

Chapter 20
TAXATION*

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ARTICLE I. IN GENERAL

Sec. 20-1. General retail sales tax levied.

Pursuant to section 58.1-605 of the Code of Virginia, a county general retail sales tax at the rate of one percent to provide revenue for the general fund for the county is hereby levied. Such tax shall be added to the rate of the state sales tax imposed by chapter 6, title 58.1 of the Code of Virginia. It shall be subject to all provisions of chapter 6 of title 58.1 of the Code of Virginia, all the amendments thereto, and the rules and regulations published with respect thereto. Therefore, the purpose of this section is to impose the general retail sales tax authorized by section 58.1-605 of the Code of Virginia.

Pursuant to the provisions of section 58.1-605D. of the Code of Virginia, the county general retail sales tax levied pursuant to this section shall be administered and collected by the state tax commission of the Commonwealth of Virginia in the same manner, and subject to the same penalties, as provided for the state sales tax, with the adjustments required by section 58.1-628 of the Code of Virginia.
(5-31-66; Ord, No. 107A-2, 12-2-85)

State law reference-Virginia Sales and Use Tax Law, Code of Va., § 58.1-600 et seq.

Sec. 20-2. Use tax imposed.

Pursuant to section 58.1-606 of the Code of Virginia, the board of supervisors hereby resolves to impose, and there is hereby imposed, in the county a local county use tax at the rate of one percent to provide revenue for the general fund of the county. Such county use tax shall be added to the rate of the state use tax imposed by chapter 6, title 58.1, of the Code of Virginia, and shall be subject to all the provisions of that chapter, and all amendments thereof, and the rules and regulations published with respect thereto. Therefore, the purpose of this section is to impose the local use tax authorized by section 58.1-606 of the Code of Virginia.
(3-29-68, § 1; Ord. No. 107A-2, 12-2-85)

State law reference-Virginia Sales and Use Tax Law, Code of Va., § 58.1-600 et seq.

Sec. 20-2.1. Local exemption of certain energy sources.

The following are hereby exempt from both the general retail sales tax and the use tax: Artificial or propane gas, firewood, coal or home heating oil used for domestic consumption. "Domestic consumption" means the user of artificial or propane gas, firewood, coal or home heating oil by an individual purchaser for other than business, commercial or industrial purposes. (Ord. No. 136A-1, 11-16-81; Ord. No. 107A-2, 12-2-85; Ord. No. 107A-55, 11-25-08)

State law reference-Authority of County to enact this section, Code of Va., § 58.1-609.13

Sec. 20-3. Recordation tax imposed.

Pursuant to the authority of sections 58.1-814 and 58.1-3800 et seq. of the Code of Virginia, there is hereby imposed a recordation tax on each taxable instrument recorded in the county in the amount of one-third of the amount of the state recordation tax collectible for the state on the first recordation of each taxable instrument in the county, excepting such instruments as are exempted by section 58.1-811 of the Code of Virginia. (This tax

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will be collected by the clerk of the circuit court for the City of Williamsburg and County of James City, Virginia, and paid monthly to the treasurer of the county, pursuant to law.) (8-31-64; Ord. No. 107A-2, 12-2-85)

State law reference-Recordation taxes generally, Code of Va., § 58.1-800 et seq.

Sec. 20-4. Assessment of new buildings and computation of tax thereon; when penalty accrues for nonpayment.

The board of supervisors hereby resolves that all new buildings substantially completed or fit for use and occupancy prior to November 1 of the year of completion shall be assessed when so completed or fit for use and occupancy, and the department of real estate assessments of the county shall enter in the books the fair market value of such building. No partial assessment as provided herein shall become effective until information as to the date and amount of such assessment is recorded in the office of the official authorized to collect taxes on real property and made available for public inspection. The total tax on any such new building for that year shall be the sum of the tax upon the assessment of the completed building, computed according to the ratio which the portion of the year such building is substantially completed or fit for use and occupancy bears to the entire year, and the tax upon the assessment of such new building as it existed on January 1 of that assessment year, computed according to the ratio which the portion of the year such building was not substantially complete or fit for use and occupancy bears to the entire year. With respect to any assessment made under this section after September 1 of any year, the penalty for nonpayment by December 5 shall be extended to February 5 of the succeeding year.

(1-5-59; Ord. No. 41A-1, 12-11-78; Ord. No. 107A-2, 12-2-85; Ord. No. 107A-45, 6-22-04; Ord. No. 107A-52, 10-9-07)

State law reference-Similar provisions, Code of Va., § 58.1-3292, § 58.1-3274.

Sec. 20-4.1. Abatement of levies on buildings razed, destroyed, or damaged by natural or accidental events.

Buildings which are razed, destroyed, or damaged due to a natural or accidental event and through no fault of the owner shall receive an abatement for tax levies computed according to the ratio which the portion of the year the building was fit for use, occupancy, or enjoyment bears to the entire year. No such abatement shall occur unless:

1. The destruction or damage to such building decreases its value by \$500 or more;
2. The destruction or damage to such building renders it unfit for use and occupancy for 30 or more days during the year; and
3. The owner of such building makes application for the abatement within six months of the date on which the building was razed, destroyed, or damaged.

(Ord No. 107A-31, 10-26-99; Ord. No. 107A-34, 6-27-00)

State law reference – Code of Va., §58.1-3222.

Sec. 20-5. Tax on bank net capital.

(a) *Definitions.* For the purposes of this section, the following words shall have the meanings ascribed to them by this subsection:

- (1) *Bank.* As defined in section 58.1-1201 of the Code of Virginia.
- (2) *Net capital.* A bank's net capital computed pursuant to section 58.1-1205 of the Code of Virginia.

(b) *Imposition of county bank franchise tax:*

- (1) Pursuant to the provisions of chapter 12 of title 58.1 of the Code of Virginia, there is hereby imposed upon each bank located within the boundaries of this county, a tax on net capital equaling 80 percent of the state rate of franchise tax set forth in section 58.1-1204 of the Code of Virginia.
- (2) In the event that any bank located within the boundaries of this county also has offices that are located outside the boundaries of the county, the tax shall be apportioned as provided by section 58.1-1211 of the Code of Virginia.

(c) *Failing of return and payment of tax.*

- (1) On or after the first day of January of each year, but not later than March 1st of any such year, all banks whose principal offices are located within this county shall prepare and file with the commissioner of the revenue a return as provided by section 58.1-1207 of the Code of Virginia, in duplicate, which shall set forth the tax on net capital computed pursuant to section 58.1-1205 of the Code of Virginia. The

commissioner of the revenue shall certify a copy of such filing of the bank's return and schedule and shall forthwith transmit such certified copy to the state department of taxation.

- (2) In the event that the principal office of a bank is located outside the boundaries of this county and such bank has branch offices located within this county, in addition to filing requirements set forth in subsection (c)(1) above, any bank conducting such branch business shall file with the commissioner of the revenue a copy of the real estate deduction schedule apportionment and other items which are required by sections 58.1-1207, 58.1-1212 and 58.1-1213 of the Code of Virginia.
- (3) Each bank, on or before the first day of June of each year, shall pay all taxes imposed pursuant to this section.
- (d) *Effective date of section.* The provisions of this section shall be effective for the year beginning January 1, 1980.
- (e) *Penalty upon bank for failure to comply with section.* Any bank which fails to file a return or pay the state tax required by this section or fails to comply with any other provision of this section shall be subject to a penalty of five percent of the tax due. If the commissioner is satisfied that such failure is due to providential or other good cause, such return and payment of tax shall be accepted exclusive of such penalty, but with interest determined in accordance with section 58.1-15 of the Code of Virginia.
(Ord. No. 136, 4-14-80; Ord. No. 107A-2, 12-2-85)

Sec. 20-6. Fees to cover administrative costs and reasonable attorney's or collection agency's fees in collection of delinquent taxes.

(a) There is hereby imposed upon each person chargeable with delinquent taxes or other delinquent charges, fees to cover the administrative costs and reasonable attorney's or collection agency's fees actually contracted for. The attorney's or collection agency's fees shall not exceed 20 percent of the taxes or other charges so collected. Such administrative costs shall be in addition to all penalties and interest, and shall not exceed \$30.00 for taxes or other charges collected subsequent to 30 or more days after notice of delinquent taxes or charges pursuant to section 58.1-3919 of the Code of Virginia, but prior to the taking of any judgment with respect to the delinquent taxes or charges, and \$35.00 for taxes or other charges collected subsequent to judgment. If the collection activity is to collect on a nuisance abatement lien, the fee for administrative costs shall be \$150.00 or 25 percent of the cost, whichever is less; however, in no event shall the fee be less than \$25.00.

