

Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

~~COUNTY~~
~~CITY~~ of Victory
~~TOWN~~
Village

Local Law No. 1 of the year 20⁰¹

A local law entitled: "Village of Victory Gross Utility Tax"
(Insert Title)
.....
.....
.....

Be It enacted by the Board of Trustees of the
(Name of Legislative Body)

~~COUNTY~~
~~CITY~~ of Victory as follows:
~~TOWN~~
Village

(If additional space is needed, attach pages the same size as this sheet, and number each.)

3.2 - The word "Person" means persons, corporations, companies, associations, joint-stock companies or associations, partnerships and limited liability companies, estates, assignee of rents, any Person acting in a fiduciary capacity, or any other entity, and persons, their assignees, lessees, trustees or receivers, appointed by any court whatsoever, or by any other means, except the State of New York; municipalities, political and civil subdivisions of the State of New York or municipality and public districts (provided, however, that with respect to gas, electricity and gas or electric service, including the sale of the transportation, transmission or distribution of gas or electricity, such municipalities, political and civil subdivisions and public districts shall be excluded from the definition of "Person" if they own and operate facilities which are used to generate or distribute electricity or distribute gas and they distribute and sell such gas or electricity solely at retail, solely within their respective jurisdiction; or provided, further, with respect to the sale of electricity or the transportation, transmission or distribution of electricity, a municipality shall be excluded from the definition of "Person" if it sells electricity at retail where all such electricity (excluding temporary substitution power during outages or periods of reduced output) has been generated solely by and purchased solely from the State of New York or a public authority of the State of New York); corporations and associations which are organized and operated exclusively for religious, charitable or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual, and which are described in paragraph four of subdivision (a) of section eleven hundred sixteen of the New York State Tax Law where such organization resells such gas or electricity or gas or electric service as landlord to its Tenants in buildings owned by such organization; and excepting a corporation organized and operated exclusively for the purpose of leasing from a city in the State of New York a water-works system designed to supply water at cost to users thereof for discharge, either before or after industrial use, into a river within such city in order to improve the flow and condition of such river and thereby to provide a means to relieve such river from pollution.

3.3 - The words "Gross Income" mean and include receipts received in or by reason of any sale, conditional or otherwise, (except sales hereinafter referred to with respect to which it is provided that profits from the sale shall be included in Gross Income) made or service rendered for ultimate consumption or use by the purchaser in the Village, including cash, credits and property of any kind or nature (whether or not such sale is made or such service is rendered for profit), without any deduction therefrom on account of the cost of the property sold, the cost of materials used, labor or services or other costs, interest or discount paid, or any other expense whatsoever; provided, however, that

(a) all receipts from sales of the transportation, transmission or distribution of gas or electricity by means of conduits, mains, pipes, wires, lines or the like, rendered or performed in the Village, shall be included in Gross Income, except receipts from (i) sales of the transportation, transmission or distribution of gas or electricity to (A) a Utility (excluding a public authority) which is supervised by New York State or another jurisdiction (where an element of such supervision includes rate regulation and, for a Utility supervised by another jurisdiction, such supervision includes rate regulation and such gas or electricity is delivered for ultimate consumption or use outside this state), (B) a municipality which owns and operates facilities which are used to generate or distribute electricity or distribute gas and which distributes and sells such electricity or gas solely at retail, solely within its respective jurisdiction, or (C) a public authority of New York State, where such public authority is primarily engaged in the generation and transmission or distribution of electricity or the distribution of electricity or gas and at least ninety-five percent of the assets of which are so devoted, provided, that, if the service area or district of the authority is less than the entire state,

VILLAGE OF VICTORY

LOCAL LAW NO. 1 OF 2001

A LOCAL LAW ENTITLED: "VILLAGE OF VICTORY GROSS UTILITY TAX LOCAL LAW"

A Local Law relating to the taxation of income of utilities doing business within the Village of Victory, Saratoga County, New York.

Section 1.0 - Purpose

The purpose of this Local Law is to impose a tax upon the Gross Income or Gross Operating Income of utilities doing business in the Village of Victory, as authorized and permitted by Section 5-530 of the Village Law of the State of New York.

Section 2.0 - Tax Imposed

Pursuant to the authority granted by § 5-530 of the Village Law of the State of New York, a tax equal to one per centum (1%) of its Gross Income from and after the 5th day of September, 2001 is hereby imposed upon every Utility doing business in the Village which is subject to the supervision of the State Department of Public Service and which has a Gross Income for the twelve (12) months ending December 31 in excess of Five Hundred Dollars (\$500.00), except omnibus corporations subject to supervision under Article 6 of the Transportation Law; and a tax equal to one per centum (1%) of its Gross Operating Income from and after the 5th day of September, 2001 is hereby imposed upon every other Utility doing business in the Village which has a Gross Operating Income for the twelve (12) months ending December 31 in excess of Five Hundred Dollars (\$500.00), which taxes shall have application only within the territorial limits of the Village and shall be in addition to any and all other taxes and fees imposed by any other provision of law for the same period. Such taxes shall not be imposed on any transaction originating or consummated outside of the territorial limits of the Village, notwithstanding that some act be necessarily performed with respect to such transaction within such limits.

