

ORDINANCE NO. 8788-1

AN ORDINANCE  
AMENDING CHAPTER 22, ENTITLED "TAXATION", OF THE  
CODE OF ORDINANCES, CITY OF URBANA, ILLINOIS BY ADDING  
A NEW ARTICLE VIII THERETO, SUCH ARTICLE TO BE ENTITLED  
"TAX UPON THE PURCHASE AT RETAIL OF TANGIBLE PERSONAL PROPERTY"

WHEREAS, the City Council of the City of Urbana, Illinois (the "City") has determined that it is necessary and in the best interests of the City to make provision for the loss of federal revenue sharing funds and for additional revenues to be used for present and future capital improvement projects requiring such funding; and

WHEREAS, in reviewing possible alternatives for new sources of revenue to the City, the City Council has determined that there be imposed a tax upon the purchase at retail of tangible personal property in the City; and

WHEREAS, the City is a home rule unit pursuant to the provisions of Section 6, Article VII of the 1970 Constitution of the State of Illinois, and may exercise any power and perform any function pertaining to its government and affairs, including, but not limited to, the power to regulate for the protection of the public health, safety, morals and welfare; to license; to tax; and to incur debt.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF URBANA, ILLINOIS, as follows:

Section 1. That Chapter 22, entitled "Taxation", of the Code of Ordinances, City of Urbana, Illinois, be and the same is hereby amended by adopting a new Article VIII, to be entitled "Tax Upon the Purchase at Retail of Tangible Personal Property", to such Chapter, the provisions of which said Article, beginning with Section 22-101 through and including Section 22-121, is attached hereto and hereby incorporated by reference.

Section 2. That this Ordinance shall be in full force and effect as of September 1, 1987, following such publication as is required by law, and shall apply to any purchase at retail in the City as so provided in said Article VIII from and after such date.

Section 3. That the City Clerk of the City be and the same is hereby authorized and directed to cause this Ordinance to be printed or published in book or pamphlet form.

1987. PASSED by the City Council this 6th day of July

Ruth S. Brookens  
Ruth S. Brookens, City Clerk



1987. APPROVED by the Mayor this 13<sup>th</sup> day of July

Jeffrey T. Markland  
Jeffrey T. Markland, Mayor

CERTIFICATION OF PUBLICATION

I, RUTH S. BROOKENS, City Clerk, City of Urbana, Illinois, do herewith certify that I caused the above Ordinance to be duly published in pamphlet form on the 14th day of July, 1987.

Ruth S. Brookens  
Ruth S. Brookens, City Clerk



THIS IS THE ATTACHMENT WHICH IS REFERRED TO IN  
ORDINANCE NO. 8788-1 AND IS INCORPORATED  
THEREIN BY REFERENCE.

*Ruth S. Brookens*  
Ruth S. Brookens City Clerk

*July 7*  
Date



ARTICLE VIII  
TAX UPON THE PURCHASE AT RETAIL OF TANGIBLE PERSONAL PROPERTY

Sec. 22-101. **Definitions.** For the purpose of this Article, when any of the following words or terms are used herein, they shall have the meaning or construction ascribed to them in this Section:

"City" means the City of Urbana, Illinois.

"Department" means the Finance Department of the City.

"Director" means the City Comptroller.

"Gross Receipts" from any Sale at Retail of tangible personal property with respect to any period of time means the total Purchase Price or the Amount of Purchase received by a Retailer. In the case of charge and time sales, Gross Receipts include consideration only as and when payment is received by the Retailer, unless the Retailer has an accrual or other system approved by the Illinois Department of Revenue for collection of State and Municipal Retailer's Occupation Tax, in which case such system may be approved by the Director.

"Low Sulfur Dioxide Emission Coal Fueled Device" means any device sold or used or intended for the purpose of burning, combusting or converting locally available coal in a manner which eliminates or significantly reduces the need for additional sulfur dioxide abatement that would otherwise be required under State or Federal air emission standards.

"Motor Fuel" means "Gasahol", "Gasoline" or "Diesel Fuel" used chiefly in internal combustion engines. As used herein, Gasahol means a fuel which is comprised chiefly of Gasoline and ethyl alcohols in variable quantities, and Gasoline or Diesel Fuel mean volatile, highly flammable or combustible, liquid mixtures of hydrocarbons produced by the fractional distillation of petroleum but shall not include mixtures commonly known as kerosene and aviation fuel, or mixtures used in the heating of buildings.

"Person" means any natural individual, firm, society, foundation, institution, partnership, association, joint stock company, joint adventure, public or private corporation, or a receiver, executor, trustee, conservator or other representative appointed by order of any court.

"Pollution Control Facilities" means any system, method, construction device or appliance appurtenant thereto sold or used or intended for the primary purpose of eliminating, preventing or reducing air or water pollution, as the term "air pollution" or "water pollution" as defined in the "Environmental Protection Act", enacted by the 76th General Assembly, as

amended, or for the primary purpose of treating, pretreating, modifying or disposing of any potential solid, liquid or gaseous pollutant which if released without such treatment, pretreatment, modification or disposal might be harmful, detrimental or offensive to human, plant or animal life, or to property.

**"Purchase at Retail"** means the acquisition of the ownership of or title to tangible personal property through a Sale at Retail.

**"Purchase Price" or the "Amount of Purchase"** means the consideration for a purchase valued in money whether paid in money or otherwise, including cash, credits, property, other than as hereinafter provided, and services, but not including the value of or credit given for traded-in tangible personal property where the item or article that is traded-in is of like kind and character as that which is being purchased, and shall be determined without any deduction on account of the cost of the property purchased, the cost of materials used, labor or service cost or any other expense whatsoever, but shall not include (1) interest or finance charges which appear as separate items on the bill of sale or sales contract, (2) the proceeds of any mandatory service charge which is separately stated on customers' bills for purchase and consumption of food and beverages, if all of the proceeds of the service charge are in fact turned over to the employees who would normally have received tips had the service charge policy not been introduced or (3) charges that are added to the Purchase Price by a Retailer on account of the Retailer's duty to collect, from the Purchaser, the tax imposed upon the Purchaser under this Article or on account of a tax liability imposed upon the Retailer or the Purchaser under any other ordinance of the City or of any other unit of local government or under any law of the State of Illinois upon or in connection with such sale, purchase or use. The phrase "like kind and character" shall be liberally construed (including but not limited to any form of motor vehicle for any other form of motor vehicle, or any kind of farm or agricultural implement for any other kind of farm or agricultural implement), while not including a kind of item which, if sold or transferred by that Retailer, would be exempt from tax hereunder as an isolated or occasional sale.

