

CHAPTER 112: ENFORCEMENT AND COLLECTIONS

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§ 112.01 DUTY TO DETERMINE WHETHER TAX DUE.

(A) Each person has the duty to determine whether the business he or she conducts is taxed under this chapter, and if so, whether that tax has been paid for the current tax year.

(B) If the Tax Collector has reason to believe that a person is conducting a business in the town in violation of this chapter, he or she shall conduct an investigation to determine the person's tax liability.

(1981 Code, § 8-26)

§ 112.02 DUTY TO POST LICENSE.

(A) A licensee shall post his or her license or licenses conspicuously in the place of business licensed.

(B) If he or she has no regular place of business, the license must be kept where it may be inspected at all times by the proper town officials.

(C) If a machine is licensed, the license shall be affixed to the machine.

(1981 Code, § 8-27) Penalty, see § 112.99

§ 112.03 NOTICE OF DEFICIENCY.

(A) If the Tax Collector determines that a person has not paid the full amount of tax due under this chapter, either for the current license year or for a prior license year, he or she shall give the person written notice of the deficiency, pursuant to § 111.14.

(B) The notice of deficiency shall specify:

- (1) The total amount of tax due;
- (2) The section of this chapter upon which the tax is based;
- (3) The amount of tax paid;
- (4) Any interest due;
- (5) The balance owed;
- (6) The manner and time period in which the person may respond to the notice of deficiency; and
- (7) The consequences to the person if he or she fails to respond as specified.

(1981 Code, § 8-28)

§ 112.04 REQUEST FOR A CONFERENCE.

(A) The person may, within 10 days after the day on which notice is served, request in writing a conference.

(B) The request shall specify the person's objections to the notice of deficiency.

(C) By the way of illustration but not limitation, a person who receives notice of deficiency may object on the following grounds:

- (1) That the tax due has already been paid;

(2) That the Tax Collector miscalculated the amount of tax due; or

(3) That the Tax Collector based his or her calculation on incorrect or insufficient information concerning either the nature or amount of business conducted.

(1981 Code, § 8-29)

§ 112.05 DEFICIENCY TO BECOME FINAL.

If the taxpayer fails to request a conference under §112.04, the deficiency becomes final and the Tax Collector shall proceed to collect the deficiency.

(1981 Code, § 8-30)

§ 112.06 CONFERENCE HELD.

(A) If the taxpayer requests a conference, the Tax Collector shall not proceed to collect the deficiency until he or she hears the taxpayer's objections and determines that the deficiency should become final.

(B) The Tax Collector shall maintain for 3 years record of each conference held pursuant to §112.04.

(C) The record shall contain the name of the taxpayer, the date of the conference and a brief statement of the issues discussed and the results of the discussion.

(D) A copy of this record shall be served upon the taxpayer in the manner provided by §112.14. After 3 years, the Tax Collector shall dispose of the record pursuant to G.S. § 121-5.

(1981 Code, § 8-31)

§ 112.07 COLLECTION OF DEFICIENCY.

(A) The Tax Collector may use any of the following methods to collect a deficiency:

(1) Criminal prosecution in accordance with § 112.99(A) below;

(2) Civil penalties in accordance with § 112.99(B) below;

(3) Equitable relief in accordance with § 112.99(C) below;

(4) The remedies of levy and sale and attachment and garnishment in accordance with G.S. § 160A-207; or

(5) The remedies of levy and sale of real and personal property of the taxpayer within the city in accordance with the provisions of G.S. § 105-109.

(B) Any person who commences or continues to conduct a business taxed under this chapter without payment of the tax is liable for the additional tax of 5% each 30 days imposed by G.S. § 105-109.

(1981 Code, § 8-32)

§ 112.08 APPEALS.

(A) Subject to the provisions of this section, a person may appeal to the Privilege License Tax Review Board a decision by the Tax Collector:

(1) That an applicant is not entitled to a privilege license;

(2) That a licensee's privilege license should be revoked;

(3) Concerning the amount of tax owed by an applicant; and/or

(4) That a person has not paid the amount of tax due for the current license year or any prior years.

(B) An appeal may be taken only if the applicant has properly pursued and exhausted his or her right to have a conference with the Tax Collector on any of the matters specified in division (A) above.

(C) An appeal is taken by filing with the Tax Collector a written notice of appeal. This notice of appeal must be filed not later than 10 days after the appellant is served with the record of the conference as provided in §§ 111.13 or 112.06.

(D) (1) The Privilege License Tax Review Board shall hear and decide the appeal within 30 days after notice of appeal is filed, unless the hearing is continued for good cause.

(2) The appellant shall be given at least 5 working days' notice of the date and time of hearing and shall be served with a written copy of the Board's decision following the hearing.

(3) The burden of establishing the correctness of the Tax Collector's decision shall be on the Tax Collector.

(E) The Privilege License Tax Review Board shall consist of the Mayor and the members of the Council, sitting ex officio. The Board may choose its own Chairperson and adopt its own rules of procedure, except that 3 members shall constitute a quorum and decisions shall be made by a majority of those present and voting.

(1981 Code, § 8-33)

§ 112.99 PENALTY.

(A) A violation of § 110.03 constitutes a misdemeanor punishable as provided in G.S. § 14-4. Payment of a fine imposed in criminal proceedings pursuant to this section does not relieve a person of his or her liability for taxes imposed under this chapter.

(B) A violation of §§ 110.03 or 112.02 shall subject the offender to a civil penalty of \$10. If the offender does not pay the penalty within 10 days after he or she has been cited for a violation, the town may attempt to recover the penalty by filing a civil action in the nature of debt. Payment of this civil penalty does not relieve a person of his or her liability for taxes imposed under this chapter.

(C) The town may seek appropriate equitable relief from a court of competent jurisdiction to prevent or re-dress violations of this chapter.

(D) Each day that a violation of §§ 110.03 or 112.02 exists after the person has been notified of the violation shall constitute a separate and distinct offense.

(E) This chapter may be enforced by any 1, all or a combination of the remedies authorized and prescribed by this section.

(1981 Code, § 8-34)