Section 3.0 - Definitions

As used herein, the following terms shall have the following meanings unless the context clearly indicates otherwise:

3.1 - The word "Utility" includes every Person (including every provider of Telecommunication Services) subject to the supervision of the State Department of Public Service, except persons engaged in the business of operating on the public highways of New York State one or more omnibuses, having a seating capacity of more than seven persons, and persons engaged in the business of operating or leasing sleeping and parlor railroad cars or of operating railroads other than street surface, rapid transit, subway and elevated railroads, and also includes every Person (whether or not such Person is subject to such supervision) who sells gas, electricity, steam, water or refrigeration, delivered through mains, pipes or wires, or furnishes gas, electric, steam, water or refrigerator service, by means of mains, pipes, or wires; regardless of whether such activities are the main business of such Person or are only incidental thereto, or of whether use is made of the public streets.

the excluded receipt shall be limited to receipts derived from the sale of transportation, transmission or distribution of gas or electricity, which electricity or gas will be sold by such authority at retail within its service area or district; where, as the case may be, such Utility or authority purchasing such transportation, transmission or distribution sells the gas or electricity being so transported, transmitted or distributed, (ii) sales of the transportation, transmission or distribution of electricity to a municipality where the electricity being transported has been purchased by such municipality and has been generated solely by and purchased solely from the state or a public authority of the state (except where the electricity being transported constitutes temporary substitution power being supplied during outages or periods of reduced output) and where such municipality purchasing such transportation, transmission or distribution, sells solely at retail, solely within its respective jurisdiction, the electricity being so transported, transmitted or distributed, (iii) sales of the transportation, transmission or distribution of gas or electricity to corporations and associations which are organized and operated exclusively for religious, charitable or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual, and which are described in paragraph four of subdivision (a) of section eleven hundred sixteen of the New York State Tax Law where such organization resells such transportation, transmission or distribution as part of a bundled gas or electric service as landlord to its Tenants in buildings owned by such organization, or (iv) sales of the transportation, transmission or distribution of gas or electricity, not otherwise excluded, to nonresidential customers, but only in accordance with the following schedule: for the sales during the calendar years two thousand and two thousand one, zero percent of the receipts from such sales shall be excluded; for the sales during the calendar year two thousand two, twenty-five percent of the receipts from such sales shall be excluded; for sales during the calendar year two thousand three, fifty percent of the receipts from such sales shall be excluded; for sales during the calendar year two thousand four, seventy-five percent of the receipts from such sales shall be excluded; and for sales thereafter, one hundred percent of such sales shall be excluded. For the purposes of this clause, the term "nonresidential customers" means those customers whose use of gas or electricity, or gas or electric service does not qualify for the reduced rate of sales and compensating use tax on gas, electricity, or gas or electric service under section eleven hundred five-A of article twenty-eight of the New York State Tax Law; and

(b) receipts received from the sale of the transportation, transmission or distribution of gas or electricity shall mean the receipts received from customers representing the noncommodity charges for gas or electric service; and

(c) Gross Income with respect to a provider of Telecommunication Services shall not include receipts from the sale of Telecommunication Services as such services are defined in section one hundred eighty-six-e of the New York State Tax Law; and

(d) sales of gas, electricity, steam, water or refrigeration or gas, electric, steam, water or refrigerator service to a landlord that is a Person as defined in Section 3.2 above for resale by such landlord to a Tenant, for consumption by such Tenant as an incident to such landlord's activity of renting Premises to such Tenant, shall be subject to the tax imposed under this Local Law even though such sales are not for ultimate consumption by such landlord. Receipts derived by a landlord from the resale for such gas, electricity, steam, water or refrigeration or furnishing gas, electric, steam, water or refrigerator service to such Tenant shall be conclusively presumed to be equal to such landlord's cost of the same, and, if the tax under this section was imposed on the sale to such landlord, no additional tax under this section shall be owing on the sale by such landlord to such Tenant. If, however, the tax under this section was not imposed on such sale to

the landlord, then such landlord on the sale to its Tenant shall file a return hereunder based on such landlord's cost (including any associated transportation cost) of such gas, electricity, steam, water or refrigeration or gas, electric, steam, water or refrigerator service.

"Gross income" also includes profits from the sale of securities; also profits from the sale of real property growing out of the ownership or use of or interest in such property; also profit from the sale of personal property (other than property of a kind which would properly be included in the inventory of the taxpayer if on hand at the close of the period for which a return is made); also receipts from interest, dividends, and royalties, derived from sources within the Village other than such as are received from a corporation a majority of whose voting stock is owned by the taxpaying Utility, without any deduction therefrom for any expenses whatsoever incurred in connection with the receipt thereof, also profits from any transaction (except sales for resale and rentals) within the Village whatsoever.

