

payment of interest on refunds of taxes paid pursuant to chapter 203 or chapter 212, municipalities shall pay interest on public service tax refunds at the rate required by such law.

(18) In all matters connected with the administration of the public service tax, sellers have the right:

- (a) To be represented by counsel or other qualified representatives;
- (b) To procedural safeguards with respect to the recording of interviews during tax determination processes conducted by the municipality; and
- (c) To have audits, inspections of records, and interviews conducted at a reasonable time and place.

(19) Municipalities may communicate with each other concerning the following:

- (a) Technical information concerning a seller's tax and accounting system necessary to conduct an accurate and efficient audit of a specific company; however, in no event shall the information include any data relevant to a specific purchaser or account or the seller's tax treatment of specific services;
- (b) Names and addresses of companies selling taxable services within their respective jurisdictions; and
- (c) The name of any company issued a refund of taxes and the total amount of taxes refunded to such company.

(20) Except as otherwise provided in this subsection, a municipality may not assess or attempt to assess a seller for any costs incurred by or charged to the municipality in connection with performing an audit of the seller's books and records, including all travel expenses. Any assessment or proposed assessment of such costs shall be void and unenforceable. A municipality may, however, assess and collect from the seller the reasonable travel expenses incurred by or charged to the municipality in connection with performing an audit of the seller's books and records if the seller received timely notice requesting access to such books and records in accordance with subsection (1) and the seller failed or refused to allow such access and did not propose an alternative date on which the audit was to commence, or if the seller and the municipality agreed in writing to an alternative date on which the audit was to commence but the seller then failed or refused to permit reasonable access to its books and records on the alternative date.

(21) The provisions of this section, other than subsection (6), shall not apply to the extent that the seller is the municipality levying the tax under audit or a separate utility authority, board, or commission of such municipality.

History.—s. 4, ch. 97-233.

**166.235 Procedure on purchaser's request for refund or credit.—**

(1) A purchaser seeking a refund of or credit for public service tax shall submit a written request therefor to the seller within the time prescribed in s. 166.234(6) and in accordance with this section. No such request shall be granted unless the amount claimed was collected from the purchaser and was not due to any municipality.

(a) The request shall be signed by the purchaser and shall be deemed completed for purposes of this section and the limitation period if it states the purchaser's name, mailing address, account number, the tax amounts claimed, the specific months during which those amounts were collected, and the reason for the purchaser's claim that such amounts were not due to any municipality. Upon receipt of a completed request, the seller shall ascertain whether it collected the tax claimed from the purchaser and whether the request is timely.

(b) Within 30 days following receipt of a completed request, the seller shall determine whether lists

available pursuant to s. 166.233(3) support the purchaser's claim and whether all or any portion of the tax timely claimed was not due to any municipality and was collected solely as a result of the seller's error. The seller shall refund or credit the purchaser's account for any such amount within 45 days following its determination thereof.

(c) With respect to all amounts timely claimed which the seller collected from the purchaser and which the seller has not determined to be subject to refund or credit pursuant to paragraph (b), the seller shall, within 30 days following receipt of the completed request, provide a copy thereof to each municipality to which the taxes claimed were remitted and to each municipality which has asserted in writing the right to impose the tax in a geographic area that includes the purchaser's billing address or service address, as the case may be. Within 30 days following receipt of such information, each such municipality shall notify the seller in writing if it approves the issuance of a refund or credit for all or a specified portion of the purchaser's claim. A municipality shall approve the refund or credit except to the extent the tax was due to such municipality. Within 45 days following receipt of notifications establishing that all of the municipalities receiving the request have approved a refund or credit, the seller shall issue a refund or credit the purchaser's account for the amount approved by all such municipalities. The seller's obligation to issue a refund or credit the purchaser's account shall be limited to amounts approved in accordance with this section. The seller shall be entitled to a corresponding refund or credit from any municipality to which the tax was remitted.

(d) The seller shall issue a written response advising the purchaser of the disposition of his or her request. The response shall specify any portion of the tax claimed that is being refunded or credited to the purchaser's account, and the reason for denial of any portion of the request. Reasons for denial include untimely submission of the request, that the seller did not collect the tax claimed, the absence of municipal approval to issue a refund or credit, that the purchaser previously received a refund or credit for the same tax, and failure to provide information required to complete the request. A copy of each notification received from a municipality pursuant to paragraph (c) shall accompany the response. If the seller submitted the request to a municipality but received no such notification, the response shall so state. With respect to any portion of the request that is granted, the response shall be issued at the time of the refund or credit to the purchaser's account. With respect to any portion of the request which is denied, the response shall be issued within 90 days following receipt of a purchaser's completed request.