**"Purchaser"** means any Person who, through a Purchase at Retail, acquires the ownership of, or title to, tangible personal property for a valuable consideration.

**"Retailer"** means and includes every Person engaged in the business of making Sales at Retail as defined in this Section. Any Person who holds himself or herself out as being engaged (or who habitually engages) in selling or transferring tangible personal property either at retail or as an incident to the rendering of a service is a Retailer hereunder with respect to such sales or transfers of tangible personal property, notwithstanding the fact that such person designs and produces such tangible personal property on special order for a Purchaser and in such a way as to render the property of value only to such

Purchaser, if such tangible personal property so produced on special order serves substantially the same function as stock or standard items of tangible property that are sold at retail. A Person whose activities are organized and conducted primarily as a not-for-profit service enterprise, and who engages in selling tangible personal property at retail (whether to the public or merely to members and their guests) is a Retailer with respect to such transactions, excepting only a Person organized and operated exclusively for charitable, religious or educational purposes either (1), to the extent of sales by such Person to its members, students, patients or inmates of tangible personal property to be used primarily for the purposes of such Person, or (2), to the extent of sales by such Person of tangible personal property which is not sold or offered for sale by Persons organized for profit. The selling of school books and school supplies by schools at retail to students is not "primarily for the purposes of" the school which does such selling. This paragraph does not apply to nor subject to taxation occasional dinners, social or similar activities of a Person organized and operated exclusively for charitable, religious or educational purposes, whether or not such activities are open to the public. A Person who is the recipient of a grant or contract under Title VII of the Older Americans Act of 1965 (P.L. 92-258) and serves meals to participants in the federal Nutrition Program for the Elderly in return for contributions established in amount by the individual participant pursuant to a schedule of suggested fees as provided for in the federal Act is not a Retailer under this Article with respect to such transactions. Persons who engage in the business of transferring tangible personal property upon the redemption of trading stamps are Retailers hereunder when engaged in such business. The isolated or occasional sale of tangible personal property at retail by a Person who does not hold himself or herself out as being engaged (or who does not habitually engage) in selling such tangible personal property at retail or a sale through a bulk vending machine (a nonelectrically-operated vending machine, containing unsorted confections, nuts or other merchandise which, when a coin of a denomination not larger than one cent is inserted, are dispensed in equal portions, at random and without selection by the customer) does not make such Person a Retailer hereunder. However, any Person who is engaged in a business involving the sale of or a contract to sell real estate or a construction contract to improve real estate, but who, in the course of conducting such business, transfers tangible personal property to Persons in the finished form in which it was purchased, and which does not become real estate, is a Retailer to the extent of the value of the tangible personal property so transferred. If, in such transaction, a separate charge is made for the tangible personal property so transferred, the value of such property, for the purposes of this Article, is the amount so separately charged, but not less than the cost of such property to the transferor; if no separate charge is made, the value of such property, for the purposes of this Article, is the cost to the transferor of such tangible personal property.

"Retailer Maintaining a Place of Business in the City", or any like term, shall mean and include any Retailer:

1. Having or maintaining within the City, directly, or by a subsidiary, an office, distribution house, sales house, warehouse or other place of business, or any agent or other representative operating within the City under the authority of the Retailer or its subsidiary, irrespective of whether such place of business or agent or other representative is located here permanently or temporarily, or whether such Retailer or subsidiary is licensed to do business in the City, or,

2. Engaging in soliciting orders within the City from Purchasers by means of catalogues or other advertising, whether such orders are received or accepted within or without the City.

"Sale at Retail" means any transfer of the ownership of, or title to, any item or article of tangible personal property to a Purchaser for which a tax is imposed, at whatever rate, by the Illinois "Retailers' Occupation Tax Act", the Illinois "Municipal Retailers' Occupation Tax Act", the Illinois "Service Occupation Tax Act" or the Illinois "Municipal Service Occupation Tax Act" (collectively, the "Acts"), as any of the such Acts may now or hereafter be amended. As such, but only to the extent consistent with the Acts, as now or hereafter amended and in effect, any sale or transfer of tangible personal property, whether as an incident to the rendering of any service or otherwise, to a Purchaser, for the purpose of use or consumption, and not for the purpose of resale in any form as tangible personal property, to the extent not first subjected to a use for which it was purchased, for a valuable consideration, is a Sale at Retail; provided that the property purchased is deemed to be purchased for the purpose of resale, despite first being used, to the extent to which it is resold as an ingredient of an intentionally produced product or byproduct of manufacturing. For this purpose, slag produced as an incident to manufacturing pig iron or steel and sold is considered to be an intentionally produced byproduct of manufacturing. Transactions whereby the possession of the property is transferred but the Retailer retains the title as security for payment of the Purchase Price shall be deemed to be a Sale at Retail. Sale at Retail shall be construed to include any transfer of the ownership of, or title to, tangible personal property to a Purchaser, for use or consumption by any other person to whom such Purchaser may transfer the tangible personal property without a valuable consideration, and to include any transfer, whether made for or without a valuable consideration, for resale in any form as tangible personal property unless made in compliance with Section 22-102(b)(18) and (19) of this Article. Sales of tangible personal property, which property, to the extent not first subjected to a use for which it was purchased; as an ingredient or constituent, goes into and forms a part of tangible personal property subsequently the subject of a Sale at

Retail, are not Sales at Retail as defined in this Section. Sale at Retail shall also be construed to include any florist's sales transaction in which a purchase order is received in the City by a florist and the sale is for use or consumption, but the florist in the City has a florist outside of the City deliver the property to the Purchaser or the Purchaser's donee outside the City.

Sec. 22-102. **Tax imposed.** (a) A tax is hereby imposed upon every Purchaser of any item or article of tangible personal property through a Purchase at Retail in the City, and every Purchaser of any item or article of tangible personal property through a Purchase at Retail in the City shall be liable for a tax on the Purchase at Retail of any such item or article, at the rate of 1% of the initial \$500 of the Purchase Price of each such item or article of tangible personal property, as so evidenced by the Gross Receipts. No tax shall be imposed upon that portion of the Purchase Price of any single item or article of tangible personal property, as evidenced by the Gross Receipts, which exceeds \$500 of the Amount of Purchase. The imposition of this tax to the initial \$500 of the Purchase Price is limited to the Purchase Price of each individual item or article of tangible personal property within any single transaction involving a Purchase at Retail and is not applicable to the total Purchase Price of multiple items or articles within any such single transaction, whether such items or articles are of like kind and character or not.

(b) A Purchase at Retail of the following items or articles of tangible personal property or under the following circumstances shall not be subject to the tax imposed by this Section:

(1) Food for human consumption which is to be consumed off the premises where it is purchased (other than alcoholic beverages, soft drinks and food which has been prepared for immediate consumption).

