

AN ORDINANCE IMPOSING A LICENSE TAX PURSUANT TO VIRGINIA CODE ANNOTATED SECTION 58-266.1:2 UPON ALL PERSONS ENGAGED IN THE BUSINESS OF SEVERING COAL OR GASES, EXCEPT METHANE, PROPANE AND OTHER MIGRATORY GASES, AS STATED IN SECTION 55-154.1, FROM LANDS SITUATE IN RUSSELL COUNTY, VIRGINIA, AND FURTHER REQUIRING PROCEDURES AND COMMON CARRIERS OR COAL OR GASES PRODUCED OR TRANSPORTED FROM RUSSELL COUNTY, VIRGINIA, TO MAINTAIN RECORDS AND FILE REPORTS SHOWING THE QUANTITIES AND PROCEEDS FROM COAL OR GASES PRODUCED OR TRANSPORTED RESPECTIVELY.

BE IT ORDAINED AND ENACTED BY THE RUSSELL COUNTY BOARD OF SUPERVISORS, RUSSELL COUNTY, VIRGINIA.

SECTION A: IMPOSITION OF TAX, EFFECTIVE DATE, AND TAX RATE.

(1) A local coal road improvement tax authorized by Virginia Code Ann. Section 58-266.1:2 is hereby levied on every person engaging in the business of severing coal or gases, except methane, propane, and other migratory gases, as stated in Section 55-154.1 from the ground in Russell County, Virginia, for use in the improvement of the roads used in the transportation of coal in Russell County. The rate of such road tax shall not exceed one-half of one percentum (0.5%) of the gross receipts from the sale or sales of coal or gases severed, extracted or transported from Russell County, Virginia.

(2) The herein described license tax is imposed effective on January 1, 1979, at the rate of one-half of one percentum until January 1, 1980, then said tax shall be at the rate of one percentum.

(Order Book 17, page 127. Amendment to ordinance reads as follows:

".... to approve amending the Russell County Severance License Ordinance to increase the rate an additional one percent of the gross receipts from the sale of gases severed within Russell County."

SECTION B. DEFINITIONS:

(1) Definitions as set forth in the Russell County Severance License Ordinance adopted April 1, 1976. SECTION B - DEFINITIONS, under provisions of Va. Code Ann. Section 59-266-1:1, shall apply to this ordinance and by reference incorporated herein.

"(1) "Owner", means any person, partnership; association; corporation, whether organized under the laws of this or any other state or county; company or association earning either a legal or equitable interest in said coal or sales at the time of severance, extraction or transportation.

(2) "Severed", "Severing" and "Severance" as used in this ordinance shall mean the taking from the land or soil situate in Russell County, Virginia, any coal or gases in any manner whatsoever.

(3) "Person" as used in this ordinance shall include any person, firm, concern, receiver, receivers, trustee, executor, partner or partnership, administrator, agent, institution, association, company, corporation and persons acting under declaration of trust.

(4) "Producer" means every "Person" as defined engaged in the business of "Severing" coal or gases from the earth in Russell County, Virginia, including any "Owner" so engaged.

(5) "Gross Receipts" shall mean the fair market value measured at the times such coal or gases are utilized or sold for utilization in Russell County, Virginia. The term "gross receipts" shall include only those receipts derived from property located within this county and shall not include any receipts arising from the sale or other disposition of coal or gases extracted prior to the effective date thereof.

(6) "Coal" means and includes any combustible mineral solid composed predominately of carbon and hydro-carbons.

(7) "Gas" means and includes any substance or form that is neither liquid nor solid and which is sought for and removed from the earth for the vapor itself, and used for lighting, heating, cooking or any other purpose.

(8) "Ton" means a short ton of 2,000 pounds. The number of tons shall be determined at the first point at which the coal is weighed."

SECTION C. KEEPING OF RECORDS, FILING OR RETURNS AND PAYMENTS OF TAX:

(1) The provisions of Section 58-266.1:1 of the Code of Virginia as provided and an ordinance adopted by the Board of Supervisors of Russell County, Virginia, on the 5th day of April, 1976, shall apply as to measurement of gross receipts, filing of reports and record keeping as applicable to the tax imposed under this section and by reference incorporated herein.

"(1) Each producer of such coal and gases and any common carrier which transports such coal and/or gases, or any company owning, operating or using a pipeline by which gases produced in Russell County are transmitted to a point or points outside Russell County to a purchaser or purchasers thereof, shall maintain records showing the source, quantity and gross receipts of coal and gases which they have produced and transported, respectively.

(2) All producers of such coal and gases shall on or before the 20th day of each month file a written report, under oath and subject to the penalty of perjury with the Commissioner of the Revenue of Russell County, Virginia, showing the quantities of coal and gases which they have produced for the previous calendar month, together with the gross receipts from such coal and gases for the previous calendar month, and make payment thereon to the Treasurer of Russell County, Virginia.

(3) Each such producer, carrier, or pipeline owner, operator or user shall make such records available for examination by the Commissioner of the Revenue of Russell County, or his authorized agents, at its office or offices where such records are usually kept.