3.4 - The words "Gross Operating Income" mean and include receipts received in or by reason of any sale, conditional or otherwise, made for ultimate consumption or use by the purchaser of gas, electricity, steam, water or refrigeration, or in or by reason of the furnishing for such consumption or use of gas, electric, steam, water or refrigerator service in the Village, including cash, credits and property of any kind or nature, without any deduction therefrom on account of the cost of the property sold, the cost of materials used, labor or services or other costs, interest or discount paid, or any other expenses whatsoever. Sales of gas, electricity, steam, water or refrigeration or gas, electric, steam, water or refrigerator service to a landlord that is a Person as defined in this subdivision for resale by such landlord to a Tenant, for consumption by such Tenant as an incident to such landlord's activity of renting Premises to such Tenant, shall be subject to the tax imposed under this Local Law even though such sales are not for ultimate consumption by such landlord. Receipts derived by a landlord from the resale of such gas, electricity, steam, water or refrigeration or furnishing gas, electric, steam, water or refrigerator service to such Tenant shall be conclusively presumed to be equal to such landlord's cost of the same, and, if the tax under this section was imposed on the sale to such landlord, no additional tax under this section shall be owing on the sale by such landlord to such Tenant. If the tax under this section was not imposed on such sale to the landlord, then such landlord on the sale to its Tenant shall file a return hereunder based on such landlord's cost (including any associated transportation cost) of such gas, electricity, steam, water or refrigeration or gas, electric, steam, water or refrigerator service;

3.5 - The term "Telecommunication Services" shall have the same meaning as such term is defined in section one hundred eighty-six-e of the New York State Tax Law.

3.6 - The word "Premises" means and includes any real property or part thereof, and any structure thereon or space therein.

3.7 - The word "Tenant" means and includes a Person paying, or required to pay, rent for Premises as a lessee, sublessee, licensee or concessionaire.

3.8 - The word "Village" means the Village of Victory, Saratoga County, New York.

3.9 - The word "Treasurer" means the Clerk/Treasurer of the Village of Victory.

Section 4.0 - Records

Every Utility subject to tax under this Local Law shall keep such records of its business and in such form as the Treasurer may require, and such records shall be preserved for a period of three (3) years, except that the Treasurer may consent to their destruction within that period or may require that they be kept longer.

Section 5.0 - Filing of Return

A. Every Utility subject to tax hereunder shall file on or before June 25, September 25, December 25 and March 25 of every calendar year, commencing December 25, 2001, a return for the three (3) calendar months preceding such return date, and in the case of the first such return, for all preceding calendar months during which the tax imposed hereby was effective.

B. Every return shall state the Gross Income or Gross Operating Income for the period covered thereby. Returns shall be filed with the Treasurer on a form to be furnished by her for such purpose and shall contain such other data, information or matter as she may require to be included therein. The Treasurer, in order to ensure payment of the tax imposed, may require at any time a further or supplemental return which shall contain any data that may be specified by the Treasurer, and she may require any Utility doing business in the Village to file a return, which shall contain any data specified by her, regardless of whether the Utility is subject to tax under this Local Law. Every return shall have annexed thereto an affidavit of the head of the Utility making the same, or of the owner or of a copartner thereof or of a principal officer of the corporation or limited liability company, if such business is conducted by a corporation or limited liability company, to the effect that the statements contained therein are true.

Section 6.0 - Payment of Tax

At the time of filing a return as required by this Local Law, each Utility shall pay to the Treasurer the tax imposed by this Local Law for the period covered by such return. Such tax shall be due and payable at the time of filing the return or, if a return is not filed when due, on the last day on which the return is required to be filed.

Section 7.0 - Failure to Pay Tax; Notice; Hearing

In case any return filed pursuant to this Local Law shall be insufficient or unsatisfactory to the Treasurer and if a corrected or sufficient return is not filed within twenty (20) days after the same is required by notice from her, or if no return is made for any period, the Treasurer shall determine the amount of tax due from such information as she is able to obtain and, if necessary, may estimate the tax on the basis of external indexes or otherwise. She shall give notice of such determination to the Person liable for such tax. Such determination shall finally and irrevocably fix such tax unless the Person against whom it is assessed shall, within thirty (30) days after the giving of notice of such determination, apply to the Treasurer for a hearing or unless the Treasurer, of her own motion, shall reduce the same. After such hearing, the Treasurer shall give notice of her decision to the Person liable for the tax. Such decision may be reviewed by a proceeding under Article 78 of the Civil Practice Law and Rules of the State of New York if application therefor is made within ninety (90) days after the giving of notice of such decision. An order to review such decision shall not be granted unless the amount of any tax sought to be reviewed, with interest and penalties thereon, if any, shall first be deposited with the Treasurer