(e) The seller may deduct from any refund or credit under this section any amount owed by the purchaser to the seller which is delinquent.

(2) This section provides the sole and exclusive procedure and remedy for a purchaser who claims that a seller has collected municipal public service taxes that were not due. No action arising as a result of the claimed collection of municipal public service taxes that were not due may be commenced or maintained by or on behalf of a purchaser against a seller or municipality unless the purchaser pleads and proves that he or she has exhausted the procedures in subsection (1) and that the defendant has failed to comply with said subsection; however, no determination of a seller under paragraph (1)(b) shall be deemed a failure to comply with subsection (1) if the seller has complied with paragraphs (1)(c) and (d). In any such action it shall be a complete defense that the seller or municipality has refunded the taxes claimed or credited the purchaser's account therewith; further, in such an action against a seller it shall be a complete defense that the seller collected the tax in reliance upon written information provided by a municipality pursuant to s. 166.233(3) or supplementing such information. Such action shall be commenced no later than 180 days following the purchaser's submission of a

completed request, or shall be barred. The relief available to a purchaser as a result of collection of municipal public service taxes that were not due shall be limited to a refund of or credit for such taxes.  
History.—s. 1, ch. 99-208.

**166.241 Fiscal years, budgets, and budget amendments.—**

(1) Each municipality shall establish a fiscal year beginning October 1 of each year and ending September 30 of the following year.

(2) The governing body of each municipality shall adopt a budget each fiscal year. The budget must be adopted by ordinance or resolution unless otherwise specified in the respective municipality's charter. The amount available from taxation and other sources, including balances brought forward from prior fiscal years, must equal the total appropriations for expenditures and reserves. At a minimum, the adopted budget must show for each fund, as required by law and sound financial practices, budgeted revenues and expenditures by organizational unit which are at least at the level of detail required for the annual financial report under s. 218.32(1). The adopted budget must regulate expenditures of the municipality, and an officer of a municipal government may not expend or contract for expenditures in any fiscal year except pursuant to the adopted budget.

(3) The tentative budget must be posted on the municipality's official website at least 2 days before the budget hearing, held pursuant to s. 200.065 or other law, to consider such budget. The final adopted budget must be posted on the municipality's official website within 30 days after adoption. If the municipality does not operate an official website, the municipality must, within a reasonable period of time as established by the county or counties in which the municipality is located, transmit the tentative budget and final budget to the manager or administrator of such county or counties who shall post the budgets on the county's website.

(4) The governing body of each municipality at any time within a fiscal year or within 60 days following the end of the fiscal year may amend a budget for that year as follows:

(a) Appropriations for expenditures within a fund may be decreased or increased by motion recorded in the minutes if the total appropriations of the fund is not changed.

(b) The governing body may establish procedures by which the designated budget officer may authorize budget amendments if the total appropriations of the fund is not changed.

(c) If a budget amendment is required for a purpose not specifically authorized in paragraph (a) or paragraph (b), the budget amendment must be adopted in the same manner as the original budget unless otherwise specified in the municipality's charter.

(5) If the governing body of a municipality amends the budget pursuant to paragraph (4)(c), the adopted amendment must be posted on the official website of the municipality within 5 days after adoption. If the municipality does not operate an official website, the municipality must, within a reasonable period of time as established by the county or counties in which the municipality is located, transmit the adopted amendment to the manager or administrator of such county or counties who shall post the adopted amendment on the county's website.

History.—s. 1, ch. 73-129; s. 4, ch. 83-106; s. 6, ch. 96-324; s. 14, ch. 2004-305; s. 11, ch. 2011-144.

**166.251 Service fee for dishonored check.—**The governing body of a municipality may adopt a service fee not to exceed the service fees authorized under s. 832.08(5) or 5 percent of the face amount of the check, draft, or order, whichever is greater, for the collection of a dishonored check, draft, or other order for the payment of money to a municipal official or agency. The service fee shall be in addition to all other penalties imposed by law. Proceeds from this fee, if imposed, shall be retained by

responsibility of collecting the tax on the nontaxable amounts, and the municipality shall look solely to the purchaser for recovery of such tax if it determines that the purchaser was not entitled to the exemption. Any municipality granting an exemption pursuant to this subsection shall grant the exemption to all companies classified in the same five-digit NAICS Industry Number. As used in this subsection, "NAICS" means those classifications contained in the North American Industry Classification System, as published in 2007 by the Office of Management and Budget, Executive Office of the President.