(b) No tax assessment or tax bill shall be deemed delinquent and subject to the collection procedures prescribed herein during the pendency of any administrative appeal under section 58.1-3980 of the Code of Virginia, so long as the appeal is filed within 90 days of the date of the assessment, and for 30 days after the date of the final determination of the appeal, provided that nothing in this paragraph shall be construed to preclude the assessment or refund, following the final determination of such appeal, of such interest as otherwise may be provided by general law as to that portion of a tax bill which has remained unpaid or was overpaid during the pendency of such appeal and is determined in such appeal to be properly due and owing.
(Ord. No. 107A-14, 3-1-93; Ord. No. 107A-16, 3-7-94; Ord. No. 107A-26, 8-19-97; Ord. No. 107A-56, 3-24-09)

State law references-Code of Va., §§ 58.1-3916 and 58.1-3958.

Sec. 20-7. Credit card payment.

The treasurer is authorized to accept payment of any local taxes, fees or other charges due the county by use of a credit card. Prior to accepting the use of any particular credit card, the treasurer shall enter into an agreement with the issuer of such credit card which provides, in part, that the county may charge a service fee in the amount charged to the county, but in no event in excess of four percent of the amount paid.

(Ord. No. 107A-1, 11-7-94)

State law reference-Authority, Code of Va., § 58.1-3013.

Sec. 20-7.1. Land use assessment.

The County of James City declares that the preservation of real estate devoted to agricultural or horticultural uses within its boundaries is in the public interest; and therefore, such qualifying real estate shall be taxed in accordance with the provisions of article 4 of chapter 32 of title 58.1 of the Code of Virginia, 1950, as amended, (hereinafter referred to as the Code) and pursuant to the terms of this section.

(1) *Application by property owner of any real estate:*

- a. The owner, as defined in section 58.1-3234 of the Code, meeting the criteria set forth in sections 58.1-3230 and 58.1-3233 of the Code, may on or before November 1 of each year apply to the commissioner of the revenue for the classification, assessment and taxation of such property for the next succeeding tax year on the basis of its use under the procedures set forth in section 58.1-3236 of the Code. Such application shall be on forms provided by the state department of taxation and supplied by the commissioner of the revenue and shall include such additional schedules, photographs and drawings as may be required by the commissioner of the revenue.
- b. Each application shall be accompanied by a fee of \$10.00 per parcel plus \$0.10 per acre or portion thereof contained in such parcel. For purposes of this paragraph, contiguous parcels owned by the same applicant or applicants shall be treated as a single application.
- c. A separate application shall be filed for each parcel listed in the land book.
- d. No fee shall be levied for those reapplications by the same owner made in subsequent years for property previously processed under this section.

(2) *Valuation of real estate.* Upon receipt of any application, the commissioner of the revenue shall determine whether the subject property meets the criteria for taxation of agricultural or horticultural land under section 58.1-3236 of the Code. If the commissioner of the revenue determines that the subject property does not meet such criteria, he shall determine the value of such property for its qualifying use, as well as its fair market value, such qualifying use to be determined as follows:

- a. In addition to use of his personal knowledge, judgment and experience as to the value of agricultural or horticultural real estate, he shall, in arriving at the value of such land, consider available evidence of agricultural or horticultural capability and the recommendation of value of such real estate as made by the state land evaluation advisory committee.

- b. In determining whether the subject property meets the criteria for "agricultural use" or "horticultural use" the commissioner of the revenue may request an opinion from the commissioner of agriculture and commerce. Upon the refusal of the commissioner to issue an opinion, or in the event of an unfavorable opinion which does not comport with standards set forth pursuant to section 58.1-3230 of the Code, the party aggrieved may seek relief from any court of record wherein the real estate in question is located. If the court finds in his favor, it may issue an order which shall serve in lieu of an opinion for the purposes of this section.
- c. The use and fair market value of any qualifying property shall be placed in the land book before delivery to the treasurer, and the tax for the next succeeding tax year shall be extended from the use value.

(3) *Change in use of real estate assessed; roll-back taxes:*

- a. There is hereby imposed a roll-back tax, with interest thereon, in such amounts as may be determined under section 58.1-3237 of the Code, upon any property as to which the use changes from a qualifying to a nonqualifying use.
- b. The owner of any real estate liable for roll-back taxes shall report to the commissioner of the revenue on forms to be prescribed, any change in the use of such property to a nonqualifying use and shall pay the roll-back tax then due.

(4) *Failure to report change in use; misstatements in applications.*

- a. On failure to report and pay within 60 days following such change in use, such owner shall be liable for an additional penalty equal to 25 per centum of the amount of the roll-back tax and interest, which penalty shall be collected as a part of the tax. In addition to such penalty, there is hereby imposed interest of one-half per centum of the amount of the roll-back tax, interest and penalty for each month or fraction thereof during which the failure to comply continues.
- b. Any person making a material misstatement of fact in any application filed pursuant hereto shall be liable for all taxes, in such amounts and at such times as if such property had been assessed on the basis of fair market value as applied to other real estate in the taxing jurisdiction, together with interest and penalties thereon, and he shall be further assessed with an additional penalty of 100 per centum of such unpaid taxes.

(5) *Consideration as deferred real estate taxes.* The provisions of title 58.1 of the Code applicable to local levies and real estate assessments and taxation with the necessary changes, including, without limitation, provisions relating to tax liens and the correction of erroneous assessments, and for such purposes the roll-back taxes shall be considered to be deferred real estate taxes.

(8-12-74; 9-8-75; Ord. No. 80A-2, 7-10-78; Ord. No. 80A-3, 12-11-78; Ord. No. 107A-2, 12-2-85; Ord. No. 80A-4, 4-21-86; Ord. No. 80A-5, 6-23-98; Ord. No. 107A-52, 10-9-07)

State law reference-Special assessment for land preservation, Code of Va., § 58.1-3229 et seq.

Sec. 20-7.2. Refund of levies erroneously paid.

Pursuant to section 58.1-3990 of the Code of Virginia, 1950, as amended, the board of supervisors hereby provides for the refund of any local levies erroneously assessed on tangible personal property, machinery and tools, or merchant's capital, or a local license tax or real estate.

If upon application, the commissioner of the revenue is satisfied that he or his predecessor in office has erroneously assessed such applicant with any local levies as provided herein, he shall certify to the tax-collecting officer the amount erroneously assessed. If the levies have not been paid, the applicant shall be exonerated from so much thereof as is erroneous, and if such levies have been paid, the tax collecting officer or his successor in office shall refund to the applicant the amount erroneously paid, together with any penalties and interest paid thereon.

A refund of any payment made due to an erroneous assessment shall bear interest in the amount of ten percent per annum commencing the first day of the month following the month in which such taxes are due or in which such taxes are paid, whichever is later. For the purposes of this paragraph, an erroneous assessment shall mean an assessment that a taxpayer can demonstrate, by clear factual evidence, that he or she was not subject to such assessment for the year in question. No interest shall be paid if the refund is ten dollars or less or if the refund is the result of proration pursuant to section 58.1-351.6 of the Code of Virginia.

No refund shall be made in any case when application therefor was made more than three years after the last day of the tax year for which such taxes were assessed; provided, that if any tax is declared to be unconstitutional by a court of competent jurisdiction, the board of supervisors shall grant a refund of such tax hereunder to all taxpayers for those years to which the court proceeding was applicable.

(9-13-76; Ord. No. 96A-1, 11-16-83; Ord. No. 107A-2, 12-2-85; Ord. No. 107A-29, 6-22-99; Ord. No. 107A-35, 6-27-00; Ord. No. 107A-52, 10-9-07)

State law reference-Code of Va., §58.1-3916.

Sec. 20-7.3. Correction of assessment.

Any person, firm or corporation aggrieved by any local assessment on tangible personal property, machinery and tools, merchant's capital, local license tax or real estate may, within five years from the last day of the tax year from which such assessment is made, apply to the commissioner of the revenue for a correction thereof. (Ord. No. 107A-12, 7-2-90)

State law reference-Application to commissioner of the revenue or other local official for correction, Code of Va., § 58.1-3980.

Sec. 20-7.4. Penalties and interest for late payment of taxes.

Any person failing to pay any county real estate or personal property tax levy on or before either of its two installment due dates, or failing to pay any other county levy on or before the due date for the levy, or the first day thereafter which is not a Saturday, a Sunday, or a legal holiday shall incur a penalty of ten percent of the tax past due, or \$10.00 whichever is greater; provided, however, that the penalty shall in no case exceed the

amount of the tax assessable. Any such penalty when so assessed shall become part of the tax. Any penalty assessed shall then be added to amount due from such person, which, when collected by the treasurer, shall be accounted for in said person's settlements; in addition thereto, interest in the amount of ten percent per annum shall commence the first day of the month following the month in which such taxes are due.

