

Chapter 20 - TAXATION

***Cross reference**— Dog license tax, § 5-49; vehicle licenses, § 22-216 et seq.

***State law reference**— Local taxes, Code of Virginia, § 58.1-3000 et seq.

ARTICLE I. - IN GENERAL

Sec. 20-1. - Applicability of state law.

The provisions of Code of Virginia, title 15.2 (Code of Virginia, § 15.2-100 et seq.), and Code of Virginia, title 58.1 (Code of Virginia, § 58.1-1 et seq.), applicable to local levies and real estate assessment and taxation shall be applicable to assessments and taxation under this chapter mutatis mutandis, including, without limitation, provisions relating to tax liens, the board of real estate review and equalization and the correction of erroneous assessments.

(Code 1980, § 20-15; Code 1995, § 20-1; Ord. No. 990, § 1, 9-14-1999)

Sec. 20-2. - Filing of returns and payment of taxes by mail or on Saturday, Sunday or legal holiday.

When the filing of a tax return or the payment of a tax is required by law to be made to the director of finance on or before a given date to avoid penalty or interest, the receipt by the director of finance of the tax return or payment in a sealed envelope bearing a postmark on or before midnight of the day such return is required to be filed or such payment is required to be made without penalty or interest shall constitute filing or payment to the same extent that would have been accomplished had such filing or payment been delivered in person to the director of finance before the close of business of the last day on which such filing or payment otherwise could have been made without penalty or interest, even though such return or payment is not delivered to the director of finance until some time after the last day on which such return or payment otherwise could have been made without penalty or interest. When remittance of a tax payment is made by electronic funds transfer, receipt of funds available for withdrawal, in a bank account designated to receive such payments by the person to whom such payment is required to be made, on or before midnight of the day such payment is required to be made without penalty or interest, shall constitute payment as if such payment had been made before the close of business on the last day on which such tax may be paid without penalty or interest. When the last day on which a tax return may be filed or a tax may be paid without penalty or interest falls on a Saturday, Sunday, legal holiday or day on which the county offices are closed, then such return may be filed or such payment may be made without penalty or interest on the next succeeding business day.

(Code 1980, § 20-1; Code 1995, § 20-2)

State law reference— Similar provisions Code of Virginia, §§ 58.1-8, 58.1-9.

Sec. 20-3. - Crediting of payments to delinquent accounts.

The director of finance shall not be required to credit payments received for any local levies to the most delinquent local account of the taxpayer making such payment.

(Code 1980, § 20-1.1; Code 1995, § 20-3)

State law reference— Authority to so provide, Code of Virginia, § 58.1-3913.

Sec. 20-4. - Administrative fees for collecting delinquent taxes.

(a) If a person fails to timely pay taxes due the county, such person shall be subject to and liable for administrative costs of \$20.00 for taxes or other charges collected subsequent to 30 or more days after notice of delinquent taxes or charges pursuant to Code of Virginia, § 58.1-3919 but prior to the taking of any judgment with respect to such delinquent taxes or charges, and such person shall be subject to and liable for administrative costs of \$25.00 for taxes or other charges collected by the county subsequent to judgment. The administrative costs imposed by this section shall be in addition to all applicable penalties and interest. Such person shall also be liable for reasonable attorney's or collection agency's fees equal to 20 percent of the taxes or other charges so collected.

(b) 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 costs, whichever is less; however, in no event shall the fee be less than \$25.00.

(c) 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 Code of Virginia, § 58.1-3980, 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 subsection 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.

(Code 1980, § 2-17; Code 1995, § 20-4; Ord. No. 985, § 1, 7-13-1999)

State law reference – Administrative fee for collecting delinquent taxes and charges, Code of Virginia, § 58.1-3958.

Sec. 20-5. - Triennial application for exemption.

(a) Any entity which owns real or personal property exempt pursuant to Code of Virginia, title 58.1, ch. 36 (Code of Virginia, § 58.1-3601 et seq.) shall, after receiving 60 days' written notice, file triennially an application with the director of finance as a requirement for retention of the exempt status of the property. The application shall show the ownership and usage of the property and shall be filed within the next 60 days preceding the tax year for which retention is sought on a form furnished by the director of finance.

(b) This requirement shall not apply to the United States or to the state or any of its political subdivisions.

(Code 1995, § 20-5; Ord. No. 899, § 1, 6-28-1995)

State law reference – Authority to so provide, Code of Virginia, § 58.1-3605.

Sec. 20-6. - Correction of erroneous assessments.

(a) Any person assessed by the director of finance with any local levies, penalty or interest on tangible personal property, machinery and tools, local license, consumer utilities, transient occupancy or short-term rental property aggrieved by any such assessment, may, within three years from the last day of the tax year for which such assessment is made, or within one year from the date of the assessment, whichever is later, apply to the director of finance for a correction thereof.

(b) The director of finance, after diligent investigation and upon being satisfied that he has erroneously assessed a taxpayer with any local levies, penalty or interest on tangible personal property, machinery and tools, local license, consumer utilities, transient occupancy or short term rental property, shall correct such assessment.

(1) If the assessment exceeds the proper amount and if the levies, penalty or interest have not been

paid, the director of finance shall exonerate the taxpayer from payment of so much thereof as is erroneous.

(2) If the assessment exceeds the proper amount and the levies, penalty or interest have been paid, the director of finance shall refund to the taxpayer the amount erroneously paid with interest as provided in section 20-7.

(3) If the assessment is less than the proper amount, the director of finance shall assess such applicant with the proper amount.

(c) If any assessment is erroneous because of a mere clerical error or calculation, the assessment may be corrected as provided in this section and with or without petition from the taxpayer.

(d) This section also shall apply to erroneous assessment of real estate, provided that the error sought to be corrected was not a judgmental error involving valuation, and further provided that the error sought to be corrected made by the director of finance. When an unpaid erroneous assessment of real estate is corrected under this section and such real estate has been sold at a delinquent land sale, the director of finance shall certify a copy of such correction to the clerk of the circuit court; and the clerk shall note the correction in the delinquent land book opposite the entry of the tract or lot for the year for which the correction is made.

(e) Notwithstanding the provisions of subsection (a) of this section:

(1) An unpaid tangible personal property tax assessment may be appealed to the director of finance at any time during which the assessment is collectible under Code of Virginia, § 58.1-3940, provided the taxpayer can demonstrate by clear factual evidence that he was not subject to the tax for the year in question. If the director of finance is satisfied that the assessment is erroneous, he shall abate the assessment and shall take such other steps as may be necessary to correct the taxpayer's liability accordingly upon the books of the county.

(2) In the case of an erroneous assessment that has been satisfied in whole or in part through an involuntary payment, an appeal to the director of finance must be made within one year from the date of the involuntary payment. If the director of finance is satisfied that the assessment is erroneous, he shall issue a refund for the amount of the involuntary payment. For purposes of this provision, the term "involuntary payment" means a payment received pursuant to Code of Virginia, § 58.1-3952, or the Setoff Debt Collection Act, Code of Virginia, § 58.1-520 et seq.

(f) In any action on application for correction of an erroneous assessment, if so requested by the applicant, the director of finance shall state in writing the facts and law supporting the action on such application and mail a copy of the writing to the applicant at his last known address.

(Code 1995, § 20-6; Ord. No. 934, § 1, 8-14-1996; Ord. No. 990, § 2, 9-14-1999)

State law reference— Similar provisions, Code of Virginia, §§ 58.1-3980, 58.1-3981, 58.1-3990.

Sec. 20-7. - Interest paid on refunds of erroneously assessed taxes.

(a) On and after July 1, 1999, all refunds of erroneously assessed taxes, together with any penalty and interest paid thereon, shall be paid with interest at the applicable rate specified in section 20-33 for real estate taxes, section 20-108 for personal property taxes, section 20-277 for transient occupancy taxes, and section 20-315 for short-term rental property taxes. Interest on refunds of license taxes shall be paid at the rate and in the manner as specified in article XI of this chapter.

(b) Except as provided in article XI of this chapter for license taxes, interest payable on any refund of an erroneously assessed tax shall begin to accrue on the later of July 1, 1999, or the date on which the tax being refunded was paid. Except as provided in article XI of this chapter, interest shall not accrue for any period of time prior to July 1, 1999.

(c) Except as otherwise provided in article XI of this chapter, interest shall not be paid on any refund caused by an overpayment that was not the result of an erroneously assessed tax. Refunds caused by

overpayments that are not the result of an erroneously assessed tax shall include, but not be limited to:

- (1) Any statutory relief provided in accordance with section 20-109; and
- (2) Any refund of duplicate payments that are not the result of duplicate assessments for the same tax.

(d) No interest shall be required to be paid on a refund if the amount of the refund is \$10.00 or less or the refund is the result of proration pursuant to section 20-109.

(Code 1995, § 20-7; Ord. No. 990, § 5, 9-14-1999)

State law reference – Interest on refunds, Code of Virginia, § 58.1-3916.

Sec. 20-8. - Criminal penalty for failure to file return or filing false return.

Any person willfully failing or refusing to timely file any return required in this chapter or making false statements in such returns with intent to defraud shall be guilty of an offense punishable as a class 3 misdemeanor if the amount of the tax lawfully assessed in connection with the return is \$1,000.00 or less or a class 1 misdemeanor if the amount of the tax lawfully assessed in connection with the return is more than \$1,000.00.

(Code 1980, § 20-8.2; Code 1995, § 20-32)

State law reference – Authority to so provide, Code of Virginia, § 58.1-3916.1; penalty for class 3 misdemeanor, Code of Virginia, § 18.2-11.

Secs. 20-9 – 20-32. - Reserved.

ARTICLE II. - REAL ESTATE TAX

***Cross reference** – Annual tax levy saved from repeal, § 1-10(a)(5).

***State law reference** – Property subject to local taxation, Code of Virginia, § 58.1-3000.

DIVISION 1. - GENERALLY

Sec. 20-33. - Payment of real estate tax; penalty for failure to pay tax; interest on unpaid tax.

(a) For each calendar year, the tax levied on real estate situated in the county shall be due and payable in two equal installments, the first installment being due and payable on June 5 of each calendar year and the second installment being due and payable on December 5 of each calendar year. If any person fails to pay any such installment of taxes on or before the date it is due, he shall incur a penalty of ten percent of the tax past due. The penalty shall be assessed on the day after the installment of taxes is due and shall become a part of the taxes. There shall also be assessed interest at the rate of four percent per annum on the amount of tax past due, which interest shall commence on the first day of the month following the date such installment of taxes is due. In addition to taxes assessed and past due on or after October 1, 1999, any tax that was assessed and past due prior to October 1, 1999, shall accrue interest. The interest to be charged on any such delinquent tax payment shall be at the rate specified by this Code at the time the tax was assessed and shall accrue at that specified rate beginning on the first day of the month following the date such tax payment was due and extending until September 30, 1999, unless sooner paid. In addition, any tax that was assessed and past due prior to October 1, 1999, shall accrue interest at four percent per annum beginning on and after October 1, 1999.

(b) The director of finance shall give notice at least ten days prior to June 5 of each calendar year, by publication in a newspaper of general circulation in the county, that he is prepared to receive at his office

the installment of the real estate taxes from any taxpayer charged therewith prior to June 6 of such year, without penalty.

(c) The director of finance shall give notice at least ten days prior to December 5 of each calendar year by publication in a newspaper of general circulation in the county that he is prepared to receive at his office the installment of the real estate taxes from any taxpayer charged therewith prior to December 6 of such year, without penalty.

(d) Nothing in this section shall be construed to prohibit the payment of the whole of the taxes levied on real estate by any taxpayer in one sum at any time, provided that any penalty and interest that may have accrued on the whole or any part thereof at the time of payment as provided in this section be paid therewith.

(Code 1980, § 20-2; Code 1995, § 20-31; Ord. No. 966, § 1, 11-12-1997; Ord. No. 990, § 3, 9-14-1999)

State law reference – Authority to provide dates for payment of real estate taxes and late payment penalties, Code of Virginia, § 58.1-3916; notice of taxes due, Code of Virginia, § 58.1-3911.

Secs. 20-34 – 20-56. - Reserved.

DIVISION 2. - LAND USE ASSESSMENT

***State law reference** – Application for assessment, Code of Virginia, § 58.1-3234.

Sec. 20-57. - Entry of use and fair market values on land books; basis for tax.

The use value and fair market value of any qualifying property shall be placed on the land book before delivery to the treasurer, and the tax for the next succeeding tax year shall be extended from the use value.

(Code 1980, § 20-12; Code 1995, § 20-51)

State law reference – Similar provisions, Code of Virginia, § 58.1-3236(D).

Sec. 20-58. - Roll-back tax.

(a) *Levy; interest.* There is hereby imposed a roll-back tax including simple interest thereon at an annual rate of eight percent. The amount of the roll-back tax upon any property as to which the use or zoning changes, or which has a separation or split-off of lots or parcels which do not individually meet the minimum acreage requirements, shall be determined under Code of Virginia, §§ 58.1-3237 and 58.1-3241.

(b) *Report of change in status; failure to make report or pay tax; false statements on applications.*

(1) The owner of any real estate liable for roll-back taxes shall, within 60 days following a change in use or zoning, report such change to the director of finance on such forms as may be prescribed. The director of finance shall forthwith determine and assess the roll-back tax, which shall be paid to the cashier within 30 days of the assessment. On failure to report within 60 days following such change in use or zoning or failure to pay within 30 days of the assessment, such owner shall be liable for an additional penalty equal to ten percent 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 percent of the amount of the roll-back tax, interest and penalty for each month or fraction thereof during which the failure continues.

(2) Any person making a material misstatement of fact in any application filed pursuant to this article 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 county, together with interest and

penalties thereon. If such material misstatement was made with the intent to defraud, he shall be further assessed with an additional penalty of 100 percent of such unpaid taxes.

(3) For purposes of this section and Code of Virginia, § 58.1-3234, incorrect information on the following subjects will be considered material misstatements of fact:

- a. The number and identities of the known owners of the property at the time of application.
- b. The actual use of the property.
- c. The intentional misrepresentation of the number of acres in the parcel or the number of acres to be taxed according to use.

(Code 1980, §§ 20-13, 20-14; Code 1995, § 20-52)

State law reference – Imposition of roll-back tax, Code of Virginia, § 58.1-3237; change in use or zoning, Code of Virginia, §§ 58.1-3237, 58.1-3238, 58.1-3241.

Sec. 20-59. - Agricultural, horticultural, forest and open space uses.