(4) If any such producer, carrier or pipeline owner, operator or user shall fail or refuse to file the written reports as required by this act, the county administrator shall assess the tax against said producer, carrier, or pipeline owner, operator or user at the rate herein provided for, on such amount of gross receipts as he may deem just, and the proceedings thereon shall be the same as if the written report had been made.

(5) If any such producer, carrier, or pipeline owner, operator or user shall withdraw from business in this country before the tax shall fall due as herein provided, or shall fail or neglect to pay such tax, the county administrator shall at once proceed to collect the same and may employ such legal process as may be necessary for that purpose, and when so collected he shall pay the same to the Commissioner of Revenue of

Russell County, Virginia. The suit may be brought by the County Administrator, in his official capacity, in any Court of this State having jurisdiction. A reasonable attorney fee shall be taxed as cost therein and process may issue to any county of the state and may be served as in civil action."

SECTION D.

LICENSING PERIOD:

(1) Any producer engaging in the severance of coal or gases from land situate in Russell County, Virginia, shall apply for a license on or before January 1, 1979, or before beginning severance, whichever is later.

(2) Such license shall be effective only for the calendar month in which issued, with the license tax for that quarter to be paid within the time prescribed by this ordinance.

(3) Such license for any month shall expire at the close of each calendar month unless renewed by the filing of reports and the payment of tax as set forth herein, whereupon it shall be automatically renew for the succeeding calendar month subject to the payment prescribed.

SECTION E.

PENALTIES:

(1) The penalties as provided for in severence tax ordinance adopted by the Board of Supervisors of Russell County on April 5, 1976, as provided for by Virginia Code Annotated Section 58-250, 58-251, 58-252, and 58-254, shall apply to this ordinance and by reference incorporated herein.

(2) Interest shall accrue on any tax not paid when due to the rate of eight percent (8%) per annum until paid subject to any limitation otherwise prescribed by law.

"(1) Any person, firm, association or corporation engaging in the business of extracting coal or gases without a license as herein required, or continuing in such business without obtaining a new license, shall be deemed guilty of a misdemeanor and shall

be subject to the penalties provided by Virginia Code Annotated Section 58-250, 58-251, 58-252, and 58-254; said sections expressly referred to and by reference incorporated herein.

(2) Interest shall accrue on any tax not paid when due at the rate of eight percent (8%) per annum until paid subject to any limitations otherwise prescribed by law. "

SECTION F. Advisory Committee.

(1) Russell County shall establish a Coal Road Improvement Advisory Committee, to be composed of three members:

- a. A member of the governing body of Russell County and appointed by the governing body.
- b. The Resident Engineer from the Department of Highways and Transportation.
- c. A citizen of Russell County connected with the coal industry, appointed by the Chief Judge of the Circuit Court.

(2) Said Committee shall develop on or before July one of each year a plan for improvement of roads during the following fiscal year. Such plan must have the unanimous approval of all members of the Committee and shall be submitted to the governing body of Russell County for approval. The governing body may approve or disapprove such plan, but may make no changes without the unanimous consent of the Committee.

SECTION G. Special Fund

(1) The Treasurer of Russell County shall set up a special fund for money collected from the tax imposed under authority of Section 58-266.1:2 of the Code of Virginia to be called the "Coal Road Improvement Fund".

(2) Coal Road Improvement Fund shall be spent for such improvements to public coal hauling roads as the Coal Road Improvement Advisory Committee and the governing body of Russell County may determine as provided in Section F of this ordinance.

A regular monthly meeting of the Russell County Board of Supervisors was held at the Russell County Courthouse in Lebanon, Virginia on Wednesday, January 2, 1991 beginning at 4:00 P.M.

PRESENT: Frank W. Horton, Chairman
Michael Puckett, Vice Chairman
Danny L. Brown, Member
Ralph C. Maples, Jr., Member
Cynthia K. Compton, Member
N. C. Meade, Jr., Member

James A. Gillespie, Clerk of the Board

The Chairman called the meeting to order.

PUBLIC HEARING GAS SEVERANCE ORDINANCE

Pursuant to having advertised for two (2) weeks in the Lebanon News a Public Hearing was held to receive public comment on amending the Russell County Severance License Ordinance, pursuant to Section 58.1-3717.4 Code of Virginia, of 1950, as amended, to increase the rate an additional one percent of the gross receipts from the sale of gases severed within Russell County. The Chairman called the Public Hearing to order. The floor was open for public comments. After receiving public comments the Public Hearing was closed.

Motion made by Danny Brown, second by Ralph Maples and duly approved by the Board of Supervisors to approve amending the Russell County Severance License Ordinance to increase the rate an additional one percent of the gross receipts from the sale of gases severed within Russell County.

The vote was:

AYE: Danny Brown
Ralph Maples
Frank Horton
Cynthia Compton
Mike Puckett
N. C. Meade

NAY: None

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JAMES A. GILLESPIE
COUNTY ADMINISTRATOR