(7) The tax authorized hereunder shall be collected by the seller of the taxable item from the purchaser at the time of the payment for such service. The seller shall remit the taxes collected to the municipality in the manner prescribed by ordinance. Except as otherwise provided in ss. 166.233 and 166.234, the seller shall be liable for taxes that are due and not remitted to the municipality. This shall not bar the seller from recovering such taxes from purchasers; however, the universities in the State University System shall not be deemed a seller of any item otherwise taxable hereunder when such item is provided to university residences incidental to the provision of educational services.

(8)(a) Beginning July 1, 1995, a municipality may by ordinance exempt not less than 50 percent of the tax imposed under this section on purchasers of electrical energy who are determined to be eligible for the exemption provided by s. 212.08(15) by the Department of Revenue. The exemption shall be administered as provided in that section. A copy of any ordinance adopted pursuant to this subsection shall be provided to the Department of Revenue not less than 14 days prior to its effective date.

(b) If an area that is nominated as an enterprise zone pursuant to s. 290.0055 has not yet been designated pursuant to s. 290.0065, a municipality may enact an ordinance for such exemption; however, the ordinance shall not be effective until such area is designated pursuant to s. 290.0065.

(c) This subsection expires on the date specified in s. 290.016 for the expiration of the Florida Enterprise Zone Act, except that any qualified business that has satisfied the requirements of this subsection before that date shall be allowed the full benefit of the exemption allowed under this subsection as if this subsection had not expired on that date.

(9) A purchaser who claims an exemption under subsection (4) or subsection (5) shall certify to the seller that he or she qualifies for the exemption, which certification may encompass all purchases after a specified date or other multiple purchases. A seller accepting the certification required by this subsection is relieved of the obligation to collect and remit tax; however, a governmental body that is exempt from the tax authorized by this section shall not be required to furnish such certification, and a seller is not required to collect tax from such an exempt governmental body.

(10) Governmental bodies which sell or resell taxable service to nonexempt end users must collect and remit the tax levied under this section.

**History.**—s. 1, ch. 73-129; ss. 1, 2, ch. 74-109; s. 1, ch. 77-174; s. 1, ch. 77-251; s. 4, ch. 78-299; s. 1, ch. 78-400; s. 1, ch. 82-230; s. 1, ch. 82-399; s. 24, ch. 84-356; s. 1, ch. 85-174; s. 1, ch. 86-155; s. 1, ch. 88-35; s. 1, ch. 88-140; s. 36, ch. 90-360; s. 1, ch. 93-224; s. 44, ch. 94-136; s. 1, ch. 95-403; s. 12, ch. 96-320; s. 47, ch. 96-406; s. 2, ch. 97-233; s. 2, ch. 97-283; s. 10, ch. 98-277; s. 64, ch. 99-2; s. 18, ch. 2000-158; ss. 36, 38, 58, ch. 2000-260; s. 5, ch. 2000-355; s. 28, ch. 2001-60; s. 38, ch. 2001-140; s. 2, ch. 2003-17; s. 13, ch. 2005-287; s. 2, ch. 2009-51.

#### **166.232 Municipalities; public service tax; physical unit base option.—**

(1) At the discretion and option of the local tax authority, the tax authorized under s. 166.231 may be levied on a physical unit basis. The tax on the purchase of electricity may be based upon the number of kilowatt hours purchased; the tax on the purchase of metered or bottled gas (natural liquefied petroleum gas or manufactured) may be based on the number of cubic feet purchased; the tax on the

purchase of fuel oil and kerosene may be based on the number of gallons purchased; and the tax on the purchase of water service may be based on the number of gallons purchased.

(2) In the event that a municipality chooses the option provided in this section to tax on a physical unit basis, the municipality may choose not to levy and collect the tax authorized under s. 166.231 on any amount up to, and including, the first 500 kilowatt hours of electricity per month purchased for residential use. Such exemption shall apply to each separate residential unit, regardless of whether such unit is on a separate or a central meter, and shall be passed on to each individual tenant.