(a) *Findings.* The county finds that the preservation of real estate devoted to agricultural, horticultural, forest and open space uses within its boundaries is in the public interest and, having heretofore adopted a land use plan, hereby ordains that such real estate shall be taxed in accordance with the provisions of Code of Virginia, title 58.1, ch. 32, art. 4 (Code of Virginia, § 58.1-3230 et seq.) and this article.

(b) *Application for taxation on basis of use; fees.*

(1) The owner of any real estate meeting the criteria set forth in Code of Virginia, §§ 58.1-3230 and 58.1-3233, including for agricultural or horticultural use a minimum of five acres, for forest use a minimum of 20 acres and for open space use a minimum of five acres, at least 60 days preceding the tax year for which such taxation is sought, may apply to the director of finance 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 Code of Virginia, § 58.1-3236. Such application shall be on forms provided by the state department of taxation and supplied by the director of finance and shall include such additional schedules, photographs and drawings as may be required by the director of finance. The written agreement required by Code of Virginia, § 58.1-3233 for real estate devoted to open space use shall be signed on behalf of the county by the county manager. Any individual who is the owner of an undivided interest in a parcel may apply on behalf of himself and the other owners of such parcel upon submitting an affidavit that such other owners are minors or cannot be located. An application shall be submitted whenever the use, zoning or acreage of such land previously approved changes; provided that such property owner must revalidate annually with the director of finance any applications previously approved.

(2) A separate application shall be filed for each parcel on the land book.

(3) A nonrefundable fee of \$20.00 plus \$0.10 per acre or portion thereof in such parcel shall accompany such initial application.

(4) Each parcel shall be revalidated annually on forms provided by the director of finance.

(5) A late filing deadline extension is provided for initial applications and revalidation applications until December 15 upon payment of a late filing fee. The total application fee for late filing of initial applications shall be \$40.00 plus \$0.20 per acre or portion thereof in such parcel. The total application fee for late filing of revalidation applications shall be \$20.00 plus \$0.10 per acre or portion thereof in such parcel.

(c) *Determination of eligibility and value of property.*

(1) Promptly upon receipt of any application, the director of finance shall determine whether the subject property meets the criteria for taxation under this section. If the director of finance determines that the subject property does meet such criteria, he shall determine the value of such property for its

qualifying use as well as its fair market value.

(2) In determining whether the subject property meets the criteria for agricultural use, horticultural use, forest use or open space use, the director of finance may request an opinion from the director of the state department of conservation and recreation, the state forester or the state commissioner of agriculture and consumer services. Upon the refusal of the commissioner of agriculture and consumer services, the state forester or the director of the department of conservation and recreation to issue an opinion, or in the event of an unfavorable opinion which does not comport with standards set forth by the respective official, the party aggrieved may seek relief from the circuit court of the county. 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 article.

(Code 1980, §§ 20-9—20-11; Code 1995, § 20-53)

State law reference— Special assessments for agricultural, horticultural, forest and open space uses, Code of Virginia, § 58.1-3229 et seq.; application, Code of Virginia, §§ 58.1-3234, 58.1-3235; determination of eligibility, Code of Virginia, §§ 58.1-3233, 58.1-3240.

Secs. 20-60—20-76. - Reserved.

DIVISION 3. - EXEMPTIONS

***State law reference**— Exemptions, Code of Virginia, §§ 58.1-3210 et seq., 58.1-3220 et seq., 58.1-3660 et seq.

Sec. 20-77. - Reserved.

Sec. 20-78. - Elderly or permanently and totally disabled persons.

(a) *Exemption authorized.* Real estate tax exemption is provided for qualified property owners who are not less than 65 years of age or who are permanently and totally disabled and who are eligible according to other terms of this section. A dwelling jointly held by a husband and wife may qualify if either spouse is 65 years of age or older or is permanently and totally disabled. Persons qualifying for exemption are deemed to be bearing an extraordinary real estate tax burden in relation to their income and financial worth.

(b) *Definitions.* For purposes of this section, any reference to:

(1) "Dwelling" shall include an improvement to real estate exempt pursuant to this section and the land upon which such improvement is situated so long as the improvement is used principally for other than a business purpose and is used to house or cover any motor vehicle classified pursuant to subdivisions (A)(3) through (10) of Code of Virginia, § 58.1-3503; household goods classified pursuant to subdivision (A)(14) of Code of Virginia, § 58.1-3503; or household goods exempted from personal property tax pursuant to Code of Virginia, § 58.1-3504.

(2) "Real estate" shall include manufactured homes as defined in Code of Virginia, § 36-85.3.

(c) *Administration.* The exemption shall be administered by the director of finance or his authorized delegate according to the general provisions contained in this section. The director is hereby authorized and empowered to prescribe, adopt and enforce rules and regulations, including the requirement of answers under oath, as may be reasonably necessary to determine qualifications for exemption. The director may require production of certified tax returns and appraisal reports to establish income or financial worth.

(d) "*Permanently and totally disabled*" defined. A person shall be regarded as being permanently and totally disabled for purposes of this section if such person is 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.

(e) Criteria for exemption. Exemption shall be granted to persons subject to the following provisions:

(1) The title to the property for which exemption is claimed is held, or partially held, on December 31 immediately preceding the taxable year, by the person claiming exemption.

(2) The person occupying the dwelling and owning title or partial title thereto is 65 years or older on December 31 of the year immediately preceding the taxable year or the person claiming exemption was permanently and totally disabled on December 31 of the year immediately preceding the taxable year and is so disabled when he files the affidavit or written statement required in subsection (f) of this section. A dwelling jointly held by husband and wife may qualify if either spouse is 65 years of age or over or is permanently and totally disabled. Such dwelling must be owned by and occupied as the sole dwelling of the person claiming exemption. Persons who are otherwise qualified for exemption but are confined to hospitals, nursing homes, convalescent homes or other institutions for physical or mental care shall not be disqualified for exemption so long as the real estate for which exemption is sought is not used by or leased to others for consideration.

(3) The gross combined income of the owner during the year immediately preceding the taxable year shall be determined by the director to be an amount not to exceed \$75,000.00. Gross combined income shall include only those sources of gross income that are subject to tax under federal income tax laws, regulations, rules, or policies, without regard to whether a tax return is actually filed, of the owner, the spouse and the owner's relatives living in the dwelling for which exemption is claimed. Gross combined income shall not include life insurance benefits or receipts from borrowing or other debt. For the purpose of this subsection, the first \$10,000.00 of annual income of each of the owner's relatives, other than a spouse, living in the dwelling and who does not qualify for the exemption provided by subsection (e)(4) of this section shall be excluded in computing gross combined income. The term "owner," as used in this subsection, shall also be construed as "owners."

(4) Notwithstanding subsection (e)(3) of this section, none of the income of the owner's relatives living in the dwelling and providing bona fide caregiving services to the owner, whether such relatives are compensated or not, will be counted towards the income limit. In addition, if an owner's relative living in the dwelling is permanently and totally disabled, none of the disability income received by that relative will be counted towards the income limit.

(5) The net combined financial worth of the owner as of December 31 of the year immediately preceding the taxable year shall be determined by the director to be an amount not to exceed \$400,000.00. Net combined financial worth shall include the value of all assets, including the present value of all equitable interests, of the owners and spouse of any owner, excluding the fair market value of the dwelling and the land, not exceeding ten acres, upon which it is situated and for which exemption is claimed. The value of household furnishings is excluded from the computation of net worth.

(f) Affidavit or written statement. No later than April 1 of the taxable year, the person claiming an exemption must file in writing an affidavit or written statement with the director. In lieu of the filing of an annual affidavit or written statement, once a taxpayer is determined to be eligible, an affidavit or written statement may be filed on a three-year cycle with an annual certification by the taxpayer that no information contained on the last preceding affidavit or written statement filed has changed to violate the limitations and conditions provided in this section. Such annual certification must be filed not later than April 1 of the taxable year. Affidavits or written statements from first-time applicants or in hardship cases, as determined by the director of finance, will be accepted through December 31 of the taxable year.

(1) Such affidavit or written statement shall set forth, in a manner prescribed by the director, the names of all owners, the location and assessed value of the property, the names of any related persons occupying the dwelling for which exemption is claimed, the gross combined income of all owners and

owners' relatives who live in the residence, and the net combined financial worth of all owners and their spouses.

(2) If the person claiming exemption 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 the Railroad Retirement Board, or, if such person is not eligible for certification by any of these agencies, a sworn affidavit or written statement by two medical doctors who are either licensed to practice medicine in the state 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 subsection (d) of this section and stating the nature of the disability. A certification pursuant to 42 USC 423(d) by the Social Security Administration, so long as the person remains eligible for such Social Security benefits, shall be deemed to satisfy the definition in subsection (d) of this section. The affidavit or written statement of at least one of the doctors shall be based upon a physical examination of the person by such doctor. The affidavit or written statement of one of the doctors may be based upon medical information contained in the records of the Civil Service Commission which is relevant to the standards for determining permanent and total disability as defined in subsection (d) of this section.

(3) If, after an audit and investigation, the director determines that the person is qualified for exemption, he shall certify that such person is so qualified and shall determine the amount of exemption applicable to the claimant's real estate tax liability. Such exemption shall apply only to the tax year for which issued. In order to avoid the payment of any penalty, the person to whom an exemption has been issued shall, on or before the past-due date established for the payment of such real estate tax, present payment for the difference between such exemption and the full amount of the tax payment then due on the property.

(g) *Amount of exemption.* Each qualified applicant shall receive a 100 percent real estate tax exemption up to an annual exemption of \$3,000.00. The tax exemption granted under this section shall apply only to the dwelling occupied by the applicant, and the land, not exceeding ten acres, upon which it is situated.

(h) *Changes in income or other factors.* A qualified taxpayer who loses eligibility for tax relief due to changes in respect to income, financial worth, ownership of property or other factors occurring during the taxable year for which the affidavit, written statement or certification mentioned in subsections (e) and (f) of this section is filed and having the effect of exceeding or violating the limitations or conditions provided in this section shall receive the exemption for the portion of the year during which he qualifies and lose the exemption only for the remainder of the year and the taxable year immediately following. When a change in ownership to a spouse who is less than 65 years of age or is not permanently and totally disabled results solely from the death of his qualified spouse, it shall result in a prorated exemption for the then-current taxable year. Such prorated portion shall be determined by multiplying the amount of the exemption by a fraction wherein the number of complete months of the year such property was properly eligible for such exemption is the numerator and the number 12 is the denominator.

(i) *False claims.* Any person who knowingly falsely claims an exemption shall be guilty of a misdemeanor.

(j) *Applicability to life estates and certain trusts; inapplicability to leaseholds and terms of years.* For purposes of this section, a dwelling owned and occupied as the sole dwelling of a person claiming exemption shall include, among other forms of ownership, a dwelling (i) held by the person claiming exemption alone or in conjunction with his spouse as tenant or tenants for life or joint lives, (ii) held in a revocable inter vivos trust over which the person claiming exemption or the person claiming exemption and his spouse hold the power of revocation, or (iii) held in an irrevocable trust under which a person claiming exemption alone or in conjunction with his spouse possesses a life estate or an estate for joint lives or enjoys a continuing right of use or support. However, a dwelling owned and occupied as the sole dwelling of a person claiming exemption shall not include a dwelling held under a leasehold or term of years.

1997; Ord. No. 994, § 1, 10-26-1999; Ord. No. 1009, § 1, 4-24-2001; Ord. No. 1046, §§ 1, 2, 7-22-2003; Ord. No. 1073, §§ 1, 2, 10-12-2004; Ord. No. 1079, §§ 1, 2, 10-25-2005; Ord. No. 1090, §§ 1, 2, 10-24-2006; Ord. No. 1104, § 1, 4-24-2007; Ord. No. 1114, § 1, 10-23-2007; Ord. No. 1121, § 1, 4-22-2008; Ord. No. 1127, § 1, 11-12-2008)

State law reference— Authority to exempt elderly and handicapped persons from real estate taxes, Code of Virginia, § 58.1-3210 et seq.; restrictions and exemptions, Code of Virginia, § 58.1-3211; change in income, Code of Virginia, § 58.1-3215; definition of "permanently and totally disabled," Code of Virginia, § 58.1-3217.

Sec. 20-79. - Partial exemption for rehabilitated, renovated or replacement residential structures other than multifamily residential rental units.

(a) *Exemption authorized.* Partial exemption from real estate taxes is hereby provided in accordance with the provisions of this section for qualifying property devoted to residential units other than multifamily whose structures are rehabilitated in accordance with the criteria set out in Code of Virginia, § 58.1-3220 and this section.

(b) *Qualifications.* For the purposes of this section, the total assessed value of a residential property other than multifamily residential rental units shall not exceed \$300,000.00 and the structure must be at least 26 years old. The real estate shall be deemed to be substantially rehabilitated when it has been so improved as to increase the assessed value of the structure by no less than 20 percent, but without increasing the total footage of such structure by more than 100 percent. Detached improvements, including, but not limited to, a garage, shed or swimming pool, are not eligible. As used in this section, the terms "rehabilitation" and "rehabilitated" shall also include situations in which the structures on the property have been demolished and replaced with new residential structures.

(c) *Application; determination of base value; application fee.*

(1) As a requisite for qualifying for partial tax exemption, the owner of the structure shall, prior to or simultaneously with making application for a building permit to rehabilitate such structure, file with the county's director of finance, upon forms furnished by him, an application to qualify such structure as a rehabilitated residential structure. Upon receipt of an application for tax exemption, the director of finance shall determine a base fair market value assessment (referred to in this section as base value) of the structure as it was immediately prior to commencement of rehabilitation. If rehabilitation has already commenced at the time the base value is determined, then the base value may be determined using the best information available to the director of finance. The tax assessment of the improvements located upon the qualifying real estate shall be considered in determining the base value. The base value shall serve as a basis for determining whether the rehabilitation increases the assessed value of such structure by at least 20 percent.

(2) Rehabilitation must be completed within three years from the date on which the director of finance determines the base value.

(3) The application to qualify for the rehabilitated structure tax exemption must be accompanied by a payment of a fee of \$50.00, which fee shall be applied to offset the cost of processing such application, making the required assessments, and making an annual inspection to determine the progress of the work.

(d) *Inspection of progress of work; effective date of exemption.*

(1) During the period between the receipt of the application and the time when the director of finance may ascertain that the assessed value has increased by at least 20 percent, the owner of the property shall be subject to taxation upon the full fair market value of the property. An owner may, at any time prior to November 1 of any calendar year in which rehabilitation of a structure is underway, submit a written request to the director of finance to inspect the structure to determine if it then qualifies for the rehabilitated property exemption.