(2) Prescription and nonprescription medicines, drugs, medical appliances and insulin, urine testing materials, syringes, and needles used by diabetics, for human use.

(3) Motor Fuel.

(4) Farm chemicals.

(5) Farm machinery and equipment, both new and used, and including that manufactured on special order, certified by the Purchaser to be used primarily for production agriculture, including any individual replacement part for such machinery and equipment and including in this exemption such machinery and equipment purchased for lease and excluding from this exemption motor vehicles required to be registered pursuant to "The Illinois Vehicle Code".



(6) Distillation machinery and equipment, sold as a unit or kit and assembled or installed by a Retailer, which machinery and equipment is certified by the Purchaser to be used only for the production of ethyl alcohol that will be used for consumption as Motor Fuel or as a component of Motor Fuel for the personal use of such Purchaser and not subject to sale or resale.

(7) Graphic arts machinery and equipment, including repair and replacement parts therefor, both new and used, including that manufactured on special order or purchased for lease, certified by the Purchaser to be used primarily for graphic arts production.

(8) Motor vehicles of the first division, as defined in Section 1-146 of the "Illinois Vehicle Code", which are used for automobile renting as defined in the "Automobile Renting Occupation and Use Tax Act" of Illinois.

(9) Passenger cars as defined in Section 1-157 of "Illinois Vehicle Code", which are purchased by or on behalf of an insurance company to replace a passenger car of an insured person in settlement of a total loss claim pursuant to the Illinois Replacement Vehicle Tax of such Code.

(10) Petroleum products if the seller is prohibited by federal law from charging tax to such Purchaser.

(11) Any service, whether rendered in connection with a Purchase at Retail or otherwise, except that any portion of the Purchase Price attributable to a Purchase at Retail of tangible personal property as an incident to the receipt of any such service by a Purchaser shall be subject to the tax as imposed by this Section.

(12) Such tangible personal property as newsprint and ink which is Purchased at Retail for the primary purpose of conveying news (with or without other information).

(13) Such tangible personal property as (i) Pollution Control Facilities or (ii) Low Sulfur Dioxide Emission Coal Fueled Devices.

(14) Such tangible personal property as machinery and equipment which will be used by the Purchaser, or a lessee of the Purchaser, primarily in the process of manufacturing or assembling tangible personal property for wholesale or retail sale or

lease, whether such sale or lease is made directly by the manufacturer or by some other person, whether the materials used in the process are owned by the manufacturer or some other person or whether such sale or lease is made apart from or as an incident to the sellers' engaging in the service occupation of producing machines, tools, dies, jigs, patterns, gauges or other similar items of no commercial value or special order for a particular Purchaser.

(15) The Purchase at Retail by any governmental body, or any corporation, society, association, foundation or institution organized and operated exclusively for charitable, religious or educational purposes, or any not-for-profit corporation, society, association, foundation, institution or organization which has no compensated officers or employees which is organized and operated primarily for the recreation of persons 55 years of age or older.

(16) The Purchase at Retail of tangible personal property by an Illinois County Fair Association for use in conducting, operating or promoting the County Fair.

(17) The Purchase at Retail of tangible personal property by a teacher-sponsored organization affiliated with an elementary or secondary school located in Illinois.

(18) The Purchase at Retail of tangible personal property utilized by interstate carriers for hire for use as rolling stock moving in interstate commerce or lessors under leases of one year or longer executed or in effect at the time of purchase to interstate carriers for hire for use as rolling stock moving in interstate commerce.

(19) The Purchase at Retail by owners, lessors or shippers of tangible personal property which is utilized by interstate carriers for hire for use of rolling stock moving in interstate commerce.

(20) The Purchase at Retail of building materials to be incorporated into real estate located within the Zone Area of the Enterprise Zone so designated by the City and certified by the Illinois Department of Commerce and Community Affairs, as amended, by Purchasers undertaking the rehabilitation, expansion or new construction of any commercial, industrial, manufacturing, or residential housing unit project for which a building permit by the City is otherwise required and has been obtained.

(21) The Purchase at Retail of tangible personal property from a Retailer engaging in any business in interstate commerce or otherwise, which purchase may not, under the Constitution and Statutes of the United States, be made the subject of taxation by this City.

(c) The tax imposed hereunder and the obligation to pay the same is upon the Purchaser, and is in addition to any and all other taxes imposed by the City under any other Ordinance of the City, by any other unit of local government, or by the State of Illinois. The tax hereby imposed and not paid to a Retailer by a Purchaser pursuant to this Article shall be paid to the Department directly by any Purchaser who Purchases at Retail such property within the City pursuant to Section 22-107 of this Article. If any Retailer collects an amount, however designated, which purports to constitute taxes measured by the Amount of Purchase which are not subject to such tax, or if any Retailer, in collecting an amount, however designated, which purports to constitute taxes measured by the Amount of Purchase which are subject to the tax under this Article, collects more from the Purchaser than the actual tax liability on the transaction, the Purchaser shall have a legal right to claim a refund of such amount from such Retailer. However, if such amount is not refunded to the Purchaser for any reason, the Retailer, as the collector, is liable to pay such amount to the Department. The preceding sentence does not apply to an amount collected by the Retailer on the Amount of Purchase which is subject to tax under this Article as long as such collection is made in compliance with such tax collection brackets as may be prescribed by the Director in the rules and regulations. The tax imposed hereunder shall be collected from the Purchaser by the Retailer who makes the Sale at Retail and shall be remitted to the Department as provided herein. Such Retailer, as the collector, shall be liable to the City for the amount of any such tax required to be collected. Retailers shall collect the tax from Purchasers by adding the tax to the Purchase Price of tangible personal property in the manner prescribed by the Department. Whenever possible the tax imposed by this Ordinance shall, when collected, be stated as a distinct item separate and apart from the Purchase Price of the item or article of tangible personal property.

**Sec. 22-103. Rules and regulations.** The Director is hereby empowered to adopt and promulgate and to enforce rules and regulations not inconsistent with the provisions of this Article relating to any matter pertaining to the administration, enforcement and application of this Article, including provisions for reexamination, correction and amendment of all returns. Such rules and regulations may make provision for the adding of the tax imposed by this Article by a Retailer to the Purchase Price by prescribing bracket systems for the purpose of enabling such Retailer to add and collect, as far as practicable, the amount of such tax. As used herein, the term rules and regulations shall include, but not be limited to, a case by case determination as to whether or not the tax imposed by this Article applies to any transaction.