(Ord. No. 126, 12-11-78; Ord. No. 107A-2, 12-2-85; Ord. No. 107A-4, 7-7-86; Ord. No. 107A-21, 4-22-97; Ord. No. 107A-56, 3-24-09)

State law reference-Code of Va., §58.1-3916.

Sec. 20-7.5. Fee for passing a bad check to the county.

There shall be a fee of \$35.00 imposed on any person for the uttering, publishing, or passing of any check or draft to the county, which is subsequently returned for insufficient funds or because there is no account or the account has been closed.

(Ord. No. 107A-32, 1-26-00; Ord. No. 107A-56, 3-24-09)

State law reference – Code of Va., § 15.2-106.

ARTICLE II. EXEMPTION OF CERTAIN PERSONS FROM REAL ESTATE TAXES

Sec. 20-8. Age limit.

Real estate, or any portion thereof, owned by and occupied as the sole dwelling of a person or persons not less than 65 years of age or a person who is determined to be permanently and totally disabled as provided herein shall be exempt from real estate taxes in the amounts as set forth elsewhere in this article.

(3-12-73, § 1-1; Ord. No. 70A-1, 8-8-77; Ord. No. 70A-2, 4-27-81; Ord. No. 70A-3, 11-15-82)

Sec. 20-9. Definitions.

The following words and phrases when used in this article shall, for the purposes of this article, have the following respective meanings, except where the context clearly indicates a different meaning:

Income. The term "income" as used herein means income from whatever source derived, including, but not limited to, Social Security payments, inheritance, gifts, gains from the sale or exchange of assets, proceeds of insurance, welfare receipts and benefits under the state supplemental retirement system.

Net combined financial worth. The term "net combined financial worth" means the fair market value of all assets, tangible or intangible, legal or equitable, for the owner or owners, and the spouse of any owner, less the liabilities of such person or persons, but excluding the value of the dwelling and the land, as provided in section 20-10 hereof. Such term includes, but is not limited to, the cash surrender value of any life insurance owned by such person or persons.

Permanently and totally disabled. A person shall be deemed permanently and totally disabled if he is so certified as required in section 20-12 and is found by the commissioner of revenue to be unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment or deformity which can be expected to result in death or can be expected to last for the duration of such person's life. (3-12-73, § 1A-1, Ord. No. 70A-1, 8-8-77; Ord. No. 70A-2, 4-27-81; Ord. No. 70A-3, 11-15-82)

Sec. 20-10. Qualifications for exemption.

Such exemption may be granted for any year following the date that the head of the household and/or his or her spouse occupying such dwelling, to include permanently sited mobile or manufactured homes, as defined in section 36-85.3 Code of Virginia, 1950, and owning title or partial title thereto, becomes permanently and totally disabled or reaches the age of 65 and in addition:

- (a) The total combined income during the immediately preceding calendar year from all sources of the owners of the dwelling living therein and of the owners' relatives living in the dwelling does not exceed \$45,000.00; provided, that the first \$6,500.00 of income of each relative, other than spouse, of the owner or owners who is living in the dwelling shall not be included in such total; and
- (b) The net combined financial worth, including equitable interests, as of the thirty-first day of December of the immediately preceding calendar year, of the owners, and of the spouse of any owner, excluding the value of the dwelling and the land, not exceeding ten acres, upon which it is situated does not exceed \$200,000.00.

(3-12-73, Section 2-1; Ord. No. 70A-1, 8-8-77; Ord. No. 70A-2, 4-27-81; Ord. No. 70A-3, 11-15-82; Ord. No. 107A-5, 10-19-87; Ord. No. 107A-19, 12-10-96; Ord. No. 107-A-37, 2-27-01; Ord. No. 107A-47, 11-22-05; Ord. No. 107A-52, 10-9-07; Ord. No. 107A-54, 10-28-08)

State law reference-Similar provisions, Code of Va. § 58.1-3210 et. seq.

Sec. 20-11. Amount of exemption.

Any person or persons qualifying under section 20-10 shall be exempt from real estate taxes in an amount not to exceed the annual real estate tax rate multiplied by the first \$120,000.00 of assessed real estate value. (Ord. of 3-12-73, § 3-1; Ord. No. 70A-1, 8-8-77; Ord. No. 70A-2, 4-27-81; Ord. No. 70A-3, 11-15-82; Ord. No. 107A-10, 11-20-89; Ord. No. 107A-19, 12-10-96; Ord. No. 107A-42, 5-11-04; Ord. No. 107A-47, 11-22-05; Ord. No. 107A-52, 10-9-07; Ord. No. 107A-54, 10-28-08)

Sec. 20-12. Application.

Any person or persons claiming such exemption shall file annually with the commissioner of the revenue of the county, on forms to be supplied by the county, an affidavit setting forth the names of the related persons occupying such real estate; provided, that the total combined net worth, including equitable interests and the combined income from all sources, of the person or persons as specified in section 20-10 does not exceed the limits prescribed in this article.

If such person is under 65 years of age, such form shall have attached thereto a certification by the Social Security Administration, the Department of Veterans Affairs, or Railroad Retirement Board, or, if such person is not eligible for certification by any of these agencies, a sworn affidavit by two medical doctors licensed to practice medicine in the commonwealth or are military officers on active duty who practice medicine with the United States Armed Forces, to the effect that such person is permanently and totally disabled, as defined in section 20-9, and that at least one of the medical doctors has physically examined the applicant.

Such affidavit shall be filed on or after the first day of January, but not later than the first day of June of each year in which an exemption is sought except that the commissioner of the revenue is authorized to accept affidavits until the last day of June for first-time applicants or in the case of hardships.

The commissioner of the revenue shall also make any other reasonably necessary inquiry of persons seeking such exemption, requiring answers under oath, as may be reasonably necessary to determine qualifications therefor as specified in this article. In addition, certified tax returns shall be produced by the applicant to establish income or financial worth.

Changes in respect to income, financial worth, ownership of property or other factors occurring during the taxable year for which the affidavit is filed and having the effect of exceeding or violating the limitations and conditions provided herein shall nullify any exemption for the then-current taxable year and the taxable year immediately following. A qualified applicant shall not be deemed to have violated any limitation or condition if said applicant sells the property in question for its fair market value, dies during the tax year or is confined to a nursing home or hospital and the property is not used by or leased to others for consideration.

(3-12-73, Sections 4-1 - 4-4; Ord. No. 70A-1, 8-8-77; Ord. No. 70A-2, 4-27-81; Ord. No. 70A-3, 11-15-82; Ord. No. 107A-2, 12-2-85; Ord. No. 107A-5, 10-19-87; Ord. No. 107A-19, 12-10-96; Ord. No. 107A-47, 11-22-05)

State law reference-Similar provisions, Code of Va., § 58.1-3213.

ARTICLE III. PERSONAL PROPERTY TAX

Sec. 20-13. Tax, valuation, etc., date for tangible personal property, machinery and tools.

Tangible personal property and machinery and tools, exceptions provided under section 20-13.2, shall be taxed as of January first of each year. The status of all persons, firms, corporations and other taxpayers liable to taxation on any such property shall be fixed as of such date in each year and the value of such property shall be taken as of such date.

(Ord. No. 107, 10-10-77; Ord. No. 107A-1, 4-22-85)

Sec. 20-13.1. When personal property taxes due and payable.

County taxes on personal property shall be due and payable in two pro rata installments on or before June fifth and on or before December fifth of the year in which the same are assessed.

(Ord. No. 107A-1, 4-22-85; Ord. No. 107A-22, 4-22-97; Ord. No. 107A-28, 4-28-98)

State law reference-Code of Va., § 58.1-3916.

Sec. 20-13.2. Personal property tax on motor vehicles and trailers; proration thereof.

(a) There shall be a personal property tax at a rate established each year by the board of supervisors on motor vehicles and trailers, (hereafter referred to in this section as "taxable property") which have a situs within the county on January first of each year and which acquire a situs within the county on or after January the second of each year. When taxable property acquires a situs within the county on or after January second, the personal property tax for that year shall be assessed to the owner prorated on a monthly basis for the portion of the tax year during which the taxable property has situs within the county. When taxable property with a situs in the county is transferred to a new owner within the county, the personal property tax shall be assessed to the new owner prorated on a monthly basis for the portion of the tax year during which the new owner owns the taxable property. For purposes of proration, a period of more than one-half of a month shall be counted as a full month and a period of less than one-half of a month shall not be counted. All taxable property shall be assessed as of January first of each year or, if it acquires situs or has its title transferred after January first, as of the first day of the month in which the taxable property acquires situs within the county or has its title transferred. The owner of taxable property acquiring situs within the county or to whom taxable property is transferred shall file a declaration of property ownership to the commissioner of revenue within 30 days of the date on which said property acquires a situs within the county or has its title transferred to such owner and pay the license fee required in section 20-13.9(a).