(2) When it is determined that the rehabilitation is completed and that it has resulted in at least a 20 percent increase in assessed value (base value is exceeded by 20 percent or more), the tax exemption shall become effective beginning on January 1 of the next calendar year.

(e) *Credit memorandum.* The owner of property qualifying for partial exemption of real estate taxes because of rehabilitation of a structure shall be issued a credit memorandum in the amount of the difference in taxes computed upon the base value and the assessed value of the property resulting from the rehabilitation for each year of a 10-year period of exemption from real estate taxes. Such 10-year period shall begin as specified in subsection (d) of this section. Additional increases resulting from increases in value occurring in subsequent years of the 10-year period shall not be eligible for partial tax relief. Such credit memorandum shall be surrendered when payment is made of the real estate taxes payable for the year for which such credit memorandum has been issued. Each credit memorandum timely surrendered shall be credited in its full amount against the taxes due for the real estate for which partial exemption has been obtained. Each credit memorandum so surrendered shall be charged against an appropriation made by the board of supervisors for the purpose of honoring such credit memorandums.

(f) *Credit to run with land.* Exemption from taxation of real estate qualifying for the rehabilitation exemption shall run with the land, and the owner of such property during each of the 10 years of exemption shall be entitled to receive a credit memorandum for such partial exemption from taxation.

(g) *Methods of evaluation.* In determining the base value of a structure and whether the rehabilitation results in a 20 percent increase over such base value, the director of finance shall employ usual and customary methods of assessing real estate.

(h) *Exemption not applicable to demolition of historic structures.* Where rehabilitation is achieved through demolition and replacement of an existing structure, the exemption provided in this section shall not apply when any structure demolished is a registered state landmark or is determined by the state's department of historic resources to contribute to the significance of a registered historic district.

(i) *Condition of the property.* Upon making application to qualify for partial tax exemption, an applicant shall certify that the property that is the subject of the application, including the real estate upon which the structure is located, shall be maintained in compliance with all Code requirements. Failure to properly maintain the property in compliance with all Code provisions shall be grounds for denial of the requested partial tax exemption.

(Ord. No. 1139, § 20-73, 11-24-2009)

Sec. 20-80. - Partial exemption for rehabilitated, renovated or replacement multifamily residential rental units.

(a) *Exemption authorized.* Partial exemption from real estate taxes is hereby provided in accordance with the provisions of this section for qualifying property devoted to multifamily residential rental units whose structures are rehabilitated in accordance with the criteria set out in Code of Virginia, § 58.1-3220 and this section.

(b) *Qualifications.* For the purposes of this section, multifamily residential rental real estate shall be deemed to be substantially rehabilitated when a structure on such real estate which is no less than 26 years old and no more than 39 years old has been so improved as to increase the assessed value of the structure by no less than 50 percent, but without increasing the total footage of such structure by more than 100 percent, or when a structure on such real estate which is no less than 40 years old has been so improved as to increase the assessed value of the structure by no less than 50 percent. As used in this section, the terms "rehabilitation" and "rehabilitated" shall also include situations in which the structures on the property have been demolished and replaced with new structures for multifamily residential rental use.

(c) *Application; determination of base value; application fee.*

(1) As a requisite for qualifying for partial tax exemption, the owner of the structure shall, prior to or simultaneously with making application for a building permit to rehabilitate such structure, file with the county's director of finance, upon forms furnished by him, an application to qualify such structure as a rehabilitated multifamily residential rental structure. Upon receipt of an application for tax exemption, the director of finance shall determine a base fair market value assessment (referred to in this section as base value) of the structure as it was immediately prior to commencement of rehabilitation. If rehabilitation has already commenced at the time the base value is determined, then the base value may be determined using the best information available to the director of finance. The tax assessment of the improvements located upon the qualifying real estate shall be considered in determining the base value. The base value shall serve as a basis for determining whether the rehabilitation increases the assessed value of such structure by at least 50 percent.

(2) The application to qualify for tax exemption shall be effective for three years from the date on which the director of finance determines the base value. If, by such expiration date, rehabilitation has not progressed to such a point that the assessed value of the structure is at least 50 percent greater than the base value of such structure, then to retain such eligibility a new application to qualify for tax exemption must be filed prior to the expiration date and a new base value established. In no event, however, shall there be more than two additional applications following the initial application on any structure, except that where a rehabilitation project encompasses at least 50 contiguous acres on which demolition of all structures takes place within one year of the initial application, a total of six additional applications following the initial application may be filed. The new base value shall be based upon the value of the improvements as of the date of the most recent application. Under no circumstances shall any new base value be less than the original base value.

(3) The initial application to qualify for the rehabilitated structure tax exemption and any subsequent application must be accompanied by a payment of a fee of \$50.00, which fee shall be applied to offset the cost of processing such application, making the required assessments, and making an annual inspection to determine the progress of the work.

(d) *Inspection of progress of work; effective date of exemption.*

(1) During the period between the receipt of the application and the time when the director of finance may ascertain that the assessed value has increased by at least 50 percent, the owner of the property shall be subject to taxation upon the full fair market value of the property. An owner may, at any time prior to November 1 of any calendar year in which rehabilitation of a structure is underway, submit a written request to the director of finance to inspect the structure to determine if it then qualifies for the rehabilitated property exemption.

(2) When it is determined that the rehabilitation is completed and that it has resulted in at least a 50 percent increase in assessed value (base value is exceeded by 50 percent or more), the tax exemption shall become effective beginning on January 1 of the next calendar year.

(e) *Credit memorandum.* The owner of property qualifying for partial exemption of real estate taxes because of rehabilitation of a structure shall be issued a credit memorandum in the amount of the difference in taxes computed upon the base value and the assessed value of the property resulting from the rehabilitation for each year of a seven-year period of exemption from real estate taxes. Such seven-year period shall begin as specified in subsection (d) of this section. Additional increases resulting from increases in value occurring in subsequent years of the seven-year period shall not be eligible for partial tax relief. Such credit memorandum shall be surrendered when payment is made of the real estate taxes payable for the year for which such credit memorandum has been issued. Each credit memorandum timely surrendered shall be credited in its full amount against the taxes due for the real estate for which partial exemption has been obtained. Each credit memorandum so surrendered shall be charged against an appropriation made by the board of supervisors for the purpose of honoring such credit memorandums.

(f) *Credit to run with land.* Exemption from taxation of real estate qualifying for the rehabilitation exemption

shall run with the land, and the owner of such property during each of the seven years of exemption shall be entitled to receive a credit memorandum for such partial exemption from taxation.

(g) *Methods of evaluation.* In determining the base value of a structure and whether the rehabilitation results in a 50 percent increase over such base value, the director of finance shall employ usual and customary methods of assessing real estate.

(h) *Exemption not applicable to demolition of historic structures.* Where rehabilitation is achieved through demolition and replacement of an existing structure, the exemption provided in this section shall not apply when any structure demolished is a registered state landmark or is determined by the state's department of historic resources to contribute to the significance of a registered historic district.

(i) *Condition of the property.* Upon making application to qualify for partial tax exemption, an applicant shall certify that the property that is the subject of the application, including the real estate upon which the structure is located, shall be maintained in compliance with all Code requirements. Failure to properly maintain the property in compliance with all Code provisions shall be grounds for denial of the requested partial tax exemption.

(Code 1995, § 20-74; Ord. No. 1019, § 2, 10-23-2001; Ord. No. 1031, § 1, 8-13-2002)

State law reference— Partial exemption for certain rehabilitated, renovated or replacement residential structures authorized, Code of Virginia, § 58.1-3220.

Sec. 20-81. - Partial exemption for rehabilitated, renovated or replacement commercial and industrial structures.

(a) *Exemption authorized.* Partial exemption from real estate taxes is hereby provided in accordance with the provisions of this section for qualifying property devoted to commercial and industrial uses whose structures are rehabilitated in accordance with the criteria set out in Code of Virginia, § 58.1-3221 and this section.

(b) *Qualifications.* For the purposes of this section, commercial and industrial real estate shall be deemed to be substantially rehabilitated when a structure on such real estate which is no less than 26 years old has been so improved as to increase the assessed value of the structure by no less than 40 percent, but without increasing the total footage of such structure by more than 100 percent. As used in this section, the terms "rehabilitation" and "rehabilitated" shall also include situations in which the structures have been demolished and replaced with new structures. Subject to the limitations of this section, the rehabilitated, renovated, or replacement structure may be used for any purpose, including mixed use, that is allowed by the building code and the applicable zoning regulations for the property.

(c) *Application; determination of base value; application fee.*

(1) As a requisite for qualifying for partial tax exemption, the owner of the structure shall, prior to or simultaneously with making application for a building permit to rehabilitate such structure, file with the county's director of finance, upon forms furnished by him, an application to qualify such structure as a rehabilitated commercial or industrial structure. Upon receipt of an application for tax exemption, the director of finance shall determine a base fair market value assessment (referred to in this section as base value) of the structure as it was immediately prior to commencement of rehabilitation. If rehabilitation has already commenced at the time the base value is determined, then the base value may be determined using the best information available to the director of finance. The tax assessment of the improvements located upon the qualifying real estate shall be considered in determining the base value. The base value shall serve as a basis for determining whether the rehabilitation increases the assessed value of such structure by at least 40 percent.

(2) The application to qualify for tax exemption shall be effective for three years from the date on which the director of finance determines the base value. If, by such expiration date, rehabilitation has

not progressed to such a point that the assessed value of the structure is at least 40 percent greater than the base value of such structure, then to retain such eligibility a new application to qualify for tax exemption must be filed prior to the expiration date and a new base value established. In no event, however, shall there be more than two additional applications following the initial application on any structure. The new base value shall be based upon the value of the improvements as of the date of the second or third application. Under no circumstances shall any new base value be less than the original base value.

(3) The initial application to qualify for the rehabilitated structure tax exemption and any subsequent application must be accompanied by a payment of a fee of \$50.00, which fee shall be applied to offset the cost of processing such application, making the required assessments, and making an annual inspection to determine the progress of the work.

(d) *Inspection of progress of work; effective date of exemption.*

(1) During the period between the receipt of the application and the time when the director of finance may ascertain that the assessed value has increased by at least 40 percent, the owner of the property shall be subject to taxation upon the full fair market value of the property. An owner may, at any time prior to November 1 of any calendar year in which rehabilitation of a structure is underway, submit a written request to the director of finance to inspect the structure to determine if it then qualifies for the rehabilitated property exemption.

(2) When it is determined that the rehabilitation is completed and that it has resulted in at least a 40 percent increase in assessed value (base value is exceeded by 40 percent or more), the tax exemption shall become effective beginning on January 1 of the next calendar year.

(e) *Credit memorandum.* The owner of property qualifying for partial exemption of real estate taxes because of rehabilitation of a structure shall be issued a credit memorandum in the amount of the difference in taxes computed upon the base value and the assessed value of the property resulting from the rehabilitation for each year of a seven-year period of exemption from real estate taxes. Such seven-year period shall begin as specified in subsection (d) of this section. Additional increases resulting from increases in value occurring in subsequent years of the seven-year period shall not be eligible for partial tax relief. Such credit memorandum shall be surrendered when payment is made of the real estate taxes payable for the year for which such credit memorandum has been issued. Each credit memorandum timely surrendered shall be credited in its full amount against the taxes due for the real estate for which partial exemption has been obtained. Each credit memorandum so surrendered shall be charged against an appropriation made by the board of supervisors for the purpose of honoring such credit memorandums.

(f) *Credit to run with land.* Exemption from taxation of real estate qualifying for the rehabilitation exemption shall run with the land, and the owner of such property during each of the seven years of exemption shall be entitled to receive a credit memorandum for such partial exemption from taxation.

(g) *Methods of evaluation.* In determining the base value of a structure and whether the rehabilitation results in a 40 percent increase over such base value, the director of finance shall employ usual and customary methods of assessing real estate.

(h) *Exemption not applicable to demolition of historic structures.* Where rehabilitation is achieved through demolition and replacement of an existing structure, the exemption provided in this section shall not apply when any structure demolished is a registered state landmark or is determined by the state's department of historic resources to contribute to the significance of a registered historic landmark.

(i) *Condition of the property.* Upon making application to qualify for partial tax exemption, an applicant shall certify that the property that is the subject of the application, including the real estate upon which the structure is located, shall be maintained in compliance with all Code requirements. Failure to properly maintain the property in compliance with all Code provisions shall be grounds for denial of the requested partial tax exemption.

(j) *Exterior-corridor hotels and motels.* Hotels and motels providing access to the majority of the structure's

rental rooms via exterior corridors may qualify under this section for an exemption for 15 years instead of seven years. To qualify for the extended exemption, the exterior-corridor hotel or motel must be demolished and replaced with a structure used for any purpose, other than an exterior-corridor hotel or motel, that is allowed by the building code and the applicable zoning regulations for the property, including mixed use. Except as altered by this subsection, all other subsections of this section apply to exemptions for the demolition and replacement of exterior-corridor hotels and motels.

(Code 1995, § 20-75; Ord. No. 1019, § 3, 10-23-2001)

State law reference – Partial exemption for certain rehabilitated, renovated or replacement commercial or industrial structures authorized, Code of Virginia, § 58.1-3221.

Sec. 20-82. - Partial exemption for rehabilitated, renovated or replacement hotel and motel structures.