(3) In exercising its option pursuant to this section, each municipality levying a tax pursuant to this section shall implement a new tax rate structure and tax base in accordance with this act. The new tax rates shall apply to prior purchases of service if the purchases were billed during the month of implementation and thereafter. The shift in the tax rate and tax base for electricity, metered or bottled gas, fuel oil, kerosene, and water shall be accomplished in the following manner:

(a) Each municipality levying the tax shall, prior to converting to unit-based rates, compute the amount of tax it received from each source for the most recent 12 months for which such data is available.

(b) The amount determined under paragraph (a) shall be divided by the number of units purchased and taxed for the same period of time used in paragraph (a).

(c) One hundred five percent of the resulting figure rounded to no more than four decimal places shall be the maximum amount per unit which the municipality may levy upon converting to unit-based rates. However, during the year of conversion to a physical unit tax, the municipality may adjust its rates to ensure that revenues derived from the tax shall equal 105 percent of the revenues derived in the immediately preceding year. In those years subsequent to the year of conversion to a physical unit tax, the municipality may amend its tax rate by ordinance.

History.—s. 5, ch. 78-299; s. 2, ch. 82-230; s. 46, ch. 83-217.

**166.233 Public service tax; effective dates; procedures for informing sellers of tax levies and related information.—**

(1) As used in this section and ss. 166.231, 166.232, and 166.234:

(a) “Department” means the Department of Revenue or its designated agent.

(b) “Effective date,” with respect to any levy, repeal of a levy, or update to a list required under this section, means the effective date of the related obligation or change in the obligation of sellers to collect the tax; however, with respect to taxable service that is regularly billed on a monthly cycle basis, each levy, repeal, or update applies to any bill dated on or after the effective date of such event.

(c) “Levy” means and includes the imposition of a tax under s. 166.231 or s. 166.232 and all changes in the rate of a tax imposed under either of those sections.

(d) “Seller” means a person who sells a service that is subject to a levy.

(2)(a) A tax levy must be adopted by ordinance, and the effective date of every levy or repeal thereof must be a subsequent January 1, April 1, July 1, or October 1. A municipality shall notify the department of the adoption or repeal of a levy at least 120 days before the effective date thereof. Such notification must be furnished on a form prescribed by the department and must specify the services taxed under the authority of s. 166.231 or s. 166.232; the rate of tax applied to each service; the effective date of the levy or repeal thereof; and the name, mailing address, and telephone number of a person designated by the municipality to respond to inquiries concerning the tax. The department shall maintain this information for the purpose of responding to inquiries with respect thereto, and any

person may, in writing, request such information from the department. For purposes of this section, a response to such a person is timely if in writing and dated no later than 20 days after the receipt of the request. The department shall charge such persons a fee to recover the actual cost of maintaining and furnishing such information. The department has no liability for any loss of or decrease in revenue by reason of any error, omission, or untimely action that results in the nonpayment of the tax imposed under s. 166.231 or s. 166.232. The provisions of this paragraph which prescribe effective dates and require municipalities to furnish notifications to the department do not apply to taxes levied on service provided by the municipality levying the tax or by a separate utility authority, board, or commission of the municipality.

(b) The department may contract with a private entity to maintain and furnish the information described in paragraph (a); however, the department shall establish the fee charged to persons requesting that information.

(3) A municipality shall provide to any person, within 20 days following receipt of the person's written request, a copy of the ordinance adopting any levy and all amendments thereto, and shall advise such person in writing of the types of media on which the lists described in this subsection are available, the charges, if any, for supplying the lists on each available medium, and the address to which a request for such lists should be transmitted. Within 20 days following receipt of a written request therefor accompanied by payment of the cost, the municipality shall transmit the following to the person requesting them:

(a) A list containing each street name, known street name aliases, street address number ranges, applicable directionals, and zip codes associated with each street name, for all street addresses located within the municipality. For a range of street address numbers located within a municipality which consists only of odd or even street numbers, the list must specify whether the street numbers in the range are odd or even. The list shall be alphabetical, except that numbered streets shall be in numerical sequence;

(b) A list containing each postal zip code and all the city names associated therewith for all zip codes assigned to geographic areas located entirely within the municipality, including zip codes assigned to post office boxes; and

(c) A sequential list containing all post office box number ranges and the city names and zip codes associated therewith, for all post office boxes located within the municipality, except that post office boxes with postal zip codes entirely within the municipality which are included on the list furnished under paragraph (b) need not be duplicated.

