heat and power corporations to establish new tariffs, contracts or schedules as necessary. Whenever a corporation shall establish in its tariffs, contracts or schedules a new class, the Board of Regulatory Commissioners shall designate it in the residential class category or nonresidential class category.

1. With respect to electric companies, “residential class category” means any class established by an electric company which generally includes customers taking electric service under rate schedules that are primarily residential in nature; and “nonresidential class category” means any class established by an electric company which generally includes customers taking electric service under rate schedules that are primarily nonresidential in nature.

2. With respect to gas companies, “residential class category” means any class established by a gas company which generally includes customers taking natural gas service under rate schedules that are primarily residential in nature; and “nonresidential class category” means any class established by a gas company which generally includes customers taking gas service under rate schedules that are primarily nonresidential in nature.

“Cogenerator” means a person or business entity which owns or operates a cogeneration facility in the State of New Jersey, which facility is a plant, installation or other structure whose primary purpose is the sequential production of electricity and steam or other forms of useful energy which are used for industrial, commercial, heating or cooling purposes; and which is designated by the Federal Energy Regulatory Commission, or its successor, as a “qualifying facility” pursuant to the provisions of the “Public Utility Regulatory Policies Act of 1978”, Pub.L. 95-617.

“Corresponding therms of gas” or “corresponding kilowatt-hours of electricity” means all therms of gas or kilowatt-hours of electricity from the taxpayer’s business over, on, in, through or from the whole of its lines or mains, excluding therefrom, however:

1. Any therms of gas or kilowatt-hours of electricity as may have been sold and furnished to another public utility which is also subject to either the payment of a tax based upon gross receipts or the payment of a unit-based tax applied to therms of gas or kilowatt-hours of electricity;

2. Any kilowatt-hours of cogenerated electrical energy resold by the taxpayer to a producing cogenerator where produced; and

3. Any therms of natural gas sold by the taxpayer to a cogenerator and separately metered for use in a cogeneration facility.

“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 any taxpayer in payment for the portion of its products as may have been sold and furnished to another public utility which is also subject to the payment of a tax based upon gross receipts;

2. Receipts from the sale of waste heat produced as a by-product;

3. Receipts derived from interstate commerce;