- (a) *Exemption authorized.* Partial exemption from real estate taxes is hereby provided in accordance with the provisions of this section for qualifying property devoted to hotel and motel uses whose structures are rehabilitated for residential use in accordance with the criteria set out in Code of Virginia, § 58.1-3220.1 and this section.
- (b) *Qualifications.* For the purposes of this section, hotel and motel real estate shall be deemed to be substantially rehabilitated when a structure on such real estate which is no less than 35 years old has been so improved as to increase the assessed value of the structure by no less than 50 percent, but without increasing the total footage of such structure by more than 100 percent. As used in this section, the terms "rehabilitation" and "rehabilitated" shall also include situations in which the structures on the property have been demolished and replaced with new structures for residential use.
- (c) *Application; determination of base value; application fee.*
- (1) As a requisite for qualifying for partial tax exemption, the owner of the structure shall, prior to or simultaneously with making application for a building permit to rehabilitate such structure, file with the county's director of finance, upon forms furnished by him, an application to qualify such structure as rehabilitated. Upon receipt of an application for tax exemption, the director of finance shall determine a base fair market value assessment (referred to in this section as base value) of the structure as it was immediately prior to commencement of rehabilitation. If rehabilitation has already commenced at the time the base value is determined, then the base value may be determined using the best information available to the director of finance. The tax assessment of the improvements located upon the qualifying real estate shall be considered in determining the base value. The base value shall serve as a basis for determining whether the rehabilitation increases the assessed value of such structure by at least 50 percent.
 - (2) The application to qualify for tax exemption shall be effective for three years from the date on which the director of finance determines the base value. If, by such expiration date, rehabilitation has not progressed to such a point that the assessed value of the structure is at least 50 percent greater than the base value of such structure, then to retain such eligibility a new application to qualify for tax exemption must be filed prior to the expiration date and a new base value established. In no event, however, shall there be more than two additional applications following the initial application on any structure. The new base value shall be based upon the value of the improvements as of the date of the second or third application. Under no circumstances shall any new base value be less than the original base value.
 - (3) The initial application to qualify for the rehabilitated structure tax exemption and any subsequent application must be accompanied by a payment of a fee of \$50.00, which fee shall be applied to offset the cost of processing such application, making the required assessments, and making an annual

inspection to determine the progress of the work.

(d) *Inspection of progress of work; effective date of exemption.*

(1) During the period between the receipt of the application and the time when the director of finance may ascertain that the assessed value has increased by at least 50 percent, the owner of the property shall be subject to taxation upon the full fair market value of the property. An owner may, at any time prior to November 1 of any calendar year in which rehabilitation of a structure is underway, submit a written request to the director of finance to inspect the structure to determine if it then qualifies for the rehabilitated property exemption.

(2) When it is determined that the rehabilitation is completed and that it has resulted in at least a 50 percent increase in assessed value (base value is exceeded by 50 percent or more), the tax exemption shall become effective beginning on January 1 of the next calendar year.

(e) *Credit memorandum.* The owner of property qualifying for partial exemption of real estate taxes because of rehabilitation of a structure shall be issued a credit memorandum in the amount of the difference in taxes computed upon the base value and the assessed value of the property resulting from the rehabilitation for each year of a seven-year period of exemption from real estate taxes. Such seven-year period shall begin as specified in subsection (d) of this section. Additional increases resulting from increases in value occurring in subsequent years of the seven-year period shall not be eligible for partial tax relief. Such credit memorandum shall be surrendered when payment is made of the real estate taxes payable for the year for which such credit memorandum has been issued. Each credit memorandum timely surrendered shall be credited in its full amount against the taxes due for the real estate for which partial exemption has been obtained. Each credit memorandum so surrendered shall be charged against an appropriation made by the board of supervisors for the purpose of honoring such credit memorandums.

(f) *Credit to run with land.* Exemption from taxation of real estate qualifying for the rehabilitation exemption shall run with the land, and the owner of such property during each of the seven years of exemption shall be entitled to receive a credit memorandum for such partial exemption from taxation.

(g) *Methods of evaluation.* In determining the base value of a structure and whether the rehabilitation results in a 50 percent increase over such base value, the director of finance shall employ usual and customary methods of assessing real estate.

(h) *Exemption not applicable to demolition of historic structures.* Where rehabilitation is achieved through demolition and replacement of an existing structure, the exemption provided in this section shall not apply when any structure demolished is a registered state landmark or is determined by the state's department of historic resources to contribute to the significance of a registered historic district.

(i) *Condition of the property.* Upon making application to qualify for partial tax exemption, an applicant shall certify that the property that is the subject of the application, including the real estate upon which the structure is located, shall be maintained in compliance with all Code requirements. Failure to properly maintain the property in compliance with all Code provisions shall be grounds for denial of the requested partial tax exemption.

(Code 1995, § 20-76; Ord. No. 1019, § 4, 10-23-2001)

State law reference—Partial exemption for rehabilitated, renovated or replacement hotel and motel structures authorized, Code of Virginia, § 58.1-3220.1.

Sec. 20-83. Exemption for property of surviving spouses of certain persons killed in the line of duty.

(A) *Definitions.* As used in this section:

- (1)** "Average assessed value" means the average assessed value for all dwellings located within the county that are situated on property zoned as single-family residential.

- (2) "Covered person" means any person set forth in the definition of "deceased person" in Code of Virginia, § 9.1-400 whose beneficiary, as defined in Code of Virginia, § 9.1-400, is entitled to receive benefits under Code of Virginia, § 9.1-402, as determined by the Comptroller of Virginia prior to July 1, 2017, or as determined by the Virginia Retirement System on and after July 1, 2017.
- (B) *Exemption authorized; timing; refunds.* For tax years beginning on or after January 1, 2017, the real property described in this section of the surviving spouse of any covered person who occupies the real property as his principal place of residence is exempt from taxation. If the covered person's death occurred on or prior to January 1, 2017, and the surviving spouse has a principal residence on January 1, 2017, eligible for the exemption under this section, then the exemption for the surviving spouse shall begin on January 1, 2017. If the covered person's death occurs after January 1, 2017, and the surviving spouse has a principal residence eligible for the exemption under this section on the date that such covered person dies, then the exemption for the surviving spouse shall begin on the date that such covered person dies. If the surviving spouse acquires the property after January 1, 2017, then the exemption shall begin on the date of acquisition, and the previous owner may be entitled to a refund for a pro rata portion of real property taxes paid pursuant to Code of Virginia, § 58.1-3360. No interest shall be paid on any refund due to the surviving spouse for taxes paid prior to the surviving spouse's filing of the affidavit or written statement required by this section.
- (C) *Scope of exemption.* Those dwellings with assessed values in the most recently ended tax year that are not in excess of the average assessed value for such year shall qualify for a total exemption from real property taxes under this section. If the value of a dwelling is in excess of the average assessed value for such year, then only that portion of the assessed value in excess of the average assessed value shall be subject to real property taxes, and the portion of the assessed value that is not in excess of the average assessed value shall be exempt from real property taxes. Single-family homes, condominiums, town homes, manufactured homes as defined in Code of Virginia, § 46.2-100 whether or not the wheels and other equipment previously used for mobility have been removed, and other types of dwellings of surviving spouses, whether or not the land on which the single-family home condominium, town home, manufactured home, or other type of dwelling of a surviving spouse is located is owned by someone other than the surviving spouse, that (i) meet the requirements of this subsection and (ii) are occupied by such persons as their principal place of residence shall qualify for the real property tax exemption. If the land on which the single-family home, condominium, town home, manufactured home, or other type of dwelling is located is not owned by the surviving spouse, then the land is not exempt.
- (D) *Occupation as principal place of residence required; effect of remarriage or moving.* The surviving spouse shall qualify for the exemption so long as the surviving spouse does not remarry and continues to occupy the real property as his principal place of residence. The exemption applies without restriction on the spouse's moving to a different principal place of residence.
- (E) *Exemption for land upon which dwelling is situated; application of exemption to improvements other than a dwelling.* The exemption applies to (i) the qualifying dwelling, or that portion of the value of such dwelling and land that qualifies for the exemption pursuant to subsection (C), and (ii) with the exception of land not owned by the surviving spouse, the land, not exceeding ten acres, upon which it is situated. A real property improvement other than a dwelling, including the land upon which such improvement is situated, made to such land as is exempt from taxation under this section, shall also be exempt from taxation so long as the principal use of the improvement is (a) to house or cover motor vehicles or household goods and personal effects as classified in subdivision (A)(14) of the Code of Virginia, § 58.1-3503 and as listed in Code of Virginia, § 58.1-3504 and (b) for other than a business purpose.

- (F) *Application to life estate, revocable inter vivos trust, irrevocable trust, leasehold, or term of years.* For purposes of this section, real property of any surviving spouse of a covered person includes real property held (i) by a surviving spouse as a tenant for life, (ii) in a revocable inter vivos trust over which the surviving spouse holds the power of revocation, or (iii) in an irrevocable trust under which the surviving spouse possesses a life estate or enjoys continuing right of use or support. Such real property does not include any interest held under a leasehold or term of years.
- (G) *Effect of joint ownership.*
- (1) In the event that (i) a surviving spouse is entitled to an exemption under this section by virtue of holding the property in any of the three ways identified in clauses (i) through (iii) of subsection (F) and (ii) one or more other persons have an ownership interest in the property that permits them to occupy the property, then the tax exemption for the property that otherwise would have been provided shall be prorated by multiplying the amount of the exemption by a fraction the numerator of which is one and the denominator of which equals the total number of people having an ownership interest that permits them to occupy the property.
 - (2) In the event that the principal residence is jointly owned by two or more individuals, including the surviving spouse, and no person is entitled to the exemption under this section by virtue of holding the property in any of the three ways identified in clauses (i) through (iii) of subsection (F), then the exemption shall be prorated by multiplying the amount of the exemption by a fraction the numerator of which is the percentage of ownership interest in the dwelling held by the surviving spouse and the denominator of which is 100.
- (H) *Application for exemption; notification upon remarriage or change in principal place of residence.* The surviving spouse claiming the exemption under this section shall file with the director of finance on forms supplied by the county an affidavit or written statement (i) setting forth the surviving spouse's name, (ii) indicating any other joint owners of the real property, (iii) certifying that the real property is occupied as the surviving spouse's principal place of residence, and (iv) including evidence of the determination of the Comptroller of Virginia or the Virginia Retirement System that the deceased is a covered person. The surviving spouse shall also provide documentation that he is the surviving spouse of a covered person and of the date that the covered person died. The surviving spouse shall be required to refile the information required by this subsection only if the surviving spouse's principal place of residence changes. The surviving spouse shall promptly notify the director of finance of any remarriage.
- (I) *Effect of absence from residence.* The fact that surviving spouses who are otherwise qualified for tax exemption pursuant to this section are residing in hospitals, nursing homes, convalescent homes, or other facilities for physical or mental care for extended periods of time shall not be construed to mean that the real estate for which tax exemption is sought does not continue to be the sole dwelling of such persons during such extended periods of other residence, so long as such real estate is not used by or leased to others for consideration.

Sec. 20-84. Partial exemption for demolition or renovation of derelict buildings.

Prior to demolishing or renovating a derelict building pursuant to a plan approved under article VI of chapter 6, at the request of the property owner, the real estate assessor shall make an assessment of the property in its current derelict condition. On the building permit application, the owner shall declare the costs of the demolition, or the costs of materials and labor to complete the renovation. At the request of the

property owner, after demolition or renovation of the derelict building, the real estate assessor shall reflect the fair market value of the demolition costs or the fair market value of the renovation improvements in the real estate tax assessment records. The real estate tax on an amount equal to the costs of demolition or an amount equal to the increase in the fair market value of the renovations shall be abated for a period of seven years and is transferable with the property. The abatement of taxes for demolition shall not apply if the structure demolished is a registered Virginia landmark or is determined by the Virginia Department of Historic Resources to contribute to the significance of a registered historic district.

Secs. 20-85 – 20-107. - Reserved.

ARTICLE III. - TANGIBLE PERSONAL PROPERTY TAX

***State law reference –** Tangible personal property tax, Code of Virginia, § 58.1-3500 et seq.

Sec. 20-108. - Assessment and returns generally.

(a) *Assessment; filing of return; payment; penalty and interest.*

(1) Personal property and machinery and tools shall be assessed in accordance with the provisions of Code of Virginia, title 58.1 (Code of Virginia, § 58.1-1 et seq.). Taxes so assessed shall be based upon all such property, machinery and tools owned as of January 1 of each year. Every taxpayer owning any property subject to taxation under this chapter, or as defined in Code of Virginia, title 58.1 and every fiduciary shall file a personal property tax return with the director of finance:

- a.** On or before March 1 for all machinery and tools and tangible personal property employed in a trade or business except automobiles, trucks, taxicabs, antique motor vehicles, motorcycles, campers, recreational vehicles or other vehicles as defined in Code of Virginia, § 46.2-100 manufactured homes, boats, boat trailers or other watercraft and aircraft; and
- b.** On or before March 15 for all other tangible personal property.

All such personal property tax returns not filed by such date shall incur a penalty of ten percent of the tax due thereon. Such tax shall be due and payable in two equal installments, the first installment being due and payable on June 5 of each calendar year and the second installment being due and payable on December 5 of each calendar year. If any person fails to pay any such installment of taxes on or before the date it is due, he shall incur a penalty of ten percent of the tax past due, which penalty shall be assessed on the day after the installment of taxes is due and shall become a part of the taxes. There shall also be assessed interest at the rate of four percent per annum on the amount of tax past due, which interest shall commence on the first day of the month following the date such installment of taxes is due. In addition to taxes assessed and past due on or after October 1, 1999, any tax that was assessed and past due prior to October 1, 1999, shall accrue interest. The interest to be charged on any such delinquent tax payment shall be at the rate specified by this Code at the time the tax was assessed and shall accrue at that specified rate beginning on the first day of the month following the date such tax payment was due and extending until September 30, 1999, unless sooner paid. In addition, any tax that was assessed and past due prior to October 1, 1999, shall accrue interest at four percent per annum beginning on and after October 1, 1999.

(2) The director of finance shall give notice at least ten days prior to June 5 of each calendar year, by publication in a newspaper of general circulation in the county, that he is prepared to receive at his office the installment of the personal property taxes from any taxpayer charged therewith prior to June 6 of such year, without penalty.