Sec. 22-104. **Certificate of Registration.** (a) Every Retailer Maintaining a Place of Business in the City shall obtain a certificate of registration as a collector of the tax imposed by this Article from the Department prior to commencing such business or within thirty (30) days after the effective date of this Ordinance, whichever occurs later.

(b) Application for a certificate of registration shall be made to the Department upon forms furnished by the Department. Each such application shall be signed and verified by the applicant or a properly accredited agent, which in the case of a corporation shall include the president, any vice-president, the secretary, treasurer or some other properly accredited agent and shall state:

- (1) The name of the applicant;
- (2) The applicant's address and the address of the principal place of business;
- (3) The address of the principal place of business from which the applicant engages in the business of selling tangible personal property at retail in the City and the addresses of all other places of business, if any (enumerating such addresses, if any, in a separate list attached to and made a part of the application), from which the applicant engages in the business of selling tangible personal property at retail in the City;
- (4) The applicant's estimated Gross Receipts from the Sales at Retail of tangible personal property in the City for the current calendar year;
- (5) If the applicant will sell tangible personal property at retail through vending machines, the application to register shall indicate the number of vending machines to be so operated; and thereafter, the applicant shall notify the Department by January 31 of the number of vending machines which such person was using in such applicant's business of selling tangible personal property at retail on the preceding December 31; and,
- (6) Such other information as the Department may reasonably require.

(c) Upon receipt of the application for a certificate of registration in proper form, and upon approval by the Department of the application furnished by the applicant, the Department shall issue to such applicant a certificate of registration.

(d) If the Person so registered states that such applicant operates other places of business as a Retailer Maintaining a Place of Business in the City, the Department shall furnish such applicant with a sub-certificate of registration for each such place of business. All sub-certificates of registration shall bear the same registration number as that appearing upon the certificate of registration to which such sub-certificates relate.

(e) Where the same Person engages in two or more businesses as a Retailer in the City, which businesses are substantially different in character or engaged in under different trade names or engaged in under substantially dissimilar circumstances (so that it is more practicable, from an accounting, auditing or bookkeeping standpoint, for such business to be separately registered), the Department may require or permit such Person to apply for and obtain a separate certificate of registration for each such business or for any of such businesses, under a single certificate of registration supplemented by related sub-certificates of registration.

(f) Except as to motor vehicles and other items of tangible personal property which must be titled or registered under Illinois law, but which cannot be so titled or registered without a tax receipt or exemption determination from the Illinois Department of Revenue, every Retailer Maintaining a Place of Business in the City shall, when collecting the tax as provided for in this Article, from the Purchaser, give to the Purchaser (if demanded by the Purchaser) a receipt therefor in the manner and form prescribed by the Department. Such receipt shall be sufficient to relieve the Purchaser from further liability for the tax to which such receipt may refer. Each such Retailer shall list with the Department the names and addresses of all agents of such Retailer operating in the City and the location of any and all of the distribution or sales houses, offices or other places of business of such Retailer in the City.

**Sec. 22-105. Tax Returns; Payments; Collection Fees.**

(a) Except as provided in this Section, every Retailer required or authorized to collect the tax imposed by this Article shall, on or before the last day of each calendar month, file a return for the preceding calendar month with the Department, stating:

(1) The name of the Retailer;

(2) The residence address and the address of such Retailers' principal business (if that is a different address) from which such Retailer engages in the business of selling tangible personal property in the City;

(3) Total Gross Receipts received by such Retailer during the preceding calendar month from Sales at Retail of tangible personal property in the City by such Retailer during such preceding calendar month;

(4) Deductions allowed by law;

(5) Total Gross Receipts minus deductions;

(6) The amount of tax due;

(7) The amount of penalty due, if any; and,

(8) Such other reasonable information as the Department may require.

(b) All payments to the City of taxes, interest or penalties authorized by this Article shall be made by cash or check payable to the City of Urbana, except that any Retailer whose check is returned to the City because of insufficient funds may be required by the Director to make future payments by cashier's check or money order.

(c) If the Retailer's average monthly liability to the Department, as the collector, does not exceed \$1,000.00, the Department may authorize the returns of such Retailer to be filed on a quarterly annual basis, with the return for January, February and March of a given year being due by April 30, of such year; with the return for April, May and June of a given year being due by July 31 of such year; with the return for July, August and September of a given year being due by October 31 of such year, and with the return for October, November and December of a given year being due by January 31 of the following year.

(d) If the Retailer's average monthly liability to the Department, as the collector, does not exceed \$25.00, the Department may authorize the returns of such Retailer to be filed on a semi-annual or annual basis, with the semi-annual return for January through and including June of a given year being due by July 31st of such year and the semi-annual return for July through and including December of a given year being due by January 31 of the following year. An annual return for any given calendar year shall be due by January 31 of the following year. Such returns, as to form and substance, shall be subject to the same requirements as monthly returns.

(e) Notwithstanding any other provision in this Section concerning the time within which a Retailer, as the collector, may file a return, in the case of any Retailer who ceases to engage in a kind of business which makes such Retailer responsible for filing returns under this Section, such Retailer shall file a final return under this Section with the Department not more than one month after discontinuing such business.

(f) Where the same Person has more than one business registered with the Department under separate registrations under this Article, such Person may not file each return that is due as a single return covering all such registered businesses, but shall file separate returns for each such registered business.

(g) Refunds to Purchasers made by the Retailer, as the collector, during the preceding return period shall be allowed as a deduction under subdivision 4 of part (a) of this Section in case the Retailer had theretofore included the Gross Receipts from such Purchase at Retail in a return filed by such Retailer and has remitted the tax imposed by this Article with respect to such Gross Receipts.

(h) Where the Retailer is a corporation, the return filed on behalf of such corporation shall be signed by the President, Vice-president, Secretary or Treasurer, or by the properly accredited agent of such corporation, or by the chief executive officer or highest ranking manager.

(i) Notwithstanding the foregoing provisions of this Section, for the first twelve (12) month period this tax is in effect, the Department may estimate what the amount of liability from any Retailer, as the collector, would have been for prior periods if the tax hereunder had been in effect for such periods and direct the frequency of remittance of the tax and filing of returns in accordance with the provisions of this Section on the basis of such estimates.

(j) If any such payment or deposit provided for in this Section exceeds the Retailer's present and probable future liabilities, as the collector, under this Article, the Department shall issue to the Retailer, no later than sixty (60) days after the date of payment, a credit memorandum, which may be submitted by the Retailer to the Department in payment of liability, as the collector, subsequently to be remitted by the Retailer to the Department or be assigned by the Retailer to a similar Retailer under this Article, in accordance with reasonable rules and regulations to be prescribed by the Department.