The lists shall be printed, except that, if a list is available on another medium, the municipality shall, upon request, furnish the list on such medium in addition to or in lieu of the printed lists. The municipality shall be responsible for updating the lists as changes occur and for furnishing this information to all sellers affected by the changes. Each update shall specify an effective date which shall be either the next ensuing January 1, April 1, July 1, or October 1; shall be furnished to sellers not less than 60 days prior to the effective date; and shall identify the additions, deletions, and other changes to the preceding version of the list. The seller shall be responsible for charging the tax only to service and billing addresses contained in the lists which include all the required elements required by this subsection, including lists furnished to it by a municipality without the seller's request. The municipality shall be entitled to collect a fee not to exceed the actual cost of duplicating the information furnished to the person requesting it.

(4) The obligation of a seller to collect and remit the tax for any municipality is conditioned upon the timely availability to the seller of accurate information as described in subsections (2) and (3) in the manner prescribed in those subsections. For purposes of determining the timeliness of such information, the date of a request, response, update, or other transmittal is the date received. If any such information is not timely furnished to a seller, any related obligation to collect and remit tax is suspended during the period of delay, except that:

(a) If a request for information described in subsection (2) or subsection (3) precedes the date on which a municipality is required to furnish notification to the department as prescribed in subsection (2), the lack of a timely response to the request does not affect the seller's obligation to collect and remit tax for that municipality.

(b) If a seller is properly collecting and remitting tax on a taxable service from customers within a municipality as of the date of any request for information under subsection (2) or subsection (3), the lack of a timely response to the request does not affect the seller's obligation to continue collecting and remitting the tax levied on the same service from the same customers.

(c) If a failure to furnish timely information under subsection (2) or subsection (3) causes a delay in a seller's receipt of a list or update required by subsection (3) to a date less than 60 days before the effective date of a levy or update, the obligation to collect and remit tax pursuant thereto may not commence until the next subsequent January 1, April 1, July 1, or October 1.

(5) If it is determined from lists or updates furnished under subsection (3) that more than one municipality claims the same address or group of addresses, the seller shall notify the municipalities affected within 60 days. Upon resolution of the competing claims, the affected municipalities shall furnish the seller with a signed agreement describing the resolution. The seller shall begin collecting and remitting tax pursuant to the agreement as of the next ensuing January 1, April 1, July 1, or October 1 that is at least 60 days after its receipt of the signed agreement. Prior to such date, the seller shall continue its prior tax treatment of charges to customers with addresses subject to competing claims. For purposes of this subsection, "prior tax treatment" means the practice of collecting and remitting or not collecting and remitting tax during periods prior to discovery of the competing claims. The seller has no liability to any affected municipality for amounts not collected and remitted before the agreement was implemented, except to the extent that the seller's prior tax treatment was confirmed as correct in the agreement.

(6) If a list or update furnished pursuant to subsection (3) contains all the elements required by that subsection, but such information does not conform with address information in the seller's records, the seller may so notify the municipality that furnished the list or update. The notification shall identify the portion of the list or update that is in question and describe the nature of the problem. If the seller furnishes such a notification within 60 days after first receiving the list or update from the municipality, the seller shall not be obligated to collect and remit the tax with respect to the portion of the list or update at issue until the next ensuing January 1, April 1, July 1, or October 1 which is at least 60 days after the municipality furnishes the seller with information which resolves the issue raised by the seller.

*History.—*s. 3, ch. 97-233; ss. 39, 58, ch. 2000-260; s. 38, ch. 2001-140.

**166.234 Public service tax; administrative provisions; rights and remedies.—**

(1) A municipality may, during the seller's normal business hours at the official location of the seller's books and records, audit the records of any seller of a service that is taxable by the municipality under s. 166.231 or s. 166.232, for the purpose of ascertaining whether taxable services have been

provided or the correctness of any return that has been filed or payment that has been made, if the municipality's power to assess tax or grant a refund is not barred by the applicable limitations period. Each such seller must provide to the municipality, upon 60 days' written notice of intent to audit from the municipality, access to applicable records for such service, except an extension of this 60-day period must be granted if reasonably requested by the seller. The seller may at its option waive the 60-day notice requirement. If either the municipality or the seller requires an additional extension, it must give notice to the other no less than 30 days before the existing extension expires, except in cases of bona fide emergency or waiver of the notice requirement by the other party. In an audit, the seller is liable only for its taxable accounts collected which correspond to the information provided to it by the municipality under s. 166.233(3). As used in this section, "applicable records" means records kept in the ordinary course of business which establish the collection and remittance of taxes due. Such applicable records may be provided to the municipality on an electronic medium if agreed to by the seller and the municipality. No fee or any portion of a fee for audits conducted on behalf of a municipality shall be based upon the amount assessed or collected as a result of the audit, and no determination based upon an audit conducted in violation of this prohibition shall be valid.