- (3) The director of finance shall give notice at least ten days prior to December 5 of each calendar year, by publication in a newspaper of general circulation in the county, that he is prepared to receive at his office the installment of the personal property taxes from any taxpayer charged therewith prior to December 6 of such year, without penalty.
- (4) Nothing in this subsection shall be construed to prohibit the payment of the whole of the taxes levied on personal property by any taxpayer in one sum at any time, provided that any penalty and interest that may have accrued on the whole or any part thereof at the time of payment as provided in this section be paid therewith.
- (5) The director of finance shall prescribe the various forms to be used for filing such tax returns, the information to be provided and the manner in which such assessments are to be made.
- (b) *Mailing of forms; failure to receive forms.* The director of finance shall, insofar as is possible, mail personal property forms no later than February of each tax year to all known taxpayers. Failure to receive a form, however, in no way relieves the taxpayer of his obligation to obtain the necessary forms and information which would enable him to file before the deadline.
- (c) *Extension of time for filing return.* The director of finance may, upon request, grant reasonable extensions of time not to exceed 90 days for filing personal property returns, whenever in his judgment good cause exists, and provided such request is made before the due date. The director of finance shall keep a record of every extension.
- (d) *Methods of determining assessed value of tangible personal property.*
- (1) Automobiles, except those described in subsection (d)(2) of this section, shall be valued by means of a recognized pricing guide, or, if the model and year of the individual automobile are not listed in the recognized pricing guide, on the basis of a percentage of original cost. If such percentage or percentages of original cost do not accurately reflect fair market value, or if the taxpayer does not supply proof of original cost, then the director may select another method which establishes fair market value.
 - (2) Motor vehicles with specially designed equipment for use by the handicapped shall not be valued in relation to their initial cost, but by determining their actual market value if offered for sale on the open market.
 - (3) Trucks of less than two tons shall be valued by means of a recognized pricing guide, or, if the model and year of the individual truck are not listed in the recognized pricing guide, on the basis of a percentage of original cost.
 - (4) Manufactured homes shall be valued on the basis of square footage of living space.
 - (5) Trucks and other vehicles, as defined in Code of Virginia, § 46.2-100, shall be valued by means of either a recognized pricing guide using the lowest value specified in such guide or a percentage of original cost, except:
 - a. Those described in subsections (d)(2), (d)(3) and (d)(4) of this section.
 - b. Antique motor vehicles, as defined in Code of Virginia, § 46.2-100, which may be used for general transportation purposes as provided in Code of Virginia, § 46.2-730(C) shall be valued as set out in subsection (d)(1) of this section for automobiles.
 - c. Taxicabs shall be valued as set out in subsection (d)(1) of this section for automobiles.
 - (6) Programmable computer equipment and peripherals used in business shall be valued by means of a percentage of original cost to the taxpayer, or by such other method as may reasonably be expected to determine the actual fair market value.
 - (7) All other tangible personal property shall be valued on the basis of a percentage of original cost. Except for leased manufactured equipment, the term "cost" is defined as original cost or the original capitalized cost if so established on the taxpayer's records. In the case of leased manufactured equipment, the cost shall be the commercial retail sales price for which the item would have been sold

if it had been available for sale.

The applicable percentages referred to in this subsection shall be determined by the director of finance. The director of finance shall, upon request, take into account the condition of the property. The term "condition of the property" includes, but is not limited to, technological obsolescence of property where technological obsolescence is an appropriate factor for valuing such property. The director of finance shall make available to taxpayers on request a reasonable description of his valuation methods. The director of finance, when using a recognized pricing guide as provided for in this section, may automatically extend the assessment if the pricing information is stored in a computer.

(e) *Tax bills under \$15.00.* If any taxpayer owns tangible personal property of such small value that the levies thereon for the year result in a tax of less than \$15.00, such property shall be omitted from the personal property book and no assessment made thereon.

(f) *Submission of supporting information.* The director of finance shall have the right to require that a depreciation schedule, plus any other necessary schedules, inventories, statements, etc., be provided in support of each personal property return filed for any business, profession, farmer or manufacturer.

(g) *Payment of taxes for property of public service corporations.* All taxes on personal property of public service corporations, which are levied at the same rate applicable to real estate pursuant to Code of Virginia, § 58.1-2606, shall be due and payable at the same times and by the same procedures as taxes on real estate as set forth in section 20-33.

(Code 1980, § 20-4; Code 1995, § 20-101; Ord. No. 909, § 1, 10-25-1995; Ord. No. 966, § 2, 11-12-1997; Ord. No. 990, § 4, 9-14-1999)

State law reference— Authority to fix tax levy, Code of Virginia, § 58.1-3001; method of determining assessed value, classification of tangible personal property, Code of Virginia, § 58.1-3503; dates for filing returns, penalties and interest, Code of Virginia, § 58.1-3916; taxes not required to be billed, Code of Virginia, §§ 58.1-3001, 58.1-3012(A).

Sec. 20-109. - Proration of tax for motor vehicles, trailers and semitrailers.

(a) *Generally.* Tangible personal property tax shall be levied upon motor vehicles, trailers or semitrailers which acquire a situs within the county after January 1 of any tax year for the remaining portion of the tax year. Such tax shall be prorated on a monthly basis.

(b) *Refund when vehicle loses situs in county.* When any motor vehicle, trailer or semitrailer loses its situs in the county after January 1 of the tax year or after the day on which it acquired a situs within the county, any tax assessed on such vehicle, trailer or semitrailer shall be relieved and refunded, if paid. Such relief and refund shall be prorated on a monthly basis. No tax shall be refunded if the motor vehicle, trailer or semitrailer acquires a situs within the state in a nonprorating locality.

(c) *Refund or credit upon sale of vehicle.* When any person sells or otherwise transfers title to a motor vehicle, trailer or semitrailer with a situs in the county after January 1 of the tax year or after the day on which it acquired a situs within the county, the tax shall be relieved, prorated on a monthly basis, and the appropriate amount of tax already paid shall be refunded or credited against the tax due on any motor vehicle, trailer or semitrailer owned by the taxpayer during the same tax year.

(d) *Time limitation for refund; minimum refund.* Any refund required by this section shall be made within 30 days of the date the tax is relieved. No refund of less than \$5.00 shall be issued to a taxpayer, unless specifically requested by the taxpayer.

(e) *Computation of tax on new owner.* When any person, after January 1 of the tax year or after the day on which a motor vehicle, trailer or semitrailer acquired a situs within the county, acquires a motor vehicle, trailer or semitrailer with a situs in the county, tangible personal property tax shall be assessed on the motor vehicle, trailer or semitrailer for the portion of the tax year during which the motor vehicle, trailer or

semitrailer is owned and situs in maintained within the county.

(f) Determination of full month. For purposes of this section, a period of one-half of a month or more shall be counted as a full month and a period of less than one-half of a month shall not be counted.

(g) Tax credit for persons moving from nonprorating locality to county and acquiring replacement vehicle. Any person who moves from a nonprorating locality to the county in a single tax year shall be entitled to a property tax credit in the county if:

- (1)** The person was liable for personal property taxes on a motor vehicle and has paid those taxes to a nonprorating locality; and
- (2)** The owner replaces for any reason the original vehicle upon which taxes are due to the nonprorating locality for the same year.

The county shall provide a credit against the total tax due on the replacement vehicle in an amount equal to the tax paid to the nonprorating locality for the period of time commencing with the disposition of the original vehicle and continuing through the close of the tax year in which the owner incurred tax liability to the nonprorating locality for the original vehicle.

(h) Filing of returns; determination of taxable date. Each taxpayer owning a motor vehicle, trailer or semitrailer with a date of purchase or establishment of situs within the county after January 1 and on or before February 15 of the tax year shall file a return on forms prescribed by the director of finance on or before March 15 of each year, and taxes shall be due as set forth in section 20-108. Each taxpayer owning a motor vehicle, trailer or semitrailer purchased on or after February 16 of the tax year or which acquires situs in the county on or after February 16 of the tax year shall file a return by the 15th day of the month following the taxable date and taxes on such property shall be due on dates established by the director of finance. The term "taxable date," as used in this subsection, shall mean the first day of the month of purchase or establishment of situs if the vehicle, trailer or semitrailer is purchased or acquires situs on or before the 15th day of the month or the first day of the following month if the vehicle, trailer or semitrailer is purchased or acquires situs within the county on or after the 16th day of the month, except for any purchase or acquisition of situs from December 16 through the end of December, in which case the taxable date shall be January 1 of the succeeding tax year and the taxpayer must file a return on or before March 15 of that year, and taxes shall be due as set forth in section 20-108.

(i) Billing for less than full year. Notwithstanding any other date for billing and payment of personal property taxes, the county may bill all personal property taxes assessed for a portion of the tax year less than the full year on or after June 15 and/or December 15 of each year.

(j) Exemption of property for which tax has been paid to another jurisdiction. Tangible personal property which was legally assessed by another jurisdiction in the state and on which the tax has been paid is exempt from taxation under this section for the tax year or portion thereof during which such property was legally assessed by the other jurisdiction and taxes were paid to that jurisdiction.

(k) Penalty and interest. If any tax levied under this section is not paid when due, the payment penalty and interest provided for in section 20-108 shall be imposed. No filing penalty shall be imposed on any item prorated under this section. No interest shall be paid on any refund made under subsection (b) or (c) of this section.

(Code 1980, § 20-4.1; Code 1995, § 20-102; Ord. No. 932, § 1, 8-14-1996; Ord. No. 990, § 5, 9-14-1999; Ord. No. 1032, § 1, 8-13-2002)

State law reference—Proration of personal property tax, Code of Virginia, § 58.1-3516.

Sec. 20-110. - Motor vehicle, trailer and boat returns.

(a) Notwithstanding the filing requirement set out in section 20-108(a):

- (1)** The most recent tax return filed prior to January 1, 1996, or any return filed thereafter shall be the

basis for the assessment of a motor vehicle in all later years in which the director of finance has not been informed of a change in the address or name of the motor vehicle owner or of a change in the situs or ownership of the vehicle; and

(2) The most recent tax return filed prior to January 1, 1997, or any return filed thereafter shall be the basis for the assessment of a trailer or boat in all later years in which the director of finance has not been informed of a change in the address or name of the trailer or boat owner or a change in the situs or ownership of the trailer or boat.

(b) Motor vehicle, trailer or boat owners are required to file a new personal property tax return on or before March 15 of any tax year for which there is:

(1) A change in the name or address of the person owning the vehicle, trailer or boat;

(2) A change in the situs of the vehicle, trailer or boat; or

(3) Any other change affecting the assessment of the personal property tax on the vehicle, trailer or boat for which a tax return was previously filed.

(c) Motor vehicle or trailer owners are required to file a return as set out in section 20-109(h) when acquiring one or more vehicles or trailers for which no personal property tax return has been filed with the county.

(d) Boat owners are required to file a return as set out in section 20-108(a) when acquiring one or more boats for which no personal property tax return has been filed with the county.

(Code 1995, § 20-102; Ord. No. 904, § 1, 7-26-1995; Ord. No. 933, § 1, 8-14-1996)

Sec. 20-111. - Property of retail merchants.

All property of a retail merchant not offered for sale as merchandise shall be separately listed and taxed as other property.

(Code 1980, § 20-5; Code 1995, § 20-103)

Sec. 20-112. - Property of wholesale merchants.

All property of a wholesale merchant not offered for sale as merchandise shall be separately listed and taxed as other property.

(Code 1980, § 20-6; Code 1995, § 20-104)

Sec. 20-113. - Exemption for household goods and personal effects of residents.

(a) The following household goods and personal effects of the residents of the county are hereby exempt from taxation as tangible personal property:

(1) Bicycles.

(2) Household and kitchen furniture, including gold and silver plates, plated ware, watches and clocks, sewing machines, refrigerators, automatic refrigerating machinery of any type, vacuum cleaners and all other household machinery, books, firearms and weapons of all kinds.

(3) Pianos, organs and all other musical instruments of whatever kind, phonographs and record players and records to be used therewith, and radio and television instruments and equipment.

(4) Oil paintings, pictures, statuary, curios, articles of virtu and works of art.

(5) Diamonds, cameos or other precious stones and all precious metals used as ornaments or jewelry.

(6) Sporting and photographic equipment.

(7) Clothing and objects of apparel.

(8) Antique motor vehicles as defined in Code of Virginia, § 46.2-100 which may not be used for

general transportation purposes.

(9) All-terrain vehicles and off-road motorcycles as defined in Code of Virginia, § 46.2-100.

(10) Electronic communications and processing devices and equipment, including but not limited to cell phones and tablet and personal computers, including peripheral equipment such as printers.

(11) All other tangible personal property used by an individual or a family or household primarily incident to maintaining an abode.

(b) The classifications set forth in this section shall apply only to such property owned and used by an individual or by a family or household incident to maintaining an abode.

(c) Notwithstanding any provision set forth above, household appliances in residential rental property used by an individual or by a family or household incident to maintaining an abode shall be deemed to be fixtures and shall be assessed as part of the real property in which they are located. For purposes of this subsection, the term "household appliances" shall mean all major appliances customarily used in a residential home and which are the property of the owner of the real estate, including, without limitation, refrigerators, stoves, ranges, microwave ovens, dishwashers, trash compactors, clothes dryers, garbage disposals and air conditioning units.

(Code 1980, § 20-7(a) – (i); Code 1995, § 20-105)

State law reference – Authority to exempt certain personal property, Code of Virginia, § 58.1-3504.

Sec. 20-114. - Exemption for agricultural animals and products.

The following agricultural animals and products of the residents of the county are hereby exempt from taxation as tangible personal property:

(1) Horses, mules and other kindred animals.

(2) Cattle.

(3) Sheep and goats.

(4) Hogs.

(5) Poultry.

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

(7) Grain; tobacco; wine produced by farm wineries as defined in Code of Virginia, § 4.1-100 and other agricultural products in the hands of a producer.

(8) Farm machinery other than farm machinery described in subsection (a)(10) of this section and farm implements, which shall include (i) equipment and machinery used by farm wineries as defined in Code of Virginia, § 4.1-100 in the production of wine; (ii) equipment and machinery used by a nursery as defined in Code of Virginia, § 3.2-3800 for the production of horticultural products; and (iii) any farm tractor as defined in Code of Virginia, § 46.2-100, regardless of whether such farm tractor is used exclusively for agricultural purposes.

(9) Equipment used by farmers or farm cooperatives qualifying under section 521 of the Internal Revenue Code to manufacture industrial ethanol, provided that the materials from which the ethanol is derived consist primarily of farm products.

(10) Farm machinery designed solely for the planting, production or harvesting of a single product or commodity.

(11) Privately owned trailers as defined in Code of Virginia, § 46.2-100 that are primarily used by farmers in their farming operations for the transportation of farm animals or other farm products as enumerated in Code of Virginia, § 58.1-3505(A)(1) – (A)(7).

(Code 1980, § 20-7(j); Code 1995, § 20-106)

State law reference – Authority to exempt, Code of Virginia, § 58.1-3505.

Sec. 20-115. - Situs for taxation.