(k) The amounts received by the Department under the provisions of this Article shall be deposited in such Funds of the City in such amounts as are determined by the City Council in the Annual Budget Ordinance of the City for any such applicable fiscal year of the City.

(l) The Department may require the Retailer, as the collector, to prepare and file with the Department on a form prescribed by the Department, within sixty (60) days after filing the State income tax return for such Retailer's fiscal year, an annual information return for such fiscal year. Such annual return to the Department shall include a statement of Gross Receipts as shown by the Retailer's last State income tax return. If the total Gross Receipts of the business as reported in the State income tax return do not agree with the Gross

Receipts reported to the Department for the same period, the Retailer shall attach to the annual return of such Retailer a schedule showing a reconciliation of the two amounts and the reasons for the difference. The Retailer's annual return to the Department shall also disclose any additional reasonable information which the Department deems helpful in determining the accuracy of the monthly, quarterly, semi-annual or annual returns filed by such Retailer, as provided for in this Section. The provisions of this Section concerning the filing of an annual information return do not apply to a Retailer who is not required to file an income tax return with the United States Government. If the annual information return required by this Section is not filed when and as required, the Retailer shall be liable, as the collector, for a penalty equal to 1/6 of 1% of the amount due from such Retailer under this Article, during the period to be covered by the annual return for each month, or fraction of a month, until such return is filed as required; such penalty to be assessed and collected in the same manner as any other penalty provided for in this Article.

(m) The President, Vice-president, Secretary or Treasurer, chief executive officer, proprietor, owner or highest ranking manager shall sign any return required to be filed under this Section to certify the accuracy of the information contained therein. Any Person who willfully signs any such return containing false or inaccurate information shall be guilty of a violation of this Article and punished as provided herein. The return forms prescribed by the Department shall include a warning that the Person signing such return may be liable for a penalty as provided by this Article.

(n) Any Person engaged in the business of selling tangible personal property at retail as a concessionaire, peddler, solicitor, itinerant merchant or other type of seller at special events, art shows, flea markets and similar exhibitions or events may be required to make a daily (or weekly) report of the amount of such sales to the Department and to make a daily or weekly payment, as the collector, of the full amount of tax due. The Department may impose this requirement when the Department determines that there is a significant risk of loss of revenue to the City at such an exhibition or event. Such a finding shall be based on evidence that a substantial number of concessionaires or other sellers who are not residents of the City will be engaging in the business of selling tangible personal property at retail at the exhibition or event, or other evidence of a significant risk of loss or revenue to the City. The Department shall notify concessionaires and other sellers affected by the imposition of this requirement. In the absence of notification by the Department, the concessionaires and other sellers shall file their returns as otherwise required in this Section.

(o) Any Retailer filing a return under this Section shall also include (for the purpose of remitting tax thereon) the total tax, if any, imposed upon such Retailer hereunder for the purpose of use or consumption of tangible personal property



Purchased at Retail by such Retailer from another Retailer, but as to which the tax imposed by this Article was not collected by the Retailer making the sale and filing such return, and such Retailer making such purchase shall remit the amount of such tax to the Department when filing such return.

**Sec. 22-106. Resale Number.** (a) If the Purchaser is not registered with the Department as a Retailer, but claims to be a reseller of the tangible personal property in such a way that the Purchase at Retail by such Purchaser is not taxable under this Article, such Purchaser (except in the case of an out-of-City Purchaser who will always resell and deliver the property to the customers of such Purchaser outside the City) shall apply to the Department for a resale number. Such applicant shall state facts which will show the Department why such applicant is not liable for tax under this Article and shall furnish such additional information as the Department may reasonably require.

(b) Upon approval of the application, the Department shall assign a resale number and shall certify such number to the applicant. The Department may cancel any such number which is obtained through misrepresentation, or which is used to make a Purchase at Retail tax-free when such purchase in fact is not a purchase for resale, or which no longer applies because of the Purchaser's having discontinued the making of resales of the property. Except as provided hereinabove in this Section, no Purchase at Retail shall be made tax-free on the grounds of being a purchase for resale unless the Purchaser has an active registration number or resale number from the Department and furnishes that number to the Retailer responsible for collecting the tax imposed by this Article, certifying to such Retailer that any purchase by such Purchaser is non-taxable because of the Retailer's sale being a sale for resale.

**Sec. 22-107. Payment by Purchaser.** (a) When tangible personal property is purchased from a Retailer in the City for the purpose of use or consumption by a Purchaser who did not pay the tax imposed by this Article to the Retailer, and who does not file returns with the Department as a Retailer under Section 22-105 of this Article, such Purchaser (by the last day of the month following the calendar month in which such Purchaser makes any payment upon the Purchase Price of such property) shall, except as provided in this Section, file a return with the Department and pay the tax upon that portion of the Purchase Price so paid by the Purchaser during the preceding calendar month. When tangible personal property is purchased by a lessor, under a lease for one year or longer, executed or in effect at the time of purchase to an interstate carrier for hire, who did not pay the tax imposed by this Article to the Retailer, such lessor (by the last day of the month following the calendar month in which such property reverts to the use of such lessor) shall file a return with the Department and pay the tax upon the fair market value of such property on the date of such reversion. Such return shall be filed on a form prescribed by the Department and shall contain such information as the

Department may reasonably require. Such return and payment from the Purchaser shall be submitted to the Department sooner than the last day of the month after the month in which the Purchase at Retail is made to the extent that the same may be necessary in order to secure the title to a motor vehicle or the certificate of registration for an aircraft.

(b) When a Purchaser pays a tax imposed by this Article directly to the Department, the Department (upon request therefor from such Purchaser) shall issue an appropriate receipt to such Purchaser showing that such tax was paid to the Department. Such receipt shall be sufficient to relieve the Purchaser from further liability for the tax to which such receipt may refer. A Purchaser who is liable to pay tax directly to the Department only occasionally and not on a frequently recurring basis, and who is not required to file returns with the Department as a Retailer under Section 22-105 of this Article, need not register with the Department. However, if such a Purchaser has a frequently recurring direct tax liability to pay to the Department, such Purchaser shall be required to register with the Department on forms prescribed by the Department and to obtain and display a certificate of registration from the Department. In such event, all of the provisions of Section 22-105 of this Chapter concerning the filing of regular monthly, quarterly, semi-annual or annual tax returns and all of the provisions of this Article, as such provisions now exist or may hereafter be amended, shall apply to such Purchasers.

**Sec. 22-108. Filing; Penalties; Suit for Collections.**

(a) In case any Retailer as the collector fails to file a return when and as herein required, but thereafter, prior to the Department's issuance of a notice of tax liability under this Article, files a return and pays the tax, such Retailer shall also pay a penalty of 5% of the tax.

