

LOCAL LAW NO. 8 OF 1939.

Regular meeting of the Common Council of the City of Plattsburgh, New York, held July 7, 1939.

By Alderman BEHAN; seconded by Alderman RAYMOND :

LOCAL LAW NO. 8 OF 1939, ENTITLED A LAW TO AMEND LOCAL LAW NO. 3 OF THE CITY OF PLATTSBURGH, NEW YORK, FOR THE YEAR 1937, IN RELATION TO CONTINUING THE TAX ON GROSS INCOMES OF CORPORATIONS AND PERSONS, FURNISHING UTILITY SERVICES IN THE CITY OF PLATTSBURGH, FOR THE PURPOSE OF GRANTING RELIEF FROM HARDSHIPS AND SUFFERING CAUSED BY UNEMPLOYMENT, AS AUTHORIZED BY SECTION 20-B OF THE GENERAL CITY LAW OF THE STATE OF NEW YORK, AND IN RELATION TO JUDICIAL REVIEW.

BE IT ENACTED by the Common Council of the City of Plattsburgh, New York, as follows:

Section 1. Subdivision one and four of local law number three for the year nineteen hundred thirty-seven, as amended by local law number three for the year nineteen hundred thirty-eight, are hereby amended to read as follows:

1. Pursuant to the authority granted by section twenty-b of the general city law of the state of New York, a tax equal to one per centum of its gross income for the period from July first, nineteen hundred thirty-seven, to June thirtieth, nineteen hundred forty, is hereby imposed upon ever utility doing business in the city of Plattsburgh, New York, which is subject to the supervision of the state department of public service, except motor carriers or brokers subject to such supervision under article three-b of the public service law and a tax equal to one per centum of its gross operating income is hereby imposed for the same period upon every other utility doing business in the city of Plattsburgh, New York, which taxes shall have application only within the territorial limits of the city of Plattsburgh, New York, 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 city of Plattsburgh, New York, notwithstanding that some act be necessarily performed with respect to such transaction within such limits.

4. On or before the twenty-fifth day of August, nineteen hundred thirty-seven, and on or before the twenty-fifth of every month thereafter until the twenty-fifth day of June, nineteen hundred thirty-eight, every utility subject to tax hereunder shall file a return stating the gross income or gross operating income in the city of Plattsburgh, New York, as the case may be, of such utility for the preceding calendar month. Every utility subject to tax hereunder shall file, on or before September twenty-fifth, nineteen hundred thirty-eight, December twenty-fifth, nineteen hundred thirty-eight, March twenty-fifth, nineteen hundred thirty-nine, and June twenty-fifth, nineteen hundred thirty-nine, a return for the three calendar months preceding each such return date, including any period for which the tax imposed hereby or by any amendment hereof is effective and on or before July twenty-fifth, nineteen hundred forty a return for the preceding calendar month, each of which returns shall state the gross income or gross operating income for the period covered by each such return. Returns shall be filed with the City Chamberlain of the City of Plattsburgh, N.Y., on a form to be furnished by him for such purpose and shall contain such other data, information or matter as the said City Chamberlain may require to be included therein. Notwithstanding the foregoing provisions of this subdivision, any utility whose average gross income or average gross operating income, as the case may be, for the aforesaid three months' periods is less than fifteen hundred dollars, may file its return for such periods on June twenty-fifth, nineteen hundred thirty-nine,

and June twenty-fifth, nineteen hundred forty, respectively. The said City Chamberlain may require a further or supplemental return, which shall contain any data that may be specified by the said City Chamberlain. Every return shall have annexed thereto an affidavit of the head of the utility making the same, or of the owner or of a co-partner thereof, or of a principal officer of the corporation, if such business be conducted by a corporation, to the effect that the statements contained therein are true.

Section 2. Subdivisions six and nine of local law number three for the year nineteen hundred thirty-seven are hereby amended to read as follows:

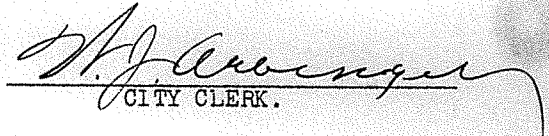
6. In case any return filed pursuant to this section shall be insufficient or unsatisfactory to the said City Chamberlain, and if a corrected or sufficient return is not filed within twenty days after the same is required by notice from the City Chamberlain of the City of Plattsburgh, N.Y., or if no return is made for any period, the said City Chamberlain shall determine the amount of tax due from such information as he is able to obtain, and, if necessary, may estimate the tax on the basis of external indices or otherwise. The said City Chamberlain 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 days after the giving of notice of such determination, apply to the said City Chamberlain for a hearing, or unless the City Chamberlain of his own motion shall reduce the same. After such hearing, the said City Chamberlain shall give notice of his decision to the person liable for the tax. The decision of the said City Chamberlain may be reviewed by a proceeding under article seventy-eight of the civil practice act of the state of New York (certiorari), if application therefor is made within thirty days after the giving of notice of such decision. An order to review such decision (of certiorari) shall not be granted unless the amount of any tax sought to be reviewed, with interest and penalties thereon, if any, shall be first deposited with the said City Chamberlain and an undertaking filed with him, in such amount and with such sureties as a justice of the supreme court shall approve, to the effect that, if such proceeding (order) be dismissed or the tax confirmed, the applicant (for the order) will pay all costs and charges which may accrue in the prosecution of such (the certiorari) proceeding, or at the option of the applicant, such undertaking may be in a sum sufficient to cover the tax, interest, penalties, costs and charges aforesaid, in which event the applicant shall not be required to pay such tax, interest and penalties as a condition precedent to the granting of such order.

9. If, within one year from the payment of any tax or penalty, the payer thereof shall make application for a refund thereof and the said City Chamberlain or the court shall determine that such tax or penalty or any portion thereof was erroneously or illegally collected, the said City Chamberlain shall refund the amount so determined. For like cause and within the same period, a refund may be so made on the initiative of the said City Chamberlain. However, no refund shall be made of a tax or penalty paid pursuant to a determination of the said City Chamberlain as hereinbefore provided unless the said City Chamberlain, after a hearing as hereinbefore provided, or of his own motion, shall have reduced the tax or penalty or it shall have been established in a (certiorari) proceeding under article seventy-eight of the civil practice act of the state of New York that such determination was erroneous or illegal. All refunds shall be made out of moneys collected under this section. An application for a refund, made as hereinbefore provided, shall be deemed an application for the revision of any tax or penalty complained of and the said City Chamberlain may receive additional evidence with respect thereto. After making this determination, the said City Chamberlain shall give notice thereof to the person interested, and he shall be entitled to an (a certiorari) order to review such determination under said article seventy-eight, subject to the provisions hereinbefore contained relating to the granting of such an order.

Section 3. This act shall take effect July first, nineteen hundred thirty-nine.

On roll call, Aldermen Holland, O'Connell, Raymond, Light, Behan and McCready voted in the affirmative; no one in the negative.
CARRIED.

The foregoing being Local Law No. 8 of 1939, is hereby certified to the Mayor this 18th day of July, 1939.


CITY CLERK.

The foregoing Local Law No. 8 of 1939 is hereby approved after Public Hearing held this 25th day of July, 1939.

MAYOR.

Introduced at Regular Meeting of the Common Council held June 23rd, 1939.

Passed at Regular Meeting of Common Council held July 7th, 1939.

Notice of Public Hearing published July 19th, 1939.

Approved after Public Hearing held July 25th, 1939.