- (a) The situs for the assessment and taxation of tangible personal property, machinery and tools shall in all cases be the taxing jurisdiction where such property may be physically located on the first day of the tax year.
- (b) The situs of motor vehicles, travel trailers, boats and airplanes subject to local taxation shall be the taxing jurisdiction where such vehicle is normally garaged, docked or parked except:
- (1) The situs for vehicles with a weight of 10,000 pounds or less registered in the state but normally garaged, docked or parked in another state shall be the locality in Virginia where registered; and
 - (2) If the owner of a business files a return for any vehicle with a weight of 10,000 pounds or less registered in the state and used in the business with the locality from which the use of such vehicle is directed or controlled and in which the owner's business has a definite place of business, as defined in section 20-350, the situs for such vehicles shall be such locality provided the owner has presented evidence that he has paid the personal property tax on the business vehicles to such locality.
- (c) Any person domiciled in another state whose motor vehicle is principally garaged or parked in the county shall not be subject to a personal property tax on such vehicle, upon a showing of sufficient evidence that such person has paid a personal property tax on such vehicle in the state in which he is domiciled.
- (d) In the event it cannot be determined where a motor vehicle, travel trailer, boat or airplane is normally garaged, stored or parked, the situs shall be the domicile of the owner of such property. However, if a motor vehicle is used by a fulltime student attending an institution of higher education, and such use establishes that the motor vehicle is normally garaged at the location of the institution of higher education, the taxing situs shall be the domicile of the owner of the motor vehicle, provided the owner presents sufficient evidence that he has paid a personal property tax on the motor vehicle in his domicile, upon request of the locality of the institution of higher education.

(Code 1980, § 20-8; Code 1995, § 20-107; Ord. No. 1052, § 1, 9-9-2003)

State law reference – Similar provisions, Code of Virginia, § 58.1-3511.

Sec. 20-116. - Waiver of penalty and interest.

The director of finance may waive the penalty and interest for failure of the taxpayer to file a return or to pay a tax under this article, provided such taxpayer demonstrates that such failure was not in any way the fault of the taxpayer or was the fault of the director of finance. The failure to file a return or to pay a tax due to the death of the taxpayer or a medically determinable physical or mental impairment on the date the return or tax is due shall be presumptive proof of lack of fault on the taxpayer's part, provided the return is filed or the taxes are paid within 30 days of the due date; however, if there is a committee, legal guardian, conservator or other fiduciary handling the individual's affairs, such return shall be filed or such taxes paid within 120 days after the fiduciary qualifies or begins to act on behalf of the taxpayer. Interest on such taxes shall accrue until paid in full. Any such fiduciary shall, on behalf of the taxpayer, by the due date, file any required returns and pay any taxes that come due after the 120-day period.

(Code 1980, § 20-8.1; Code 1995, § 20-108)

State law reference – Similar provisions, Code of Virginia, § 58.1-3916.

Secs. 20-117 – 20-147. - Reserved.

ARTICLE IV. - RECORDATION TAX

***State law reference** – Recordation tax generally, Code of Virginia, § 58.1-800 et seq.; authority to impose recordation tax, Code of Virginia, §§ 58.1-814, 58.1-3800 et seq.

Sec. 20-148. - Levy; amount; exemptions.

There is hereby imposed a county recordation tax in an amount equal to one-third of the amount of the state recordation tax collectible for the state on the first recordation of each taxable instrument. No tax shall be imposed under this article upon any instrument in which the state recordation tax is \$0.50 specifically. Where a deed or other instrument conveys, covers or relates to property located partly in the county and partly in another county or city, or in other counties or cities, the tax imposed under the authority of this article shall be computed only with respect to the property located in the county.

(Code 1980, § 20-25; Code 1995, § 20-131)

State law reference – Authority for above tax, Code of Virginia, §§ 58.1-814, 58.1-3800.

Sec. 20-149. - Collection and disposition; compensation for collection.

The clerk of the circuit court of the county collecting the tax imposed under this article shall pay the tax into the treasury of the county. The clerk of the circuit court who collects the tax imposed under this article shall be entitled to an amount equal to five percent of the amount collected and paid to the county as compensation for such collection services.

(Code 1980, § 20-26; Code 1995, § 20-132)

State law reference – Similar provisions, Code of Virginia, § 58.1-3803.

Secs. 20-150 – 20-166. - Reserved.**ARTICLE V. - BANK FRANCHISE TAX**

***State law reference** – Bank franchise tax authorized, Code of Virginia, § 58.1-1210.

Sec. 20-167. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Bank shall have the meaning ascribed thereto by Code of Virginia, § 58.1-1201.

Net capital shall have the meaning ascribed thereto by Code of Virginia, § 58.1-1205.

(Code 1980, § 20-34; Code 1995, § 20-161)

Cross reference – Definitions and rules of construction, § 1-2.

Sec. 20-168. - Levy; amount.

Pursuant to the provisions of Code of Virginia, title 58.1, ch. 12 (Code of Virginia, § 58.1-1200 et seq.), there is hereby imposed for each tax year a tax of 80 percent of the state rate of taxation for each \$100.00 of the net capital of any bank located outside any incorporated town but otherwise within the boundaries of this county. If such bank also has offices that are located outside the county or within the corporate limits of any town therein, the tax shall be apportioned as provided by Code of Virginia, § 58.1-1211. If such bank is not the principal office but is a branch of the principal office, the tax upon such branch shall be apportioned as provided by Code of Virginia, § 58.1-1211.

(Code 1980, § 20-35; Code 1995, § 20-162)

State law reference— Bank franchise tax authorized, Code of Virginia, § 58.1-1210.

Sec. 20-169. - Filing of return; records of deposits; payment.

(a) On or after January 1 of each year, but not later than March 1 of any such year, all banks whose principal offices are located within this county but outside any incorporated town in the county shall prepare and file with the director of finance a return as provided by Code of Virginia, § 58.1-1207, in duplicate, which shall set forth the tax on net capital as computed under Code of Virginia, title 58.1, ch. 12 (Code of Virginia, § 58.1-1200 et seq.). The director of finance shall certify a copy of the bank's return and schedules and shall forthwith transmit such certified copy to the state department of taxation.

(b) If the principal office of a bank is located outside the boundaries of this county or within any incorporated town located in the county, and such bank has one or more branch offices located within this county, then, in addition to the filing requirements set forth in subsection (a) of this section, any bank conducting such branch business shall file with the director of finance a copy of the real estate deduction schedule, apportionment and other items which are required by Code of Virginia, §§ 58.1-1207, 58.1-1211 and 58.1-1212. This latter filing shall be submitted with the return required by Code of Virginia, § 58.1-1207.

(c) All banks whose principal offices are located within this county, but outside any incorporated town in the county, that have as of the beginning of any tax year a branch bank located in another county, city or incorporated town, shall maintain a record of the deposits through each such branch as of the beginning of the tax year; and each bank shall submit to the director of finance of the county a report of such deposits with the return required by Code of Virginia, § 58.1-1207, as amended.

(d) Every bank, on or before June 1 of each year, will pay into the department of finance of the county all taxes imposed pursuant to this article.

(Code 1980, § 20-36; Code 1995, § 20-163)

State law reference— Similar provisions, Code of Virginia, §§ 58.1-1207, 58.1-1211, 58.1-1212.

Sec. 20-170. - Penalty.

Any bank which fails to file a return or pay the tax required by this article or fails to comply with any other provision of this article shall be subject to a penalty of five percent of the tax due.

(Code 1980, § 20-37; Code 1995, § 20-164)

State law reference— Similar provisions, Code of Virginia, § 58.1-1216.

Secs. 20-171 – 20-193. - Reserved.

ARTICLE VI. - SALES TAX

***State law reference**— Authority to levy sales tax, Code of Virginia, § 58.1-605.

Sec. 20-194. - Levy; amount; applicability of state law.

Pursuant to Code of Virginia, § 58.1-605, a local 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 Code of Virginia, title 58.1, ch. 6 (Code of Virginia, § 58.1-600 et seq.). It shall be subject to all provisions of Code of Virginia, title 58.1, ch. 6 (Code of Virginia, § 58.1-600 et seq.) and the rules and regulations published with respect thereto.

(Code 1980, § 20-38; Code 1995, § 20-191)

State law reference – Authority to levy sales tax, Code of Virginia, § 58.1-605.

Sec. 20-195. - Administration and collection.

Pursuant to Code of Virginia, § 58.1-605, the local general retail sales tax levied pursuant to this article shall be administered and collected by the state tax commissioner in the same manner and subject to the same penalties as provided for the state sales tax, with the adjustments required by Code of Virginia, § 58.1-628. No discount under Code of Virginia, § 58.1-622, shall be allowed.

(Code 1980, § 20-39; Code 1995, § 20-19)

State law reference – Similar provisions, Code of Virginia, § 58.1-605.

Secs. 20-196 – 20-213. - Reserved.**ARTICLE VII. - USE TAX**

***State law reference** – Use tax authorized, Code of Virginia, § 58.1-606.

Sec. 20-214. - Levy; amount; applicability of state law.

Pursuant to Code of Virginia, § 58.1-606, a local general retail use 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 use tax imposed by Code of Virginia, title 58.1, ch. 6 (Code of Virginia, § 58.1-600 et seq.). It shall be subject to all provisions of Code of Virginia, title 58.1, ch. 6 (Code of Virginia, § 58.1-600 et seq.) and the rules and regulations published with respect thereto.

(Code 1980, § 20-40; Code 1995, § 20-221)

State law reference – Authority to levy sales tax, Code of Virginia, § 58.1-606.

Sec. 20-215. - Administration and collection.

Pursuant to Code of Virginia, § 58.1-606, the local general retail use tax levied pursuant to this article shall be administered and collected by the state tax commissioner in the same manner and subject to the same penalties as provided for the state use tax, with the adjustments required by Code of Virginia, § 58.1-628. No discount under Code of Virginia, § 58.1-622, shall be allowed.

(Code 1980, § 20-41; Code 1995, § 20-222)

State law reference – Similar provisions, Code of Virginia, § 58.1-606.

Secs. 20-216 – 20-238. - Reserved.

ARTICLE VIII. - UTILITY TAXES

*State law reference – Authority to adopt tax, Code of Virginia, § 58.1-3814.

Sec. 20-239. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Affiliated group shall have the same meaning ascribed to it in Code of Virginia, § 58.1-3700.1.

Bad debts means any portion of a debt related to a sale of local telecommunications services, the gross charges for which are not otherwise deductible or excludable, that has become worthless or uncollectible, as determined under applicable federal income tax standards. If the portion of the debt deemed to be bad is subsequently paid, the service provider shall report and pay the tax on that portion during the reporting period in which the payment is made.

Commercial or industrial consumer, as relates to local telecommunications service, means any person furnished local telecommunication service classified as "business" under tariffs filed with the state corporation commission.

Consumer means a person who, individually or through agents, employees, officers, representatives or permittees, makes a taxable purchase of local telecommunications services or electricity services.

Dwelling unit means one or more rooms designed or intended for occupancy by a single family.

E-911 system means a telephone service which utilizes a computerized system to automatically route emergency telephone calls placed by dialing the digits "911" to the proper public safety answering point serving the jurisdiction from which the emergency telephone call was placed. An E-911 system includes selective routing of telephone calls, automatic telephone number identification and automatic location identification performed by computers and other ancillary control center communications equipment.

Electric suppliers means any corporation, cooperative, partnership or other business entity providing electric service.

Enhanced services means services that employ computer processing applications to act on the format, code or protocol or similar aspects of the information transmitted; provide additional, different or restructured information; or involve interaction with stored information.

Gross charges.

- (1) The term "gross charges," subject to the exclusions of this article, means the amount charged or paid for the taxable purchase of local telecommunication services.
- (2) The term "gross charges" shall not include the following:
 - a. Charges or amounts paid that vary based on the distance and/or elapsed transmission time of the communication that are separately stated on the consumer's bill or invoice.
 - b. Charges or amounts paid for customer equipment, including such equipment that is leased or rented by the customer from any source, if such charges or amounts paid are separately identifiable from other amounts charged or paid for the provision of local telecommunication services on the service provider's books and records.

- c. Charges or amounts paid for administrative services, including, without limitation, service connection and reconnection, late payments and roamer daily surcharges.
- d. Charges or amounts paid for special features that are not subject to taxation under section 4251 of the Internal Revenue Code of 1986, as amended.
- e. Charges or amounts paid that are the tax imposed by section 4251 of the Internal Revenue Code of 1986, as amended, or any other tax or surcharge imposed by statute, ordinance or regulatory authority.
- f. Bad debts.

Kilowatt hours delivered means 1,000 watts of electricity delivered in a one-hour period by an electric provider to a consumer except in the case of eligible customer-generators, as defined in Code of Virginia, § 56-594, where it means those kilowatt hours supplied from the electric grid to such customer-generators, minus the kilowatt hours generated and fed back to the electric grid by such customer-generators.

Local telecommunications 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.

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.

Mobile local telecommunications service means any two-way mobile or portable local telecommunication service, including cellular mobile radio telecommunications service and specialized mobile radio.

Mobile service consumer means 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.

Mobile service provider means every person engaged in the business of selling mobile local telecommunications services to consumers.

Public safety agency means 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.

Public safety answering point means 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.

Residential consumer, as relates to local telecommunications service, means 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 telecommunications service.

Service address means the location of the telecommunications 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, the term "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 telecommunications 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.

Service provider means every person engaged in the business of selling local telecommunications services to consumers or delivering electricity services to consumers.

Taxable purchase.

- (1) The term "taxable purchase" means the acquisition of telecommunications services for consumption or use.
- (2) The term "taxable purchase" does not include:
 - a. 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
 - b. 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.

(Code 1980, § 20-42; Code 1995, § 20-251; Ord. No. 898, § 1, 6-28-1995; Ord. No. 1006, § 1, 10-10-2000)

Cross reference – Definitions and rules of construction, § 1-2.

Sec. 20-240. - Levy; amount of tax on electricity service.

- (a) There is hereby imposed and levied by the county upon each and every consumer, classified as determined by the service provider, of electricity provided by an electric supplier a tax based on kilowatt hours delivered monthly in the following amounts:
 - (1) On residential consumers, such tax shall be \$0.70 plus the rate of \$0.007537 per kilowatt hour delivered not to exceed a maximum monthly tax of \$1.00. In the case of master metered units with residential use, such tax per dwelling unit shall be \$0.70 plus the rate of \$0.007537 per kilowatt hour delivered not to exceed a maximum monthly tax of \$1.00 per dwelling unit.
 - (2) On commercial consumers, such tax shall be \$1.15 plus the rate of \$0.007130 per kilowatt hour delivered not to exceed a maximum monthly tax of \$10.00.
 - (3) On industrial consumers, such tax shall be \$1.15 plus the rate of \$0.007603 per kilowatt hour delivered not to exceed a maximum monthly tax of \$10.00.
- (b) The tax in every case shall be collected by the service provider from the consumer and shall be paid by the consumer to the service provider for the use of the county at the time the purchase price or charge for electricity shall become due and payable under the agreement between the consumer and the service provider.