(b) When any taxable property loses its situs within the county or its title is transferred to a new owner, the taxpayer shall from that time be relieved from personal property tax on such property and receive a refund of personal property tax already paid, or a credit against personal property taxes outstanding against the taxpayer, at the option of the commissioner of the revenue, on a monthly prorated basis, upon application to the commissioner of the revenue.

(c) Any person who fails to pay personal property taxes on or before the date due, or who fails to pay the license fee as required in section 20-13.9(a) shall incur a penalty of ten percent of the tax due, or \$10.00, whichever is greater; provided, however, that the penalty shall in no case exceed the amount of tax due. Said sum shall become part of the taxes due. Interest at the rate of ten percent per annum from the first day following the day such taxes are due shall be paid upon the principal and penalties of such taxes remaining unpaid.

(d) An exemption from this tax and any penalties arising therefrom shall be granted for any tax share or portion thereof during which the property was legally assessed by another jurisdiction and proof is presented to the commissioner of the revenue indicating that such tax on the assessed property was paid.

(e) Notwithstanding the filing requirement set out elsewhere in this article, the most recent personal property tax return or registration previously filed shall be the basis for the assessment of taxable property in all subsequent years in which the commissioner of the revenue has not been informed of a change of address or name of a taxable property owner or a change in the situs of ownership of the taxable property.

(f) All owners of previously registered taxable property shall file a new personal property tax return within 30 days of:

- (1) A change in the name or address of the person or persons owning the taxable property;
- (2) A change in the situs of the taxable property; or
- (3) Any other change affecting the assessment of taxable property for which a return or registration was previously filed.

(g) All owners of motor vehicles or trailers shall file a return and pay the taxes and license fee required in section 20-13.9(a) of this article within 30 days of acquiring title to any motor vehicle or trailer which was not previously registered by that owner with the county. All owners of boats shall file a return and pay any taxes due on any boat which was not previously registered by that owner with the county. Failure to do so shall cause the owner or owners of the property to be assessed penalty and interest as provided in subsection (c) of this article.

(Ord. No. 107A-1, 4-22-85; Ord No. 107A-4, 7-7-86; Ord. No. 107A-12, 7-2-90; Ord. No. 107A-30, 7-13-99; Ord. No. 107A-57; 5-26-09)

State law reference-Proration of personal property tax, Code of Va., § 58-1-3516.

Sec. 20-13.3. Exemption granted.

The following farm animals, grains and other feeds used for the nurture of farm animals, farm machinery and farm implements shall be exempt from taxation:

(a) Horses, mules and other kindred animals.

(b) Cattle.

(c) Sheep and goats.

(d) Hogs.

(e) Poultry.

(f) Grains and other feeds used for the nurture of farm animals.

(g) All farm machinery and farm implements; provided, however, that the exemption shall not include any vehicles licensed under title 46 of the Code of Virginia, 1950, as amended.

(Ord. No. 107A-1, 4-22-85)

Sec. 20-13.4. Penalty for violation of article.

Any person violating or failing to comply with any provision of this article shall be guilty of a Class 3 misdemeanor provided, however, if the amount of tax due and unpaid for any installment exceeds \$1,000.00, any person failing to remit payment when due shall be guilty of a Class 1 misdemeanor. Each violation or failure shall constitute a separate offense. Such conviction shall not relieve any such person from the payment, collection or remittance of the tax as provided in this article.

(Ord. No. 107A-10, 11-20-89)

Sec. 20-13.5. Exemption from personal property tax for specially equipped motor vehicles.

(a) Motor vehicles specially equipped to provide transportation for physically handicapped individuals shall be exempt from personal property taxation if such motor vehicle is licensed with special plates pursuant to section 46.2-731 of the Code of Virginia, as amended, or the owner of the vehicle demonstrates to the commissioner of the revenue that the vehicle is regularly used to transport a person who is disabled, as defined in Virginia Code Section 58.1-3506.3, as amended, and that such disabled person resides in the household of the vehicle owner.

(b) For the purposes of this section, "motor vehicles specially equipped to provide transportation for physically handicapped individuals" shall mean any motor vehicle adapted with one or more of the following devices to assist an individual who has either lost, or lost the use of, one or both legs, arms, hands or feet:

- (1) Power door operators;
- (2) Special hand- or foot-operated controls;
- (3) Lift or ramp for wheelchair or scooters;
- (4) Special restraint system for wheelchairs;
- (5) Raised door and roof to allow wheelchair entry;
- (6) Special steering devices, including, but not limited to, tripins or V grips;
- (7) Driving aids, including, but not limited to, touch pads, low effort power steering, power steering backup, power parking brake or electronic directional signals; or
- (8) Roll cages.

(Ord. No. 107A-15, 2-22-94)

State law reference - Code of Va, § 58.1-3506.1.

Sec. 20-13.6. Exemption from personal property taxation for disabled veterans.

(a) Motor vehicles owned and regularly used by any disabled veteran shall be exempt from personal property taxation. However, a qualifying disabled veteran may have no more than one motor vehicle exempted from taxation.

(b) For the purposes of this section, a "disabled veteran" shall mean any veteran of the United States Armed Forces who has either lost, or lost the use of, one or both legs, arms or hands, or who is blind, or who is permanently and totally disabled as certified by the Department of Veterans' Affairs. In order to qualify under this section, the disabled veteran must provide a written statement to the commissioner of the revenue from the Department of Veterans' Affairs as to meet the requirements of this section and that his/her disability is service connected. For the purposes of this section, a person is blind who meets the provisions of section 46.2-739 of the Code of Virginia.

(Ord. No. 107A-15, 2-22-94)

Sec. 20-13.7. Implementation of the 2004-2005 Changes to the Personal Property Tax Relief Act of 1998-Specific Relief (PPTRA).

(a) *Purpose; Definitions; Relation to other ordinances.*

- (1) The purpose of this ordinance is to provide for the implementation of the changes to PPTRA effected by legislation adopted during the 2004 Special Session I and the 2005 Regular Session of the General Assembly of Virginia.
- (2) Terms used in this ordinance that have defined meanings set forth in PPTRA shall have the same meanings as set forth in section 58.1-3523 of the Code of Virginia, as amended.
- (3) To the extent that the provisions of this ordinance conflict with any prior ordinance or provision of the county code, this ordinance shall control.

(b) *Method of computing and reflecting tax relief.*

- (1) For tax years commencing in 2006, the county adopts the provisions of Item 503.E of the 2005 Appropriations Act, providing for the computation of tax relief as a specific dollar amount to be offset against the total taxes that would otherwise be due but for PPTRA and the reporting of such specific dollar relief on the tax bill.
- (2) The board shall, by resolution set the percentage of tax relief at such a level that it is anticipated fully to exhaust PPTRA relief funds provided to the county by the commonwealth.
- (3) Personal property tax bills shall set forth on their face the specific dollar amount of relief credited with respect to each qualifying vehicle, together with an explanation of the general manner in which relief is allocated.

(c) *Allocation of relief among taxpayers.*

- (1) Allocation of PPTRA relief shall be provided in accordance with the general provisions of this section, as implemented by the specific provisions of the county's annual budget relating to PPTRA relief.

- (2) Relief shall be allocated in such as manner as to eliminate personal property taxation of each qualifying vehicle with an assessed value of \$1,000 or less.
- (3) Relief with respect to qualifying vehicles with assessed values of more than \$1,000 shall be provided at a percentage, annually fixed and applied to the first \$20,000 in value of each such qualifying vehicle that is estimated fully to use all available state PPTRA relief. The percentage shall be established on or before April 15 of each year.

(d) *Transitional provisions.*

- (1) Pursuant to authority conferred in Item 503.D of the 2005 Appropriations Act, the county treasurer is authorized to issue a supplemental personal property tax bill, in the amount of 100 percent of tax due without regard to any former entitlement to state PPTRA relief, plus applicable penalties and interest, to any taxpayer whose taxes with respect to a qualifying vehicle for tax year 2005 or any prior tax year remain unpaid on January 1, 2006.
- (2) Penalty and interest with respect to bills issued pursuant to subsection (a) of this section shall be computed on the entire amount of tax owed. Interest shall be computed at the rate provided in section 20-13.2 (c) from the original due date of the tax.

(Ord. No. 107A-48, 11-22-05)

State law references-Code of Va., §58.1-3523, Chapter 1 of the Acts of Assembly, 2004 Special Session I (Senate Bill 5005), and the provisions of Item 503 of Chapter 951 of the 2005 Acts of Assembly (the 2005 revisions to the 2004-06 Appropriations Act).

Sec. 20-13.8. Filing annual returns of business personal property and machinery and tools.