(2) Each seller of services that are taxable under s. 166.231 or s. 166.232 shall preserve applicable records relating to such taxes until the expiration of the time within which the municipality may make an assessment with respect to that tax; however, a seller is not required to retain duplicative or redundant records.

(3) Before auditing a seller under subsection (1), the municipality shall, upon request of the seller, discuss with the seller the municipality's proposed audit methodology. The municipality shall prepare and furnish to the seller a report of each audit which identifies the nature of any deficiency or overpayment, the amount thereof, and the manner in which the amount was computed. In addition, the municipality, upon request and no less than 45 days before issuing a determination under subsection (8), shall furnish the seller with all other information or material in possession of the municipality or its agents which is necessary to supplement the audit findings.

(4)(a) A municipality may issue a proposed assessment of tax levied under s. 166.231 or s. 166.232 within 3 years after the date the tax was due. However, this limitation is tolled for 1 year if within the 3-year period the municipality issues to the seller a notice of intent to audit. If the audit cannot be completed prior to the expiration of this limitation period as extended by tolling, and such condition is due to the seller's refusal or delay in allowing access to applicable records, the municipality may make a proposed assessment from an estimate based upon the best information available for the taxable period, unless the seller agrees in writing to extend the limitation period. The municipality may also make a proposed assessment from such an estimate if, notwithstanding agreed extensions of the limitation period to a date which is 3 years following issuance of the notice of intent to audit, the seller does not allow access to applicable records prior to such date.

(b) A seller may apply to a municipality for refund of, or may take a credit for, any overpayment of tax or interest or penalty thereon within 3 years following remittance by the seller, and the municipality must refund or allow the seller credit for such overpayments as were remitted to the municipality. However, in the case of an overpayment which the seller has previously refunded or credited to a purchaser in accordance with subsection (6), the limitation period for the seller's refund application or credit shall expire 3 years following the seller's remittance to the municipality or 60 days following the seller's issuance of the refund or credit to the purchaser, whichever is later.

(c) Upon expiration of the periods set forth in this subsection, the municipality's right to assess tax,



interest, or penalty and the seller's right to apply for a refund or credit expire and are barred, unless fraud has occurred; however, sellers and municipalities may enter into agreements to extend these periods.

(5) Notwithstanding subsection (4), a municipality shall offset a seller's overpayment of any tax, interest, or penalty revealed by an audit against any deficiency of tax, interest, or penalty which is determined to be due for the same audit period, and such offsets must be reflected in any proposed assessment. If the overpayments by the seller exceed the deficiency, the municipality must refund to the seller the amount by which the aggregate overpayments exceed the total deficiency. Absent proof to the contrary, the methodology that is employed in computing the amount of a deficiency is presumed to yield an appropriate computation of the amount of any overpayments. As used in subsection (4) and this subsection, "overpayment" to a municipality means and includes all remittances of public service tax, interest, or penalty which were not due to the municipality, including amounts properly collected but remitted to the incorrect municipality.

(6) Any purchaser of a service may request from a seller a refund of, or credit for, taxes collected from the purchaser upon the ground that the amounts collected were not due to any municipality. The seller shall issue the refund or allow a credit to the purchaser entitled thereto, if the request is made within 3 years following collection of the tax from the purchaser. In any event, a seller shall issue a refund or credit to a purchaser within 45 days following the seller's determination of the amount of taxes collected from the purchaser within the preceding 3 years that were not due to any municipality.