(c) Until the consumer pays the tax to the service provider, the tax shall constitute a debt to the county. If any consumer receives and pays for electricity but refuses to pay the tax on the bill, the service provider shall notify the county of the name and address of such consumer. If any consumer fails to pay a bill issued by a service provider, including the tax, the service provider shall follow its normal collection procedures with respect to the charge for electric service and the tax, and upon collection of the bill or any part thereof shall apportion the net amount collected between the charge for electric service and the tax and remit the tax portion to the county. After the consumer pays the tax to the service provider, the taxes shall be deemed to be held in trust by such service provider until remitted to the county.

(d) 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.

(Code 1980, § 20-43; Code 1995, § 20-252; Ord. No. 898, § 1, 6-28-1995; Ord. No. 1006, § 2, 10-10-2000)

Sec. 20-241. - 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 telecommunications service provided that the consumer's service address is located within the county a tax in the amount of ten 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 service shall exceed \$10.00 for a residential consumer, there shall be no tax computed on so much of such bill as shall exceed \$10.00;

(2) In any case any monthly bill submitted by any service provider for commercial or industrial service shall exceed \$100.00 for a commercial or industrial consumer, there shall be no tax computed on so much of such bill as shall exceed \$100.00; and

(3) In any case any monthly bill submitted by any service provider to a consumer for mobile local telecommunications service shall exceed \$30.00, there shall be no tax computed on so much of such bill as shall exceed \$30.00.

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 telecommunications 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) A service provider shall remit to the county on or before the last day of the month the amount of tax billed during the preceding month to consumers with a service address in the county.

(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.

(Code 1995, § 20-252.1; Ord. No. 898, § 2(20-43.1), 6-28-1995)

Sec. 20-242. - Computation on bimonthly bill.

(a) In case bills are submitted by any service provider of local telecommunications service for two months'

service, the tax shall be computed as if the figure of \$10.00 specified in section 20-241 were \$20.00, the figure of \$100.00 specified in section 20-241 were \$200.00 and the figure of \$30.00 specified in section 20-241 were \$60.00.

(b) In the case of bills submitted by a service provider of electricity service for two months' service, the tax shall be determined as follows:

- (1) The kilowatt hours delivered will be divided by two;
- (2) A monthly tax will be calculated using the base tax and rates in section 20-240(a); and
- (3) The monthly tax calculated will be multiplied by two, but in no case shall exceed twice the monthly maximum tax set out in section 20-240(a).

(Code 1980, § 20-44; Code 1995, § 20-253; Ord. No. 898, § 1, 6-28-1995; Ord. No. 1006, § 3, 10-10-2000)

Sec. 20-243. - Amount of tax for enhanced emergency telephone service.

In addition to the tax imposed and levied under section 20-241, there is hereby imposed and levied by the county upon each and every consumer of local telephone service a tax in the amount of \$1.00 per telephone line per month. This tax shall be paid by the consumer to the service provider of local telephone service for the use of the county to pay the initial capital, installation and maintenance costs of its E-911 system and to offset recurring maintenance, repair and system upgrade costs and salaries or portions of salaries of dispatchers or call-takers paid by the county which are directly attributable to the E-911 program.

(Code 1980, § 20-44.1; Code 1995, § 20-254; Ord. No. 898, § 1, 6-28-1995)

Sec. 20-244. - Exemptions.

- (a) The United States of America, the state and the political subdivisions, boards, commissions and authorities thereof are hereby exempted from the payment of the taxes imposed and levied by this article with respect to the purchase of electricity service and local telecommunications service used by such governmental agencies.
- (b) The taxes hereby imposed and levied on consumers of local telecommunications service shall apply to all charges made for such service; provided, however, that local messages which are paid for by inserting coins in coin-operated telephones shall be exempt from the tax imposed and levied under section 20-241.
- (c) Provided, further, there shall be no tax on bills rendered to a public service corporation or a municipality on sales of electricity purchased for resale.

(Code 1980, § 20-45; Code 1995, § 20-255; Ord. No. 898, § 1, 6-28-1995)

Sec. 20-245. - Collection and remittance by service provider.

- (a) It shall be the duty of every service provider in acting as the tax collection medium or agency for the county to collect from the consumer for the use of the county the taxes hereby imposed and levied at the time of collecting the purchase price or gross charges. The taxes imposed, levied and collected during each calendar month shall be reported and paid by each service provider to the business section manager in the office of the director of finance on or before the 15th day of the second calendar month thereafter, except as provided in section 20-241(c), together with the name and address of any consumer who has refused to pay the taxes. The required reports shall be in the form prescribed by the director of finance.
- (b) Whenever the tax imposed and levied under section 20-243 is collected by the service provider acting as a tax collecting medium or agency for the county in accordance with this section, such service provider shall be allowed as compensation for the collection and remittance of this tax, three percent of the amount of tax due and accounted for. The service provider shall deduct this compensation from the payments made

to the business section manager in accordance with this section.

(Code 1980, § 20-46; Code 1995, § 20-256; Ord. No. 898, § 1, 6-28-1995; Ord. No. 1006, § 4, 10-10-2000)

Sec. 20-246. - Records of service provider.

Each and every service provider shall keep complete records showing all charges or taxable purchases, as those terms are used in this article, which records shall show the price or gross charge against each consumer, the date thereof and the date of payment thereof, the amount of tax imposed hereunder and the amount of compensation deducted by the service provider as provided by section 20-245. Such records shall be maintained for 36 months and shall be kept open for inspection by the duly authorized agents of the county during regular business hours on business days, and the duly authorized agents of the county shall have the right, power and authority to make such transcripts and copies thereof during such time as they may desire.

(Code 1980, § 20-47; Code 1995, § 20-257; Ord. No. 898, § 1, 6-28-1995; Ord. No. 970, § 1, 3-25-1998; Ord. No. 1006, § 5, 10-10-2000)

Sec. 20-247. - Powers and duties of director of finance.

(a) The director of finance is hereby authorized to make and establish rules and regulations, not inconsistent with this article, to carry out the provisions of this article.

(b) The director of finance is hereby authorized to extend for good cause shown the time of filing any return required to be filed by the provisions of this article, provided that no such extension shall exceed a period of 30 days.

(c) The director of finance shall be charged with the power and duty of collecting the taxes levied and imposed under this article. The director of finance may delegate so much of the power and responsibility for the operation and enforcement of this tax as he deems advisable.

(Code 1980, § 20-48; Code 1995, § 20-258)

Secs. 20-248 – 20-272. - Reserved.

ARTICLE IX. - TRANSIENT OCCUPANCY TAX

*State law reference – Authority to levy transient occupancy tax, Code of Virginia, § 58.1-3819 et seq.

Sec. 20-273. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Director means the director of finance of the county.

Hotel includes, but is not limited to, any public or private hotel, inn, apartment hotel, hostelry, tourist home or house, motel, boardinghouse, short-term rental or other lodging place within the county, offering lodging to any transient for compensation.

Lodging includes, but is not limited to, any space or room furnished any transient.

Operator means the proprietor of any dwelling, lodging, or sleeping accommodations offered as a short-term rental, whether in the capacity of owner, lessee, sublessee, mortgagee in possession, licensee, or any other possessory capacity.

Person includes, but is not limited to, an individual, firm, partnership, association, corporation, person acting in a representative capacity, or any group of individuals acting as a unit.

Room rental means the total charge, exclusive of any tax imposed on such charge, made by any hotel for lodging furnished any transient. If the charge made by any hotel to a transient includes any charge for services or accommodations in addition to that of lodging or use of space, then such portion of the total charge as represents only lodging or space rental shall be distinctly set out and billed to such transient by such hotel as a separate item.

Short-term rental means the provision of a room or space that is suitable or intended for occupancy for dwelling, sleeping, or lodging purposes, for a period of fewer than 30 consecutive days, in exchange for a charge for the occupancy.

Transient means the same person who, for a period of less than 30 consecutive days, either at his own expense or at the expense of another, obtains lodging or use of space in any hotel or travel campground, for which lodging or use of space a charge is made.

Travel campground means any area, site, lot, field or tract of land offering spaces for recreational vehicles or campsites for transient dwelling purposes, or temporary dwelling during travel, recreational or vacation uses.

(Code 1980, § 20-51; Code 1995, § 20-281; Ord. No. 961, § 1, 9-24-1997)

Cross reference – Definitions and rules of construction, § 1-2.

Sec. 20-274. - Levy; amount.

(a) There is hereby imposed and levied by the county on each transient tax in the percentages established below of the total amount paid for room rental by or for any transient to any hotel or travel campground:

- (1) Pursuant to Code of Virginia, § 58.1-3819, two percent.
- (2) Pursuant to Code of Virginia, § 58.1-3823(A)1, four percent.
- (3) Pursuant to Code of Virginia, § 58.1-3823(A)2, two percent.

(b) Such tax shall be collected from such transient at the time and in the manner provided in this article.

(Code 1980, § 20-52; Code 1995, § 20-282; Ord. No. 925, § 1, 7-10-1996; Ord. No. 978, § 1, 7-8-1998)

State law reference – Authority to levy transient occupancy tax, Code of Virginia, § 58.1-3819 et seq.

Sec. 20-275. - Collection.

Every person receiving any payment for room rental with respect to which a tax is levied under this article shall collect the amount of tax thereby imposed from the transient on whom the tax is levied, or from the person paying for such room rental, at the time payment for such room rental is made. Such tax shall be deemed to be held in trust by the person required to collect the tax until remitted to the county as required in this article.

(Code 1980, § 20-53; Code 1995, § 20-283)

Sec. 20-276. - Reports and remittance of tax.

The person collecting the tax levied under this article shall make a report upon such forms and setting forth such information as the director may prescribe and require. Such reports shall show the amount of

room rental charges collected and the tax required to be collected, and shall be signed and delivered to the director with a remittance of such tax. Such report and remittance shall be made at least once in every 30-day period and not later than the 20th day of the month next following the month in which such tax was collected.

(Code 1980, § 20-54; Code 1995, § 20-284)

Sec. 20-277. - Penalty for failure to file report or pay tax; interest on unpaid tax.

(a) If any person, whose duty it is so to do, shall fail or refuse to file with the director the report required under this article within the time specified in this article, there shall be assessed a penalty in the amount of ten percent of the tax assessable on such report. Such penalty shall be assessed on the day following the day on which the report was due unless otherwise provided by Code of Virginia, § 58.1-3903. Any such penalty, when assessed, shall become a part of the tax. The imposition of such penalty shall not be deemed a defense to any criminal prosecution for failing to make any report required in this article.

(b) If any person, whose duty it is so to do, shall fail or refuse to remit to the director the tax required to be collected and paid under this article within the time specified in this article, there shall be assessed a penalty in the amount of ten percent of the tax past due. Such penalty shall be assessed on the day following the day on which the tax was due unless otherwise provided by Code of Virginia, § 58.1-3903. Any such penalty, when assessed, shall become a part of the tax.

(c) In addition, there shall be assessed interest at the rate of ten percent per year on the amount of tax past due, which interest shall commence on the day following the day on which the tax was due unless otherwise provided by Code of Virginia, § 58.1-3903.

(Code 1980, § 20-55; Code 1995, § 20-285; Ord. No. 966, § 3, 11-12-1997)

Sec. 20-278. - Procedure upon failure to file return or pay tax.

If any person shall fail or refuse to collect the tax imposed under this article or to make within the time provided in this article the reports and remittance required in this article, the director shall make an estimate of the amount of taxes due the county by such person upon the best information available and shall proceed to determine and assess against such person such tax and penalty and interest as provided for in this article. The director shall notify such person by registered mail, sent to his last known place of address, of the amount of such tax and interest and penalty, and the total amount thereof shall be payable within ten days from the date of such notice. The director shall have the power to examine such books and records as is provided for by section 20-374.

(Code 1980, § 20-56; Code 1995, § 20-286)

Sec. 20-279. - Criminal penalties.

Any corporate or partnership officer as defined in Code of Virginia, § 58.1-3906, or any other person required to collect, account for and pay over the tax levied in this article who willfully fails to collect or truthfully account for and pay over such tax, and any such officer or person who willfully evades or attempts to evade any such tax or the payment thereof, shall be guilty of a misdemeanor.

(Code 1980, § 20-56; Code 1995, § 20-287; Ord. No. 930, § 1, 8-14-1996)

Sec. 20-280. - Short-term rental registry established; annual registration required; fee.

There is hereby established a short-term rental registry in the county. Operators within the county are required to register annually with the director of the department of finance and provide (i) the complete

name of the operator and (ii) the address of each property in the locality offered for short-term rental by the operator. The operator must pay a fee of \$200.00 at the time of registration each year. Registrations are valid for one year from the date of registration. No operator may offer a property for short-term rental without a valid registration.

Sec. 20-281. - Exemptions.

The following operators are exempt from the registration requirement of § 20-280:

- (1) Operators licensed by the Real Estate Board or who are property owners represented by a real estate licensee;
- (2) Operators registered pursuant to the Virginia Real Estate Time-Share Act, Code of Virginia, § 55.1-2200 et seq.
- (3) Operators licensed or registered with the Department of Health, related to the provision of room or space for lodging;
- (4) Operators licensed or registered with the county, related to the rental or management of real property, including licensed real estate professionals, hotels, motels, campgrounds, and bed and breakfast establishments.

Sec. 20-282. - Penalties.

- (a) *Penalties for violations of registration requirement.* Any operator required to register who violates § 20-280 is liable to the county for a penalty of \$500 for each violation. Unless and until the operator pays the penalty and registers the property, the operator may not continue to offer such property for short-term rental. Upon more than one violation of this article as it related to a specific property, the operator will be prohibited from registering and offering that property for a short-term rental.
- (b) *Penalty for violations of other applicable laws and regulations.* Any operator required to register will be prohibited from offering a specific property for short-term rental upon three or more violations on more than three occasions of applicable state and local laws, ordinances, and regulations, as they related to the short-term rental.

Secs. 20-283 – 20-306. - Reserved.

ARTICLE X. - SHORT-TERM RENTAL PROPERTY TAX

*State law reference – Authority to adopt, Code of Virginia, § 58.1-3510.1.

Sec. 20-307. - Short-term rental property; short-term rental business.