Every taxpayer owning business personal property or machinery and tools shall file a tax return on or before May 1 of each year that includes information required by the commissioner of the revenue. If any taxpayer owning business personal property or machinery and tools neglects or refuses to file such return for any year within the time prescribed, the commissioner of the revenue shall, from the best information he can obtain, enter the fair market value of such property and assess the same as if it had been reported to him. Any person failing to file a return by May 1 of each year, or the first day thereafter which is not a Saturday, Sunday, or a legal holiday shall incur a penalty of ten percent of the tax past due, or \$10.00, whichever is greater; provided, however, that the penalty shall in no case exceed the amount of the tax assessable. In addition thereto, interest at the rate prescribed in section 20-7.4, shall commence the first day of the month following the month in which the return was required to be filed.

(Ord. No. 107A-49, 11-22-05; Ord. No. 107A-56, 3-24-09)

State law references-Code of Va., §§ 58.1-3518, 58.1-3519, and 58.1-3916

Sec. 20-13.9. Motor Vehicle, trailer, and semitrailer registration.

(a) A one-time \$10.00 license fee is hereby imposed upon every motor vehicle, trailer, or semitrailer normally garaged, stored or parked in the county. The fee shall be collected as taxes are collected.

(b) For the purposes of this section, “motor vehicle, trailer and semitrailer” shall be defined in accordance with section 46.2-100 of the Code of Virginia. In the event it cannot be determined where such motor vehicle, trailer or semitrailer is normally garaged, stored or parked, the situs for purposes of the license fee requirement shall be the domicile of the owner of such motor vehicle, trailer, or semitrailer.

(c) The provisions of this section shall not apply to the following:

- (1) Any vehicle exempted by the provisions of Code of Virginia, §§ 46.2-663--46.2-683, as amended, and Code of Virginia, § 46.2-755, as amended; or

- (2) Any vehicle licensed pursuant to Code of Virginia, § 46.2-750, as amended; or,
 - (3) Any vehicle otherwise exempted by state law.
- (Ord. No. 107A-52, 12-12-06; Ord. No. 107A-57, 5-26-09)
- State law reference**-Authority of county to license motor vehicles, etc., and provisions relating thereto, Code of Va., §§ 46.2-752, 46.2-755.

ARTICLE IV. TRANSIENT LODGING TAX

Sec. 20-14. Tax levied.

(a) There is hereby levied and imposed, in addition to all other taxes and fees of every kind now imposed by laws, on each transient a tax equivalent to five percent of the total amount paid for lodging by or for any such transient to any hotel. Such tax shall be collected from such transient at the time and in the manner provided by this article.

(b) In addition to the tax provided for in subsection (a) above, commencing July 1, 2004, as provided in section 58.1-3823 C of the Virginia Code, there is hereby levied and imposed an additional transient occupancy tax of \$2.00 per room night for the occupancy of any overnight guest

room rented by a transient. Such additional tax shall be collected from such transient at the time and in the manner provided by this article. The revenues collected from such additional tax shall be designated and expended solely for advertising the Historic Triangle area and shall be distributed and expended as provided in section 58.1-3823 C of the Virginia Code.

(Ord. No. 136A-2, 7-1-83; Ord. No. 107A-23, 4-22-97; Ord. No. 107A-43, 5-11-04; Ord. No. 107A-50, 1-10-06; Ord. No. 107A-53, 12-11-07)

State law reference-Code of Va., § 58.1-3819 and § 58.1-3823.

Sec. 20-15. Definitions.

The following words and phrases, when used in this article, shall, for the purposes of this article, have the following respective meanings, except when the context clearly indicates a different meaning:

Advertising the Historic Triangle Area. Advertising that is intended to attract visitors from a sufficient distance so as to require an overnight stay of at least one night.

Commissioner. The commissioner of the revenue of the county or his authorized designee.

Hotel. Any public or private hotel, inn, hostelry, tourist home or house, motel, rooming house, travel campground or tourist camps, or other lodging place within the county offering lodging, as defined herein, for compensation, to any transient as defined herein.

Individual. One or more natural persons.

Lodging. Space or room furnished any transient, including the total charge made by any hotel for room or space furnished any transient. If the charge made by such hotel to such transient includes any charge for services or accommodations in addition to that of lodging and/or the use of space, then such portion of the total charges as represents only room and/or space rental shall be distinctly set out and billed to such transient by such hotel as a separate item.

Person. Any individual, partnership, society, association, joint stock company, corporation, estate, receiver, trustee, assignee, referee or any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise; and any combination or group of individuals acting as a unit.

Transient. Any individual or group of same individuals who, for a period of fewer than 30 consecutive days, either at his own expense, or at the expense of another, obtains lodging at any hotel as defined herein.

Treasurer. The treasurer of the county or his authorized designee.
(Ord. No. 136A-2, 7-1-83; Ord. No. 136A-3, 8-3-92; Ord. No. 107A-43, 5-11-04)

Sec. 20-16. Collection procedure.

Every person receiving any payment for lodging with respect to which a tax is levied under this article shall collect the amount of such tax so imposed from the transient on whom such tax is levied or from the person paying for such lodging at the time payment for such lodging is made. The taxes required to be collected under this section shall be deemed to be held in trust by the person required to collect such taxes until remitted as required in this article. (Ord. No. 136A-2, 7-1-83)

Sec. 20-17. Reports and remittance of tax collected.

(a) It shall be the duty of every seller in acting as the tax collection medium or agency for the county to collect from the purchaser, for the use of the county, the tax hereby imposed and levied at the time of collecting the purchase price charged for the lodging, and the taxes collected during each calendar month shall be reported to the commissioner of revenue and remitted by each seller to the treasurer on or before the twentieth day of the following calendar month. The taxes collected by a seller shall be deemed to be held in trust by such seller until they have been remitted to the treasurer. The required report shall be in such form as may be prescribed by the commissioner of the revenue.

(b) Any seller collecting the tax on transactions exempt or not taxable under this article shall transmit to the treasurer such erroneously or illegally collected tax unless and until he can affirmatively show that the tax has since been refunded to the purchaser or credited to his account.
(Ord. No. 136A-2, 7-1-83)

Sec. 20-18. Interest and penalties upon failure or refusal to remit tax.

If any person shall fail or refuse to remit to the treasurer the tax required to be collected and paid under this article within the time and in the amount specified in this article, there shall be added to such tax by the treasurer a penalty in the amount of ten percent of the tax past due, or \$10.00 whichever is greater; provided, however, that the penalty shall in no case exceed the amount of the tax assessable and interest thereon at the rate of ten percent per annum, which shall be computed upon the taxes and penalty from the date such taxes are due and payable.
(Ord. No.136A-2, 7-1-83; Ord. No. 107A-56, 3-24-09)

Sec. 20-19. Failure or refusal to collect and report tax.

If any person shall fail or refuse to collect the tax imposed under this article and to make, within the time provided in this article, the reports and remittances required in this article, the commissioner shall proceed in such manner as he may deem best to obtain facts and information on which to base his estimate of the tax due. As soon as the commissioner shall procure such facts and information as he is able to obtain upon which to base the assessment of any tax payable by any person who has failed or refused to collect such tax, and to make such report and remittance, he shall proceed to determine and assess against such person such tax, penalty and interest as provided for in this article, and shall notify such person, by registered mail sent to his last known place of address, of the amount of such tax, interest and penalty, and the total amount thereof shall be payable within ten days from the date of the mailing of such notice.
(Ord. No. 136A-2, 7-1-83)

Sec. 20-20. Records to be kept by person liable for collection and payment of tax.

It shall be the duty of every person liable for the collection and payment to the county of any tax imposed by this article to keep and to preserve for a period of four years such suitable records as may be necessary to determine and show accurately the amount of such tax as he may have been responsible for collecting and paying to the county. The commissioner may inspect such records at all reasonable times.
(Ord. No. 136A-2, 7-1-83)

Sec. 20-21. Tax immediately due and payable upon cessation of business.

Whenever any person required to collect and remit the tax imposed and levied by this article shall go out of business, dispose of his business or otherwise cease to operate, all of such taxes collected shall thereupon be reported and remitted to the commissioner of the revenue and remitted to the treasurer.
(Ord. No. 136A-2, 7-1-83)

Sec. 20-22. Exemptions from tax.

No tax shall be payable under this article on charges for lodging paid to any hospital, medical clinic, convalescent home, home for the aged or paid by or for any individual or group of same individuals, as defined in section 20-15(f), who obtains lodging at any hotel, for a period of 30 or more consecutive days.

(Ord. No. 136A-2, 7-1-83; Ord. No. 136A-3, 8-3-92)

Sec. 20-23. Penalty for violation of article.