(7) Municipalities are authorized to assess interest and penalties in accordance with this subsection for failure to pay any tax when due or to file any required return, except that no penalty shall be assessed absent willful neglect, willful negligence, or fraud. Interest may be assessed at a maximum rate of 1 percent per month of the delinquent tax from the date the tax was due until paid. Penalties may be assessed at a maximum rate of 5 percent per month of the delinquent tax, not to exceed a total penalty of 25 percent, except that a municipality may provide that in no event will the penalty for failure to file a return be less than \$15. In the case of a fraudulent return or a willful intent to evade payment of the tax, the seller making such fraudulent return or willfully attempting to evade payment of the tax, shall be liable for a specific penalty of 100 percent of the tax. Interest and penalties shall be computed on the net tax due after application of any overpayments, and are subject to compromise pursuant to subsection (14). Interest or penalties and the rates thereof shall be authorized by ordinance.

(8) Any proposed assessment or finding of amounts due the seller constitutes a determination of the municipality for purposes of this section. A determination must separately state the amounts of tax, interest, and penalty claimed to be due or to be refunded, must be accompanied by a written narrative explanation of the basis for the municipality's determinations, must inform the seller of the remedies available to it if it disagrees with any such determination, and must state the consequences of the seller's failure to comply with any demand of the municipality which is stated in the determination.

(9) A seller may file with the municipality a written protest of any determination within 60 days after the determination is issued. The municipality must consider the protest and must, within 60 days, issue a written notice of decision to the seller. The seller may petition the municipality for reconsideration of a notice of decision within 30 days after the issuance of the notice, and, following reconsideration of such a petition, the municipality must, within 30 days, issue a written notice of reconsideration to the seller.

(10) A determination becomes final 60 days after the date of issuance, unless the seller, before the

60-day period expires, has filed a protest or secured a written extension of time within which to file a protest. If the seller has secured a written extension of time and fails to file a protest within the extended time period, the proposed assessment becomes a final assessment at the expiration of the extended filing period. If a protest is timely filed and the seller and the municipality are unable to resolve the disputed issues, the determination becomes final as of the date of issuance of the notice of decision, unless the seller timely files a petition for reconsideration. If a petition for reconsideration is timely filed, the determination becomes final upon issuance of a notice of reconsideration.

(11) A notice of decision or a notice of reconsideration must address each issue raised in the protest or petition, must explain the reasoning underlying the conclusions reached, and must advise the seller of the remedies available to it if it disagrees with the municipality's disposition of the issues.

(12) A seller may contest the legality of any determination by filing an action in circuit court within 60 days after the date the determination becomes final. However, in any action filed in circuit court to contest the legality of any tax, penalty, or interest assessed under this section, the plaintiff must pay the municipality the amount of the tax, penalty, and accrued interest which is not being contested by the seller. Venue lies in the county where the municipality is located. The defendant in any such action is the municipality.

(13) A seller's failure to protest a determination under this section administratively or judicially does not waive or impair the seller's right to seek refund of any overpayment within the time allowed under subsection (4).

(14) A seller's liability for any tax, interest, or penalty may be settled or compromised by the municipality upon the grounds of doubt as to liability or doubt as to the collectibility of such tax, interest, or penalty. A municipality and a seller may enter into a written closing agreement that reflects the terms of any settlement or compromise. When such a closing agreement has been approved on behalf of the municipality and the seller, it is final, conclusive, and binding on the parties with respect to all matters set forth therein; and, except upon a showing of fraud or misrepresentation of material fact, additional assessment may not be made against the seller for the tax, interest, or penalty specified in the closing agreement for the time period specified in the closing agreement, and the seller may not institute any judicial or administrative proceeding to recover any tax, interest, or penalty paid under the closing agreement. In issuing a determination, a municipality must include in its notification thereof to the seller the names of the persons authorized to approve compromises and to execute closing agreements. A municipality may also enter into agreements for scheduling payments of taxes, interest, and penalties, which agreements must recognize both the seller's financial condition and the best interest of the municipality, if the seller gives accurate, current information and meets all other tax obligations on schedule.

(15) All notices of intent to audit, determinations, notices of decisions, and notices of reconsideration issued under this section must be transmitted to the seller by certified mail, return receipt requested, and the date of issuance is the postmark date of the transmittal. All protests and petitions for reconsideration are timely filed if postmarked or received by the municipality within the time prescribed by this section. If mailed, protests and petitions must be transmitted by certified mail, return receipt requested.

(16) A seller may pay any contested amount, in whole or in part, at any time, and the payment does not impair any of the seller's remedies as provided in this section.

(17) Each municipality that levies the public service tax shall furnish sellers with prompt, accurate responses to questions and to requests for tax assistance. In the event a law is enacted requiring