(b) In case any Retailer files the return at the time required by this Article but fails to remit the tax, or any part thereof, when due, a penalty of 5% of the amount of the tax not so remitted when due shall be added thereto.

(c) In case any Retailer fails to file a return when and as herein required, but thereafter, prior to the Department's issuance of a notice of tax liability under this Article, files a return but fails to remit the entire tax, a penalty of 5% of the full amount of tax to be remitted as shown by such return shall be added thereto.

(d) In case any Retailer fails to file a return, the Department shall determine the amount of tax due to be remitted from such Retailer according to its best judgment and information, which amount so fixed by the Department shall be prima facie correct and shall be prima facie evidence of the correctness of the amount of tax due to be remitted, as shown in such determination. In making any such determination of tax due to be remitted, it shall be permissible for the Department to show

a figure that represents the tax due to be remitted for any given period of 6 months instead of showing the amount of tax due to be remitted for each month separately. Proof of such determination by the Department may be made at any hearing before the Department or in any legal proceeding by a reproduced copy of the Department's record relating thereto in the name of the Department under the certificate of the Director. Such reproduced copy shall, without further proof, be admitted into evidence before the Department or in any legal proceeding and shall be prima facie proof of the correctness of the amount of tax due to be remitted, as shown therein. The Department shall issue the Retailer, as the collector, a notice of tax liability for the amount of tax claimed by the Department to be due to be remitted, together with a penalty of 20% thereof or a penalty of \$25.00, whichever amount is greater. However, where the failure to file any tax return required under this Article on the date prescribed therefor (including any extensions thereof) is due to reasonable cause, the penalties imposed by this Article shall not apply.

(e) In case of failure to remit the tax, or any portion thereof, or any penalty provided for in this Article, or interest, when due, the Department may bring suit against the Retailer or the Purchaser to recover the amount of such tax or portion thereof, or penalty or interest; or, if the Retailer or Purchaser has died or become incompetent, may file a claim therefor against the estate of any such Person, provided that no such suit with respect to any tax, or portion thereof, or penalty, or interest shall be instituted more than two years after the latter of (i) the date any proceedings in court for review thereof have terminated, or (ii) the time for the filing of such proceedings has expired without such proceedings being instituted, except with the consent of the Person from whom such tax or penalty or interest is due; nor, except with such consent, shall such suit be instituted more than two years after the date any return is filed with the Department, in cases where the return constitutes the basis for the suit for unpaid tax, or any portion thereof, or penalty provided for in this Article, or interest; provided that the time limitation period on the Department's right to bring any such suit, shall not run during any period of time in which the order of any court has the effect of enjoining or restraining the Department from bringing such suit.

(f) The collection of tax or penalty or interest by any means provided for herein shall not be a bar to collection by any other means or to any other prosecution under this Article.

(g) In addition to any penalty provided for in this Article, any amount of tax which is not remitted or paid when due shall bear interest at the rate of 2% per month or fraction thereof from the date when such tax becomes past due until such tax is remitted or paid or a judgment therefor is obtained by the Department; provided however, that if the time for making or completing an audit of a Retailer's books and records is

extended with the Retailer's consent, at the request of and for the convenience of the Department, beyond the date on which the statute of limitations upon the issuance of a notice of tax liability by the Department otherwise would run, no interest shall accrue during the period of such extension.

Sec. 22-109. **Records, Audit.** (a) Every Retailer Maintaining a Place of Business in the City shall keep records and books of all Purchases at Retail, together with invoices, sales records, copies of bills of sale, inventories prepared as of December 31 of each year or otherwise annually as has been the custom in the specific trade and other pertinent papers and documents. Every Retailer Maintaining a Place of Business in the City who, in connection with such business, also engages in other activities, shall keep such additional records and books of all such activities as will accurately reflect the character and scope of such activities and the amount of receipts realized therefrom.

(b) All books and records and other papers and documents which are required by this Article to be kept shall be kept in the English language and shall, at all times during business hours of the day, be subject to inspection by the Department or its duly authorized agents and employees.

(c) To support deductions made on the tax return form, or authorized under this Article, on account of Gross Receipts from isolated or occasional sales; on account of Gross Receipts from sales to governmental bodies or other exempted types of purchasers; on account of Gross Receipts from purchases in interstate commerce; on account of Gross Receipts from any other kind of transaction that is not taxable under this Article; entries in any books, records or other pertinent papers or documents of the Retailer, in relation thereto, shall be in detail sufficient to show the name and address of the Retailer's customer in each such transaction, the character of every such transaction, the date of every such transaction, the amount of Gross Receipts realized from every such transaction and such other information as may be necessary to establish the nontaxable character of such transaction under this Article.

(d) It shall be presumed that any Purchase at Retail of tangible personal property is subject to the tax imposed under this Article until the contrary is established, and the burden of proving that any transaction is not taxable hereunder shall be upon the Person who would be required to pay the tax or remit the tax to the Department, as if such transaction is taxable. In the course of any audit or investigation or hearing by the Department with reference to a given Retailer or Purchaser, if the Department finds that such Person lacks documentary evidence needed to support the claim that no tax is due hereunder, the Department is authorized to notify such Person in writing to produce such evidence, and such Person shall have sixty (60) days, subject to the right of the Department to extend this period, either on request for good cause shown, or on its own motion from the date when such notice is

sent by certified mail (or delivered if the notice is served personally) in which to obtain and produce such evidence for the Department's inspection; failing which, the matter shall be closed and the transaction shall be conclusively presumed to be taxable hereunder.

(e) Books and records and other papers reflecting Gross Receipts received during any period with respect to which the Department is authorized to issue notices of tax liability as provided by Sections 22-108 and 22-109 of this Article shall be preserved until the expiration of such period unless the Department, in writing, shall authorize their destruction or disposal prior to such expiration.

**Sec. 22-110. Process; Service.** (a) Any Person who incurs liability under this Article as a Retailer for the collection and remittance of the tax imposed by this Article and who subsequently removes from the City or conceals such Person's whereabouts, and any Person who incurs tax liability under this Article as a Purchaser in the City and who removes from the City or conceals such Person's whereabouts, shall be deemed thereby to appoint the City Clerk such Person's agent for the service of process or notice in any judicial or administrative proceeding under this Article. Such process or notice shall be served by the Department on the City Clerk by leaving, at the office of the City Clerk, at least 15 days before the return day of such process or notice, by true and certified mail, postage prepaid, a like and true certified copy, with an endorsement thereon of the service upon said City Clerk, addressed to such Person at such Person's last known address.