Any person violating or failing to comply with any of the provisions of this article shall be guilty of a Class 3 misdemeanor; provided, however, if the amount of tax due and unpaid for any installment exceeds \$1,000.00, any person failing to remit payment when due shall be guilty of a Class 1 misdemeanor. Each violation or failure shall constitute separate offense. Such conviction shall not relieve any such person from the payment, collection or remittance of the tax as provided in this article.

(Ord. No. 136A-2, 7-1-83; Ord. No. 107A-10, 11-20-89)

Sec. 20-24. Severability.

If any provision of this article, or any application of such provision to any person or under any circumstances, shall be invalid, the remainder of this article, or the application of such provisions to persons or under circumstances other than those to which it shall have been held invalid, shall not be affected thereby.

(Ord. No. 136A-2, 7-1-83)

ARTICLE V. SPECIAL TAX FOR ENHANCED 911 EMERGENCY TELEPHONE SYSTEM

Sec. 20-25. Tax imposed.

Pursuant to the provisions of section 58.1-3813 of the Code of Virginia, there is hereby imposed a special tax of \$0.75 per month on each consumer of telephone service for each telephone line provided by any corporation subject to the provisions of chapter 26 of title 58.1 of the Code of Virginia; provided, however, that this tax is not imposed on federal, state or local government agencies. The definitions provided in article 4, chapter 38 of title 58.1 shall apply to this article.

(Ord. No. 107A-3, 12-2-85; Ord. No. 107A-8, 5-1-89; Ord. No. 107A-20, 4-22-97; Ord. No. 107A-33, 4-25-00; Ord. No. 107A-38, 4-24-01; Ord. No. 107A-40, 7-23-02)

Sec. 20-26. Collection and disposition.

The tax payable each month shall be added to monthly statements tendered for telephone service and shall be paid to the company tendering the statement; the telephone company shall monthly make remittance of the taxes collected to the treasurer of the county.

(Ord. No. 107A-3, 12-2-85).

ARTICLE VI. REAL ESTATE ASSESSMENT

Sec. 20-27. Annual assessment and reassessment of real estate.

Pursuant to section 58.1-3253 of the Code of Virginia, 1950, as amended, there shall be an annual assessment and reassessment and equalization of assessments of all real estate in the county, such real estate to be assessed as of January 1 of each year, beginning January 1, 2008.

(Ord. No. 107A-6, 1-4-88; Ord. No. 80A-5, 6-23-98; Ord. No. 107A-52, 10-9-07)

State law reference-Code of Va., §58.1-3010.

Sec. 20-27.1. When real property taxes due and payable.

County taxes on real property shall be due and payable in two equal installments. One installment shall be due and payable on or before June fifth of the year after such taxes are assessed and the other installment shall be due and payable on or before December fifth of the year such taxes are assessed. This section shall not be construed to prohibit the payment of the whole of any taxes levied against any taxpayer in one lump sum at any time, provided that any penalty and interest that may have accrued on the whole or any part thereof shall be paid therewith.

(Ord. No. 107A-24, 4-22-97; Ord. No. 107A-25, 4-22-97; Ord. No. 107A-52, 10-9-07)

State law reference-Code of Va., §58.1-3916.

Sec. 20-28. Deadline for appeal of assessment to department of real estate assessment and board of equalization.

Any property owner or lessee of real property in the county shall have the right to appeal any assessment thereof to the county's department of real estate assessment at any time prior to February 1 of the year for which the assessment was made or 30 days after the mailing date of the assessment notice, whichever is later. Any appellant remaining unsatisfied with the action taken on appeal may further appeal to the county's board of equalization by making application at any time prior to March 1 of the year for which the assessment was made or 30 days after the deadline for review by the county's department of real estate assessment, whichever is later. Any appeal not timely filed shall not be considered.

(Ord. No. 107A-6, 1-4-88; Ord. No. 107A-18, 10-2-95; Ord. No. 80A-5, 6-23-98; Ord. No. 107A-52, 10-9-07)

State law reference-Code of Va., §58.1-3378.

Sec. 20-29. Board of equalization-Established.

Pursuant to section 58.1-3373 of the Code of Virginia, 1950, as amended, there is created in the County of James City a permanent board of equalization which shall be called the James City County Board of Equalization. Such board shall consist of five members appointed by the circuit court for the City of Williamsburg and County of James City, as follows: one for a term of one year, one for a term of two years, and three for a term of three years. As the terms of the initial appointees expire, their successors shall be appointed for terms of three years.

(Ord. No. 107A-6, 1-4-88; Ord. No. 107A-10, 11-20-89)

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Sec. 20-30. Same-Qualification; appointment.

Members of the board of equalization shall meet the requirements set forth in section 58.1-3374 of the Code of Virginia, 1950, as amended. Not later than January 15 of each year the board of supervisors shall, by resolution, submit the name of at least one qualified freeholder in the county to the circuit court for the City of Williamsburg and County of James City for each appointment to the board of equalization pursuant to section 58.1-3373 of the Code of Virginia, 1950, as amended. The board shall elect a chairman and a secretary from among its members.

(Ord. No. 107A-6, 1-4-88; Ord. No. 107A-10, 11-20-89)

Sec. 20-31. Same-Compensation.

Each board of equalization member shall receive as full compensation for services performed the sum of \$65.00 per diem, except that the chairman of such board shall receive \$75.00 per diem. (Ord. No. 107A-6, 1-4-88)

Sec. 20-32. Same-Powers; procedures.

The board of equalization shall have and may exercise the power to increase, decrease or affirm any assessment of real estate of which complaint is made, and to that end shall have all powers conferred upon boards of equalization by the Code of Virginia. All applications for relief timely filed shall be finally disposed of by the board not later than 30 days after the deadline for appeal to the board of equalization as set out in section 20-28. If no applications for relief are received by the deadline for appeal, the board shall be deemed to have discharged its duties for the year unless it deems it appropriate to meet on its own motion. (Ord. No. 107A-6, 1-4-88)

Sec. 20-33. Same-Public notice of hearings.

Pursuant to section 58.1-3378 of the Code of Virginia, 1950, as amended, public notice of each sitting of the board of equalization shall be given at least ten days beforehand by publication in a newspaper having general circulation in the county and by posting the notice at the courthouse and at each voting precinct. Such posting shall be done by the sheriff or his deputy. Such notice shall inform the public that the board shall sit at the place or places and on the days named therein for the purpose of equalizing real estate assessments and for the purpose of hearing complaints of inequalities wherein the property owners allege a lack of uniformity in assessment or errors in acreage in such real estate assessments. (Ord. No. 107A-6, 1-4-88; Ord. No. 107A-9, 8-9-89)

ARTICLE VII. TAX ON PREPARED FOOD AND BEVERAGES

Sec. 20-34. Definitions.

The following words and phrases, when used in this article, shall have, for the purposes of this article, the following respective meanings except where the context clearly indicates a different meaning:

Beverage. Any alcoholic beverages as defined in section 4.1-100 of the Code of Virginia, 1950, as amended, and nonalcoholic beverages, any of which are served as part of a meal, excluding alcoholic beverages sold in factory containers and purchased for off-premises consumption.

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Caterer. A person who furnishes food on the premises of another for compensation.

Commissioner of the revenue. The commissioner of the revenue of the county and any of his duly authorized deputies, assistants, employees or agents.

Food. Any and all edible refreshments or nourishment, liquid or otherwise, including alcoholic beverages and nonalcoholic beverages served with a meal, purchased in or from a restaurant or from a caterer, except snack foods.

Meal. Any food as herein defined, other than a beverage, sold for consumption on the premises or elsewhere, whether designated as breakfast, lunch, snack, dinner, supper, or by some other name, and without regard to the manner, time, or place of service.

Person. Any individual, corporation, company, association, firm, partnership or any group of individuals acting as a unit.

Purchaser. Any person who purchases food in or from a restaurant or from a caterer.

Restaurant.

- (1) Any place where food is prepared for service to the public whether on or off the premises including a delicatessen counter at a grocery store or convenience store selling prepared foods ready for human consumption;
- (2) Any place where food is served to the public; or
- (3) Any place or operation which prepares or stores food for distribution to persons of the same business operations or of a related business operation for service to the public.

Examples include a dining room; grill; coffee shop; cafeteria; cafe; snack bar; lunch counter; lunchroom; short-order place; tavern; delicatessen; confectionery; bakery; eating house; eatery; drugstore; catering service; lunch wagon or truck; pushcart or other mobile facility that sells food; dining facility in a public or private club, resort, bar, or lounge; kitchen facility of a hospital or nursing home; and dining facility of a public or private school or college.

Seller. Any person who sells food in or from a restaurant or as a caterer.

Snack food. Chewing gum, candy, popcorn, peanuts and other nuts, and unopened prepackaged cookies, donuts, crackers, potato chips and other items of essentially the same nature and consumed for essentially the same purpose.

Treasurer. The treasurer of the county and any of his duly authorized deputies, assistants, employees or agents. (Ord. No. 107A-7, 4-17-89; Ord. No. 107A-9, 8-9-89; Ord. No. 107A-11, 6-4-90; Ord. No. 107A-13, 9-17-90; Ord. No. 107A-36, 6-27-00)

Sec. 20-35. Levy of tax; amount.

In addition to all other taxes and fees of any kind now or hereafter imposed by law, a tax is hereby levied and imposed on the purchaser of all food served, sold or delivered for human consumption in the county in or from a restaurant, whether prepared in such restaurant or not, or prepared by a caterer. The rate of this tax shall be four percent of the amount paid for such food. In the computation of this tax, any fraction of \$0.005 or more shall be treated as \$0.01. (Ord. No. 107A-7, 4-17-89; Ord. No. 107A-11, 6-4-90)

Sec. 20-36. Payment and collection of tax.

Every seller of food with respect to which a tax is levied under this article shall collect the amount of tax imposed under this article from the purchaser on whom the same is levied at the time payment for such food becomes due and payable, whether payment is to be made in cash or on credit by means of a credit card or otherwise. The amount of tax owed by the purchaser shall be added to the cost of the food by the seller who shall pay the taxes collected to the county as provided in this article. Taxes collected by the seller shall be held in trust by the seller until remitted to the county. (Ord. No. 107A-7, 4-17-89)

Sec. 20-37. Reports and remittances generally.

Every seller of food with respect to which a tax is levied under this article shall make out a report, upon such forms and setting forth such information as the commissioner of the revenue may prescribe and require, showing the amount of food charges collected and the tax required to be collected, and shall sign and deliver such report to the treasurer with a remittance of such tax. It shall be presumed that all food served, sold or delivered in the county in or from a restaurant which provides seating facilities for its customers are consumed on premises and the burden shall be upon the seller of food to establish by records what food is sold for off-premises consumption. Such reports and remittance shall be made on or before the twentieth day of each month, covering the amount of tax collected during the preceding month. (Ord. No. 107A-7, 4-17-89)

Sec. 20-38. Preservation of records.

It shall be the duty of any seller of food liable for collection and remittance of the taxes imposed by this article to keep and preserve for a period of three years records, showing gross sales of all food and beverages, the amount charged the purchaser of each such purchase, the date thereof, the taxes collected thereon and the amount of tax required to be collected by this article. The commissioner of the revenue shall have the power to examine such records at reasonable times and without unreasonable interference with the business of the seller, for the purpose of administering and enforcing the provisions of this article and to make copies of all or any parts thereon. (Ord. No. 107A-7, 4-17-89)

Sec. 20-39. Advertising payment or absorption of tax prohibited.

No seller shall advertise or hold out to the public in any manner, directly or indirectly, that all or any part of the tax imposed under this article will be paid or absorbed by the seller or anyone else, or that the seller or anyone else will relieve the purchaser of the payment of all or any part of the tax. (Ord. No. 107A-7, 4-17-89)

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Sec. 20-40. Tips and service charges.

(a) Where a purchaser provides a tip for an employee or employees of a seller, and the amount of the tip is wholly in the discretion of the purchaser, the tip is not subject to the tax imposed by this article, whether paid in cash to the employee or added to the bill and charged to the purchaser's account, provided, in the latter case, the full amount of the tip is turned over to the employee by the seller.

(b) An amount or percent, whether designated as a tip or a service charge, that is added to the price of the meal by the seller, and required to be paid by the purchaser, is a part of the selling price of the meal and is subject to the tax imposed by this article. (Ord. No. 107A-7, 4-17-89)

Sec. 20-41. Duty of seller when going out of business.

Whenever any seller required to collect or pay to the county a tax under this article shall cease to operate or otherwise dispose of his business, any tax payable under this article shall become immediately due and payable and such person shall immediately make a report and pay the tax due. (Ord. No. 107A-7, 4-17-89)

Sec. 20-42. Enforcement; duty of commissioner of the revenue.

The commissioner of the revenue shall promulgate rules and regulations for the interpretation, administration and enforcement of this article. It shall also be the duty of the commissioner of the revenue to ascertain the name of every seller liable for the collection of the tax imposed by this article who fails, refuses or neglects to collect such tax or to make the reports and remittances required by this article. The commissioner of the revenue shall have all of the enforcement powers as authorized by article 1, chapter 31 of title 58.1 of the Code of Virginia (1950), as amended, for purposes of this article. (Ord. No. 107A-7, 4-17-89)

Sec. 20-43. Procedure upon failure to collect, report, etc.

If any seller whose duty it is to do so shall fail or refuse to collect the tax imposed under this article and to make, within the time provided in this article, the reports and remittances mentioned in this article, the commissioner of the revenue shall proceed in such manner as he may deem best to obtain facts and information on which to base his estimate of the tax due. As soon as the commissioner of the revenue shall procure such facts and information as he is able to obtain upon which to base the assessment of any tax payable by any seller who has failed or refused to collect such tax and to make such report and remittance, he shall proceed to determine and assess against such seller the tax and penalties provided for by this article and shall notify such seller, by registered mail sent to his last known place of address, of the total amount of such tax and penalties and the total amount thereof shall be payable within ten days from the date such notice is sent. (Ord. No. 107A-7, 4-17-89)

Sec. 20-44. Duty of treasurer.

The treasurer shall have the power and the duty of collecting the taxes imposed and levied hereunder and shall cause the same to be paid into the general treasury for the county.

(Ord. No. 107A-71, 4-17-89)

Sec. 20-45. Penalty of late remittance or false return.

If any seller whose duty it is to do so shall fail or refuse to file any report required by this article or to remit to the treasurer the tax required to be collected and paid under this article within the time and in the amount specified in this article, there shall be added to such tax by the treasurer a penalty in the amount of ten percent of the tax past due, or \$10.00, whichever is greater; provided, however, that the penalty shall in no case exceed the amount of the tax assessable and interest thereon at the rate of ten per cent per annum, which shall be computed upon the taxes and penalty from the date such taxes are due and payable.

(Ord. No. 107A-7, 4-17-89; Ord. No. 107A-56, 3-24-09)

Sec. 20-46. Violations of article.

Any person violating, failing, refusing or neglecting to comply with any provision of this article shall be guilty of (i) a Class 3 misdemeanor if the amount of the tax due is \$1,000.00 or less, or (ii) a Class 1 misdemeanor if the amount of the tax due is more than \$1,000.00. Conviction of such violation shall not relieve any person from the payment, collection or remittance of the taxes provided for in this article. Any agreement by any person to pay the taxes provided for in this article by a series of installment payments shall not relieve any person of criminal liability for violation of this article until the full amount of taxes agreed to be paid by such person is received by the treasurer. Each failure, refusal, neglect or violation, and each day's continuance thereof, shall constitute a separate offense.

(Ord. No. 107A-7, 4-17-89; Ord. No. 107A-56, 3-24-09)

Sec. 20-47. Exemptions.

The following purchases of food shall not be subject to the tax under this article:

- (a) Food furnished by restaurants to employees as part of their compensation when no charge is made to the employee.
- (b) Food sold by nonprofit day care centers, public or private elementary or secondary schools or food sold by any college or university to its students or employees.
- (c) Food for use or consumption by the commonwealth, any political subdivision of the commonwealth or the United States.
- (d) Food furnished by a hospital, medical clinic, convalescent home, nursing home, home for the aged, infirm or handicapped or other extended care facility to patients or residents thereof.
- (e) Food furnished by a nonprofit charitable organization to elderly, infirm, handicapped or needy persons in their homes or at central locations.
- (f) Food sold by a nonprofit educational, charitable or benevolent organization on an occasional basis as a fund-raising activity or food sold by a church or religious body on an occasional basis.

- (g) Food furnished by boardinghouses that do not accommodate transients.
 - (h) Food sold by cafeterias operated by industrial plants for employees only.
 - (i) Food sold by nonprofit cafeterias in public schools, nursing homes and hospitals.
 - (j) Food sold by churches, fraternal and social organizations and volunteer fire departments and reserve squads which hold occasional dinners and bazaars of one- or two-day duration, at which food prepared in the homes of members or in the kitchen of the organization is offered for sale to the public.
 - (k) Food furnished by churches which serve meals for their members as a regular part of their religious observance.
 - (l) Food sold through vending machines.
 - (m) Any food or food product purchased for home consumption as defined in the federal Food Stamp Act of 1977, 7 U.S.C. section 2012, or amended, except for salad bar items sold from a salad bar, prepackaged single-serving salads consisting primarily of an assortment of vegetables, and non-factory sealed beverages. This exemption does not include hot food or hot food products ready for immediate consumption.
 - (n) Any other sale of food which is exempt from taxation under the Virginia Retail Sales and Use Tax Act, or administrative rules and regulation issued pursuant thereto.
- (Ord. No. 107A-7, 4-17-89; Ord. No. 107A-11, 6-4-90; Ord. No. 107A-36, 6-27-00)
State law reference-Code of Va., §58.1-3833.