(b) Service of process or notice in the manner provided for in this Section, under the circumstances specified in this Section, shall be of the same force and validity as if served upon such Person personally within the City. Proof of such service upon such Person through the City Clerk as such Person's agent and by mailing to the last known address of such Person may be made in such judicial or administrative proceeding by the affidavit of the Director, or by the Director's duly authorized representative who made such service, with a copy of the process or notice that was so attached to such affidavit.

**Sec. 22-111. Duties of the Department.** It shall be the duty of the Department to collect and receive the tax imposed by this Ordinance. The Department shall keep an accurate and separate account of all such tax remittances or payments received by it, showing the name and address of the Person remitting or paying the tax and the date of each remittance or payment. The Director, or any agent or employee designated in writing by the Director, is hereby authorized to examine the books, papers and records of any Retailer during regular business hours, in order to certify the accuracy of any return made, or if no return was made, to ascertain the tax imposed by this Article.

Sec. 22-112. **Error; Claim for Credit; Hearing.** (a) Whenever it appears to any Person paying or remitting the tax that an amount of tax, interest or penalty has been paid in error to the Department by such Person, whether such amount be paid through a mistake of fact or error of law, not later than three (3) years from the date upon which such payment was made, such Person may file a claim for credit or refund with the Department on forms provided by the Department for that purpose.

(b) Any credit or refund that is allowed under this Section shall bear interest at the rate of one-half of one percent per month or any fraction thereof, from the date when the erroneous payment was made to the Department, until a credit memorandum is issued or a refund is paid.

(c) A claim for credit or refund shall be considered to have been filed with the Department on the date upon which it is received by the Department, and receipt of any claim for credit filed under this Section shall be acknowledged by the Director or any designated person on the Director's behalf, said receipt to describe the claim in sufficient detail as to identify it, and to state the date upon which the claim was received by the Department.

(d) As soon as practicable after a claim for credit or refund is filed, the Director, or the Director's designate, shall examine the same and determine the amount of credit or refund due, if any, and shall issue a Notice of Tentative Determination of Claim and notify the claimant of such determination. If the claimant disagrees with the determination, such claimant shall file a protest and challenge thereto within twenty (20) days. If any such protest and challenge is so filed within the 20-day time period so allowed, the Director, or designate of the Director, shall fix the time and place for a hearing thereon, giving notice to the claimant thereof, not less than seven (7) days prior to such hearing. At any hearing held as herein provided, the Tentative Determination of Claim shall be prima facie correct and the burden shall be upon the claimant to prove that it is incorrect. Upon the conclusion of the hearing, a decision shall be made by the Director and notice thereof given to the claimant. In the event no protest or challenge to the Tentative Determination of Claim is filed within the 20-day period hereinabove set forth, said notice shall thereafter become and operate as a final determination.

(e) The Director may, in the Director's discretion, issue a letter of credit to a claimant, who may be able to use said credit in the foreseeable future, or issue a refund certificate in lieu of a credit memorandum on application by a Person who cannot use said credit or sell or assign the same. Refund certificates shall be numbered serially as they are issued and shall be paid in the order of their issuance from funds that are appropriated by the Department for that purpose.

Sec. 22-113. **Amendment; Notice; Hearing.** (a) If it shall appear to the Director that any Person has violated any provision of this Article or any rule or regulation promulgated hereunder, or if the amount of any tax remittance or payment is incorrect in that it does not include all taxes due for such appropriate calendar period or if the Director shall find that the collection of any taxes which have accrued but are not yet due will be jeopardized by delay, and declares said taxes to be immediately due, or if it shall appear to the Director that any Person has made any final assessment which did not include taxes due for the appropriate period, or if it appears to the Director that any Person has, by reason of any act or omission or by operation of law, become liable for the remittance or payment of any taxes, interest or penalties not originally incurred by such Person, the Director may, in any of the above events, determine and assess the amount of such taxes as a deficiency, as the case may be, together with the interest and penalties due and unpaid, and immediately serve notice upon such Person of such determination and assessment and make a demand for remittance or payment of the tax, together with interest and penalties thereon. If the Person incurring any such liability has died, such assessment may, at the discretion of the Director, be made against such Person's personal representative. Such determination and assessment by the Director shall be final at the expiration of twenty (20) days from the date of the service of such written notice thereof and demand for payment, unless such Person shall have filed with the Director a written protest and a petition for a hearing, specifying the objections thereto. Upon the receipt of such petition within the twenty (20) days allowed, the Director shall set the time and place for a hearing and shall notify the petitioner. The Director's initial determination and assessment may be amended by the Director at any time before it becomes final. In the event of such amendment by the Director, the Person affected shall be given notice thereof and an opportunity to be heard in connection therewith. At any hearing held as herein provided, the last determination and assessment that has been made by the Director shall be prima facie correct and the burden shall be upon the petitioning Person to prove that it is incorrect. Upon the conclusion of such hearing a decision shall be made by the Director either canceling, increasing, modifying or affirming such determination or assessment and notice thereof given to the petitioner. Such notice shall contain a statement by the Director of the cost of the certification of the record computed at the rate of 5 cents (\$.05) per 100 words, which cost shall be charged to the petitioner if the determination or assessment is affirmed. The record shall consist of the notices and demands caused to be served by the Director, the written protest and petition for hearing, the testimony introduced at such hearing, the exhibits produced at such hearing, or certified copies thereof, the decisions of the Director and such other documents in the nature of pleadings filed in the proceeding.

(b) Whenever any Person shall fail to pay any tax as herein provided, an action to enforce the payment of said tax on behalf of the City may be brought in any court of competent jurisdiction.

(c) If the Mayor, after such hearing as may be required pursuant to Chapters 3 or 14, as appropriate, of this Code, shall find that any Person has willfully evaded payment or collection and remittance of the tax imposed by this Article, the Mayor may suspend or revoke all City licenses held by such Person. Any suspension or revocation of any license shall not release or discharge such Person from the civil liability for the payment or collection and remittance of the tax, interest and penalties, nor from prosecution for such offense.

**Sec. 22-114. Investigation; Hearing; Evidence.** (a) For the purpose of administering and enforcing the provisions of this Article, the Department, or any officer or employee of the Department designated, in writing, by the Director, may hold investigations and hearings concerning any matters covered by this Article and may examine any books, papers, records or memoranda bearing upon the Sales at Retail or the Purchases at Retail of any such Person, may require the attendance of such Person or of any Person having knowledge of such business, and may take testimony and require proof for the Department's information. In the conduct of any investigation or hearing, neither the Department nor any officer or employee thereof shall be bound by the technical rules of evidence, and no informality in any proceeding, or in the manner of taking testimony, shall invalidate any order, decision, rule or regulation made, approved or confirmed by the Department or the Director.

(b) The Director, or any officer or employee of the Department authorized by the Director, shall have power to administer oaths to such Persons. The books, papers, records and memoranda of the Department, or parts thereof, may be proved in any hearing, investigation, or legal proceeding by a reproduced copy thereof, under the certificate of the Director. Such reproduced copy shall, without further proof, be admitted into evidence before the Department or in any legal proceeding.

**Sec. 22-115. Testimony; Perjury.** No Person shall be excused from testifying or from producing any books, papers, records or memoranda in any investigation or upon any hearing, when ordered to do so by the Department or any officer or employee thereof, upon the grounds that the testimony or evidence, documentary or otherwise, may tend to incriminate such Person or subject such Person to a criminal penalty, but no Person shall be prosecuted or subjected to any criminal penalty for, or on account of, any transaction made or thing concerning which such Person may testify or produce evidence, documentary or otherwise, before the Department or an officer or employee thereof; provided, that such immunity shall extend only to a natural person who, in obedience to a subpoena, gives testimony under oath or produces evidence, documentary or otherwise, under



oath. No such person so testifying shall be exempt from prosecution and punishment for perjury committed in so testifying.

**Sec. 22-116. Subpoenas; Contempt.** (a) The Department or any officer or employee of the Department designated in writing, by the Director, shall at its or the Director's own instance, or on the written request of any other party to the proceeding, issue subpoenas duces tecum requiring the production of books, papers, records or memoranda. All subpoenas and subpoenas duces tecum issued under the terms of this Article may be served by any Person of full age. The fees of witnesses for attendance and travel shall be the same as the fees of witnesses before the Circuit Court of this State; such fees to be paid when the witness is excused from further attendance. When the witness is subpoenaed at the instance of the Department or any officer or employee thereof, such fees shall be paid in the same manner as other expenses of the Department, and when the witness is subpoenaed at the instance of any other party to any such proceeding, the Department may require that the cost of service of the subpoena or subpoena duces tecum and the fee of the witness be borne by the party at whose instance the witness is summoned. In such case, the Department, in its discretion, may require a deposit to cover the cost of such service and witness fees. A subpoena or subpoena duces tecum issued as aforesaid shall be served in the same manner as a subpoena issued out of the Circuit Court.

(b) Any Circuit Court of this State, or any judge thereof, upon the application of the Department or any officer or employee thereof, or upon the application of any other party to the proceeding, may, in its or such judge's discretion, compel the attendance of witnesses, the production of books, papers, records or memoranda and the giving of testimony before the Department or any officer or employee thereof conducting an investigation or holding a hearing authorized by this Article, by an attachment for contempt, or otherwise, in the same manner as production of evidence may be compelled before said Circuit Court.

(c) The Department or any officer or employee thereof, or any other party in an investigation or hearing before the Department, may cause the deposition of witnesses to be taken in the manner prescribed by law for like depositions in civil actions in Circuit Courts of this State, and to that end, compel the attendance of witnesses, the production of books, papers, records or memoranda.

**Sec. 22-117. Privacy.** (a) All information received by the Department from returns filed under this Article or from any investigation conducted under this Article shall be confidential, except for official purposes, and any Person who divulges any such information in any manner, except in accordance with a proper judicial order or as otherwise provided by law, shall be punished by a fine not to exceed \$500.

(b) Nothing in this Section prevents the Director from publishing or making available to the public the names and addresses of Persons filing returns under this Article, or reasonable statistics concerning the operation of the tax by grouping the contents of returns so the information in any individual return is not disclosed.

(c) Nothing in this Section prevents the Director from divulging to the United States Government or the government of any state, or any officer of any agency thereof, for exclusively official purposes, information received by the Department in administering this Article, provided that such other governmental agency agrees to divulge requested tax information to the Department.

(d) The furnishing upon request of information obtained by the Department from returns filed under this Article or investigations conducted under this Article to the Liquor Control Commissioner for official use is deemed to be an official purpose within the meaning of this Section.

(e) The furnishing upon request by the auditor or the authorized agents of such auditor of the City for official use, of returns filed and information related thereto under this Article, is deemed to be an official purpose within the meaning of this Section.

**Sec. 22-118. Service of Notices.** Whenever notice is required by this Article, such notice may be given by United States certified mail, addressed to the Person concerned at the last known address of such Person, and proof of such mailing shall be sufficient for the purposes of this Article. Notice of any hearing provided for by this Article shall be so given not less than seven (7) days prior to the day fixed for the hearing, unless otherwise provided by any other provision of this Code. Following the initial contact of a Person represented by an attorney, the Department shall not contact the person concerned but shall only contact the attorney representing the person concerned. All hearings provided for in this Article shall be at the Department's office or at such other place in the City as may be designated by the Director.

**Sec. 22-119. Corporations; Officers.** Any officer or employee of any corporation subject to the provisions of this Article who has the control, supervision or responsibility of filing returns and collecting and remitting the amount of tax herein imposed and who willfully fails to file such return or to collect and make such remittance to the Department shall be personally liable for such amounts, including interest and penalties thereon, in the event that, after proper proceedings for the collection of such amounts, as provided in this Article, such corporation is unable to pay such amounts to the Department; and the personal liability of such officer or employee as provided herein shall survive the dissolution of the corporation.

**Sec. 22-120. Violations; Penalties.** Any person found guilty of violating, disobeying, omitting, neglecting, or refusing to comply with, or resisting or opposing the enforcement of any of the provisions of this Article, except when otherwise specifically provided, upon conviction thereof, shall be punished by fine of not less than \$100 nor more than \$500 for the first offense and not less than \$500 nor more than \$1,000 or five times the amount of the tax imposed, if any, whichever is higher, for the second and each subsequent offense. A separate and distinct offense shall be regarded as committed each day upon which said person shall continue any such violation, or permit any such violation to exist after notification thereof. The prosecution of any offense under this Article shall not release or discharge any such Person from the civil liability for the payment or collection and remittance of the tax, interest and penalties as provided under this Article.

**Sec. 22-121. Severability.** If any provision of this Article or application thereof to any Person or circumstance is held unconstitutional or otherwise invalid, such invalidity shall not affect other provisions or applications of this Article which can be given effect without the invalid application or provision, and to this end, each such invalid provision or invalid application of this Article is severable, unless otherwise provided by this Article. In particular, but without limitation, each provision creating an exception to or an exemption or exclusion from the imposition of the tax is severable. It is hereby declared to be the legislative intent of the City Council of the City that this Article would have been adopted had any such unconstitutional or otherwise invalid provision or application not been included.