Sec. 20-48. Severability.

If any provision of this article, or any application of such provision to any person or under any circumstances, shall be invalid, the remainder of this article, or the application of such provisions to persons or under circumstances other than those to which it shall have been held invalid, shall not be affected thereby. (Ord. No. 107A-7, 4-17-89)

ARTICLE VIII. RESERVED*

Secs. 20-49 - 20-64. Reserved.

***Editor's note** - Ord. No. 107A-41, adopted June 24, 2003, repealed and deleted Article VIII, Short-Term Rental Tax of Chapter 20, Taxation. Prior to this repeal and deletion, Article VIII, of Chapter 20, was derived from Ord. No. 107A-10, of Nov. 20, 1989.

ARTICLE IX. EXEMPTION OF CERTAIN AIRPORT PROPERTY

Sec. 20-65. Purpose and intent.

The purpose of this article is to promote the general health, safety, and welfare by offering an inducement to private owners of publicly used airports to maintain facilities in the county.
(Ord. No. 107A-27, 8-19-97)

Sec. 20-66. Exemption of runways.

(a) Any privately owned airport in the county used by the public and licensed by the State, or any improvements made thereto which are open to the public at no charge is a work of internal improvement.

(b) Runways of privately owned, public use airports shall be exempt from local taxation if available to the public at no charge and licensed by the State.
(Ord. No. 107A-27, 8-19-97)

State law reference-Authorization by the state to exempt from local taxation any privately owned public use airport if desired by the locality, Code of Va., § 5.1-9.1.

Secs. 20-67 - 20-69. Reserved.

ARTICLE X. TAX ON LOCAL TELECOMMUNICATION SERVICE*

Sec. 20-70. Definitions.

(a) *Local telecommunication service.* Subject to the exclusions stated in this article, includes without limitation, the two-way local transmission of messages through use of switched local telephone services; telegraph services; teletypewriter; local cellular mobile radio telecommunication services; specialized mobile radio; stationary two-way radio; or any other form of two-way mobile and portable communications.

(b) *Local telephone service.* Subject to the exclusions stated in this article, includes any services subject to federal taxation as local telephone service as that term is defined in section 4252 of the Internal Revenue Code of 1986, as amended, or any successor statute. As it applies to an E-911 system, "local telephone service" shall mean switched local exchange access service.

(c) *Mobile local telecommunication service.* Any two-way mobile or portable local telecommunication service, including cellular mobile radio telecommunication service and specialized mobile radio.

(d) *Mobile service consumer.* A person having a telephone number for mobile local telecommunications service who has made a taxable purchase of such service or on whose behalf another person has made a taxable purchase of such service.

***State law reference** - Authority of county to impose and regulate a tax on local telecommunication service, Code of Va., § 58.1-3812.

(e) *Mobile service provider.* Every person engaged in the business of selling mobile local telecommunication services to consumers.

(f) *Public safety agency.* A functional division of a public agency, which provides firefighting, police, medical or other emergency services or a private entity, which provides such services on a voluntary basis.

(g) *Public safety answering point.* A communications facility operated on a 24-hour basis which first receives E-911 calls from persons in an E-911 service area and which may, as appropriate, directly dispatch public safety services or extend, transfer or relay E-911 calls to appropriate public safety agencies.

(h) *Residential consumer.* As it relates to local telecommunications service. Any person furnished service classified as "residential" under tariffs filed with the state corporation commission. A residential consumer shall not include any consumer of mobile local telecommunication service.

(i) *Service address.* The location of the telecommunication equipment from which the telecommunication is originated or at which the telecommunication is received by a consumer. However, if the service address is not a defined location, as in the case of mobile telephones, maritime systems, air-to-ground systems and the like, "service address" shall mean the location of the subscriber's primary use of the telecommunication equipment within the licensed service area. A mobile service provider may obtain a signed statement from a consumer indicating which county, city or town within the licensed service area is the location of the consumer's primary use of the telecommunication equipment. A mobile service provider shall be entitled to rely absolutely on a consumer's signed statement and shall remit the taxes collected to the county, city or town identified by the consumer. In the absence of a signed statement by a consumer, a mobile service provider shall identify the county, city or town of the consumer's primary use and shall remit the tax to such county, city or town based on any other reasonable method, including, without limitation, the consumer's billing address, service address or telephone number within the licensed service area.

(j) *Service provider.* Every person engaged in the business of selling local telecommunication services to consumers or delivering electricity services to consumers.

(k) *Taxable purchase.* The acquisition of telecommunication services for consumption or use; however, "taxable purchase" does not include; (i) the provision of telecommunications among members of an affiliated group of entities by a member of the group for their own exclusive use and consumption and; (ii) the purchase of telecommunications for resale in the subsequent provision of telecommunications, including, without limitation, carrier access charges, right of access charges and charges for use of intercompany facilities; however, the acquisition of telecommunications by a provider of enhanced services is not the purchase of telecommunications for resale, even when the cost of the telecommunications is separately stated to the purchaser of the enhanced services, as long as the primary object of the purchase of the telecommunications by the provider is for the provision of enhanced services and not telecommunications. A person may make tax-free purchases of telecommunications for resale if the person provides to the service provider a sworn affidavit indicating that the person's purchases are nontaxable sales for resale.

(Ord. No. 107A-40, 7-23-02)

Section 20-71. Levy; Amount of tax on local telecommunication service.

(a) There is hereby imposed and levied by the county upon each and every taxable purchase by a consumer of local telecommunication service provided that the consumer's service address is located within the county a tax in the amount of twenty percent of the gross charge made by the service provider against the consumer with respect to each and every taxable purchase; provided, however, that:

- (1) In any case any monthly bill submitted by any service provider for residential, commercial, or industrial service shall exceed \$8.00 for a residential consumer, there shall be no tax computed on so much of such bill as shall exceed \$8.00; and
- (2) In any case any monthly bill submitted by any service provider to a consumer for mobile local telecommunication service shall exceed \$8.00, there shall be no tax computed on so much of such bill as shall exceed \$8.00.

All such taxes shall be computed to the nearest whole cent. Bills shall be considered monthly bills if submitted 12 times per year for periods of approximately one month each.

(b) A service provider of local telecommunication services shall collect the tax from the consumer by adding the tax to the monthly gross charge for such services and the tax shall be paid by the consumer to the service provider at the time the gross charge shall become due and payable under the agreement between the consumer and the service provider. The tax shall, when collected, be stated as a distinct item separate and apart from the monthly gross charge. Until the consumer pays the tax to the service provider, the tax shall constitute a debt of the consumer to the county. If any consumer refuses to pay the tax, the service provider shall notify the county. After the consumer pays the tax to the service provider, the taxes collected shall be deemed to be held in trust by the service provider until remitted to the county.

(c) Such reports and remittance, including those required under section 20-26 relating to the special tax for enhanced 911 emergency telephone service, shall be made on or before the twentieth day of each month, covering the amount of tax collected during the preceding month. The treasurer shall have the power and the duty of collecting the taxes imposed and levied hereunder and shall cause the same to be paid into the general treasury for the county. If any seller whose duty it is to do so shall fail or refuse to file any report required by this article or to remit to the treasurer the tax required to be collected and paid under this article within the time and in the amount specified in this article, there shall be added to such tax by the treasurer a penalty in the amount of ten percent thereof and interest thereon at the rate of ten percent per annum, which shall be computed upon the taxes and penalty from the date such taxes are due and payable. The treasurer shall forward a copy of the report to the commissioner of the revenue.

(d) Any consumer shall be entitled to a refund from the county equal to the amount of any tax the consumer paid to a jurisdiction outside of the state if such tax was legally imposed in such other jurisdiction; however, the amount of credit or refund shall not exceed the tax paid to the county on such purchase.

(e) Each service provider of local communication service shall keep complete records showing all purchases of such service in the county. Such records shall show the price charged to each purchaser, the date thereof and the date of payment, and the amount of tax imposed under this article. Such records shall be kept open for inspection by authorized agents of the commissioner of the revenue during regular business hours. Authorized agents shall have the authority to make such copies or transcripts of these records as may be required. In the event the records are maintained outside the county, copies of the appropriate books and records shall be sent to the office of the commissioner of the revenue upon demand.

(Ord. No. 107A-40, 7-23-02; Ord. No. 107A-44, 5-25-04; Ord. No. 107A-46, 3-8-05)