For purposes of this article:

- (1) Short-term rental property means all tangible personal property held for rental and owned by a person engaged in the short-term rental business, except trailers as defined in Code of Virginia, § 46.2-100, as amended, and other tangible personal property required to be licensed or registered with the state department of motor vehicles, the state department of game and inland fisheries, or the state department of aviation.
- (2) A person is engaged in the short-term rental business if:
 - a. Not less than 80 percent of the gross rental receipts of such business during the preceding

year are from transactions involving the rental of short-term rental property, other than heavy equipment property, for rental periods of 92 consecutive days or less, including all extensions and renewals to the same person or a person affiliated with the lessee; or

b. Not less than 60 percent of the gross rental receipts of such business during the preceding year are from transactions involving the rental of heavy equipment property for periods of 270 consecutive days or less, including all extensions and renewals to the same person or a person affiliated with the lessee. For purposes of this subdivision, the term "heavy equipment property" means rental property of an industry that is described under code 532412 or 532490 of the 2002 North American Industry Classification System as published by the United States Census Bureau, excluding office furniture, office equipment, and programmable computer equipment and peripherals as defined in Code of Virginia, § 58.1-3503.A.16, as amended.

(3) For purposes of determining whether a person is engaged in the short-term rental business as defined in subsection (2) of this section:

a. A person is affiliated with the lessee of rental property if such person is an officer, director, partner, member, shareholder, parent or subsidiary of the lessee, or if such person and the lessee have any common ownership interest in excess of five percent;

b. Any rental to a person affiliated with the lessee shall be treated as rental receipts but shall not qualify for purposes of the 80 percent requirement of subsection (2)a of this section or the 60 percent requirement of subsection (2)b of this section; and

c. Any rental of personal property which also involves the provision of personal services for the operation of the personal property rented shall not be treated as gross receipts from rental; provided, however, that the delivery and installation of tangible personal property shall not mean operation for the purposes of this subsection.

(4) A person who has not previously been engaged in the short-term rental business who applies for a certificate of registration pursuant to section 20-310 shall be eligible for registration upon his certification that he anticipates meeting the requirements of a specific subdivision of subsection (2) of this section, designated by the applicant at the time of application, during the year for which registration is sought.

(5) In the event that the director of finance makes a written determination that a rental business previously certified as a short-term rental business under section 20-311 has failed to meet either of the tests set forth in subsection (2) of this section during a preceding tax year, such business shall lose its certification as a short-term rental business and shall be subject to the business personal property tax with respect to all rental property for the tax year in which such certification is lost and any subsequent tax years until such time as the rental business obtains recertification under section 20-311. In the event that a rental business loses its certification as a short-term rental business pursuant to this subsection, such business shall not be required to refund to customers short-term rental property taxes previously collected in good faith and shall not be subject to assessment for business personal property taxes with respect to rental property for tax years preceding the year in which the certification is lost unless the director of finance makes a written determination that the business obtained its certification by knowingly making materially false statements in its application, in which case the director of finance may assess the taxpayer the amount of the difference between short-term rental property taxes remitted by such business during the period in which the taxpayer wrongfully held certification and the business personal property taxes that would have been due during such period but for the certification obtained by the making of the materially false statements. Any such assessment, and any determination not to certify or to decertify a rental business as a short-term rental business as defined in this section, may be appealed pursuant to the procedures and requirement in Code of Virginia, § 58.1-3983.1 for appeals of local business taxes, which shall apply mutatis mutandis to such assessments and certification decisions.

(6) A rental business that has been decertified under the provision of subsection (5) of this section shall be eligible for recertification for a subsequent tax year upon a showing that it has met one of the tests provided in subsection (2) of this section for at least ten months of operations during the present tax year.

(Code 1980, §§ 20-58 – 20-60; Code 1995, § 20-311; Ord. No. 1137, § 1, 11-10-2009)

State law reference – Similar provisions, Code of Virginia, § 58.1-3510.

Sec. 20-308. - Levy; amount.

Pursuant to Code of Virginia, § 58.1-3510.6A for each tax year, there is hereby levied and imposed a tax of one percent on the gross proceeds arising from rentals of every person engaged in the short-term rental business. Such tax shall be in addition to the tax levied pursuant to Code of Virginia, § 58.1-605. The term "gross proceeds" means the total amount charged to each person for the rental of short-term rental property, excluding any state and local sales tax paid under the provisions of Code of Virginia, title 58.1, ch. 6 (Code of Virginia, § 58.1-600 et seq.).

(Code 1980, § 20-58; Code 1995, § 20-312; Ord. No. 1137, § 2, 11-10-2009)

Sec. 20-309. - Taxation of rental property other than short-term rental property.

Except for daily rental vehicles pursuant to Code of Virginia, § 58.1-3510 and short-term rental property, rental property shall be classified, assessed and taxed as tangible personal property.

(Code 1980, § 20-61; Code 1995, § 20-313; Ord. No. 1137, § 3, 11-10-2009)

State law reference – Similar provisions, Code of Virginia, § 58.1-3510(D).

Sec. 20-310. - Application for certificate of registration.

(a) Every person engaging in the business of short-term rental shall file annually an application for a certificate of registration with the director of finance for each place of business in the county from which short-term rental business will be conducted by the applicant. Such application shall be filed by December 1 of the year preceding or within 30 days of the beginning of a short-term rental business. The application shall be on a form prescribed by the director of finance and shall set forth the name under which the applicant operates or intends to operate the rental business, the location of the business, the subsection of section 20-307(2) under which the business asserts that it is qualified for certification as a short-term rental business, and such other information as the director of finance may require.

(b) A list of rental inventory and copies of the applicant's standard rental contracts shall be submitted with each application.

(c) Each applicant shall sign the application as owner of the rental business. If the rental business is owned by an association, partnership, limited liability company or corporation, the application shall be signed by a member, partner, executive officer or other person specifically authorized by the association, partnership, limited liability company or corporation to sign.

(Code 1980, § 20-62; Code 1995, § 20-314; Ord. No. 1137, § 4, 11-10-2009)

State law reference – Renter's certificate of registration, Code of Virginia, § 58.1-3510.2.

Sec. 20-311. - Issuance of certificate of registration; display; transfer; expiration.

- (a) Upon approval of the application under section 20-310 by the director of finance, a certificate of registration shall be issued. This certificate shall be conspicuously displayed at all times at the place of business for which it is issued.
- (b) The certificate is not assignable and shall be valid only for the person in whose name it is issued and the place of business designated.
- (c) If the holder of a certificate ceases to conduct business at the place specified in the certificate, the certificate shall thereupon expire, and such holder shall inform the director of finance in writing within 30 days after the business has ceased at the specified location the date that the business ceased.
- (Code 1980, § 20-63; Code 1995, § 20-315)

State law reference— Similar provisions, Code of Virginia, § 58.1-3510.2.

Sec. 20-312. - Collection and remittance; returns.

Every person engaged in the short-term rental business shall collect the short-term rental property tax from the lessee of the short-term rental property at the time of the rental. The lessor of the short-term rental property shall transmit a quarterly return to the director of finance, indicating the gross proceeds derived from the short-term rental business, and shall remit therewith the payment of such tax as is due for the quarter. The quarterly returns and payment of tax shall be filed with the director of finance on or before April 15, July 15, October 15 and January 15, representing, respectively, the gross proceeds and taxes collected during the preceding quarters ending March 31, June 30, September 30 and December 31. The tax imposed by this article shall become delinquent for each quarter on April 16, July 16, October 16 and January 16. The return shall be upon such forms and set forth such information as the director of finance may require, showing the amount of gross proceeds and the tax required to be collected. The taxes required to be collected under this article shall be deemed to be held in trust by the business required to collect such taxes until remitted as required in this article. Any person who neglects, fails or refuses to collect the tax imposed by this article shall be liable for and pay the tax himself.

(Code 1980, § 20-64; Code 1995, § 20-316; Ord. No. 1137, § 5, 11-10-2009)

State law reference— Similar provisions, Code of Virginia, § 58.1-3510.1.

Sec. 20-313. - Records.

- (a) *Record of transactions.* The person collecting the short-term rental property tax shall maintain a record of all rental transactions for which this tax is collected, which record shall contain:
- (1) A description of the property rented;
 - (2) The period of time for which the property was rented;
 - (3) The name of the person to whom the property was rented; and
 - (4) The amount charged for each rental, including all late charges, penalties and interest.
- (b) *Record of exemptions.* In addition to the information specified in subsection (a) of this section, every person engaged in a short-term rental business shall maintain a complete record of all exemptions from payment of this tax granted to renters of short-term rental property, including:
- (1) A copy of the state department of taxation tax exemption certificate; or
 - (2) A copy of the U.S. State Department tax exemption certificate, which U.S. State Department card must specify the renter by name as exempt from sales tax; or
 - (3) Other explanation and proof of claimant exemption.

(Code 1980, § 20-65; Code 1995, § 20-317; Ord. No. 1137, § 6, 11-10-2009)

Sec. 20-314. - Procedure upon failure to file return or filing of false return.

Except as otherwise provided in section 20-307(5), if any person, whose duty it is so to do, shall fail or refuse to file within the time provided in this article the returns required in this article or files a return that is false or fraudulent, it shall be the duty of the director of finance to make an estimate for the taxable period of the gross proceeds of such person and assess the tax plus such penalties and interest as are provided in this article. The director of finance shall give the person ten days' notice in writing requiring such person to appear before him with such books, records and papers as he may require relating to the business for the taxable period. The director of finance may require the person or his agents and employees to give testimony or to answer interrogatories under oath administered by the director of finance respecting such gross proceeds or the failure to make a return thereof as provided in this article. If any person fails to make any such return or refuses to permit an examination of his books, records or papers or to appear and answer questions within the scope of such investigation, the director of finance shall proceed to make an assessment based upon such information as may be available to him. The assessment so made shall be deemed prima facie correct.

(Code 1980, § 20-66; Code 1995, § 20-318; Ord. No. 1137, § 7, 11-10-2009)

Sec. 20-315. - Penalty for failure to file return, failure to remit tax or filing fraudulent return; interest on unpaid tax.

- (a) When any person whose duty it is so to do fails to make any return and pay the full amount of the tax required by this article, there shall be imposed, in addition to other penalties provided in this article, a specific penalty to be added to the tax in the amount of six percent if the failure is for not more than one month, with an additional six percent for each additional month, or fraction thereof, during which the failure continues, not to exceed 30 percent in the aggregate. In no case, however, shall the penalty be less than \$10.00, and such minimum penalty shall apply whether or not any tax is due for the period for which such return was required. If such failure is due to providential or other good cause shown to the satisfaction of the director of finance, such return with or without remittance may be accepted exclusive of penalties.
- (b) In the case of a false or fraudulent return where willful intent exists to defraud the county of any tax due under this article, or in the case of a willful failure to file a return with the intent to defraud the county of any such tax, a specific penalty of 50 percent of the amount of the proper tax shall be assessed. It shall be prima facie evidence of intent to defraud the county of any tax due under this article when any person engaged in the short-term rental business reports his gross proceeds at 50 percent or less of the actual amount.
- (c) All penalties and interest imposed by this article shall be payable by the person engaged in the short-term rental business and collectible by the director of finance in the same manner as if they were a part of the tax imposed.
- (d) Interest at a rate determined in accordance with Code of Virginia, § 58.1-15 shall accrue on the tax until the tax is paid, or until an assessment is made, pursuant to Code of Virginia, § 58.1-15 after which interest shall accrue as provided therein.
- (e) The imposition of any penalties or interest shall not be deemed a defense to any criminal prosecution for failing to make any return or remittance required in this article.

(Code 1980, § 20-67; Code 1995, § 20-319)

State law reference— Similar provisions, Code of Virginia, §§ 58.2-635, 58.1-3510.3.

Sec. 20-316. - Exemptions.

No tax shall be collected or assessed on rentals by the state, any political subdivision of the state or the United States or any rental of durable medical equipment as defined in Code of Virginia, § 58.1-609.10. Additionally, all exemptions applicable in Code of Virginia, §§ 58.1-609.1 – 58.1-609.11 shall apply mutatis mutandis to the short-term rental property tax.

(Code 1980, § 20-68; Code 1995, § 20-320; Ord. No. 1137, § 8, 11-10-2009)

State law reference – Exemptions, Code of Virginia, § 58.1-3510.3.

Sec. 20-317. - Collection without certificate of registration prohibited.

No person renting any property or service to any other person shall collect from the lessee the short-term rental property tax authorized by this article unless he has a valid certificate of registration issued for the current year by the director of finance. Except as otherwise provided in section 20-307(5), any payments collected by any person, certified or uncertified, in a manner not authorized by law shall be refunded to such lessees as can be identified, with the remainder forfeited to the county.

(Code 1980, § 20-69; Code 1995, § 20-321; Ord. No. 1137, § 9, 11-10-2009)

Sec. 20-318. - Criminal penalties.

Any corporate or partnership officer as defined in Code of Virginia, § 58.1-3906 or any other person required to collect, account for and pay over the tax levied in this article who willfully fails to collect or truthfully account for and pay over such tax, and any such officer or person who willfully evades or attempts to evade any such tax or the payment thereof, shall be guilty of a misdemeanor.

(Code 1980, § 20-70; Code 1995, § 20-322; Ord. No. 930, § 2, 8-14-1996)

State law reference – Similar provisions, Code of Virginia, §§ 58.1-3510.3, 58.1-636.

Sec. 20-319. - Payment of tax with bad check.

If any check tendered for any amount due under this article is not paid by the bank on which it is drawn and any person subject to the provisions of this article fails to pay the director of finance the amount due the county within five days after the director has given him written notice by registered or certified mail or in person by an agent that such check was returned unpaid, the person by whom such check was tendered shall be guilty of a violation of Code of Virginia, § 18.2-182.1.

(Code 1980, § 20-71; Code 1995, § 20-323)

State law reference – Authority to so provide, Code of Virginia, §§ 58.1-3510, 58.1-637.

Sec. 20-320. - Sale or closing of business.

If any person liable for any tax, penalty or interest levied under the provisions of this article sells out his business or stock of goods or quits business, he shall make a final return and payment within 15 days after the date of selling or quitting the business. His successor or assigns, if any, shall withhold sufficient of the purchase money to cover the amount of such tax, penalty and interest due and unpaid until the former owner produces a receipt from the director of finance showing that they have been paid or a certificate stating that no tax, penalty or interest is due. If the purchaser of a business or stock of goods fails to withhold the purchase money as provided in this section, the purchaser shall be personally liable for the payment of such tax, penalty and interest due and unpaid by the former owner.

(Code 1980, § 20-72; Code 1995, § 20-324)

State law reference— Authority to so provide, Code of Virginia, §§ 58.1-3510m, 58.1-637.

Sec. 20-321. - Bond.

The director of finance, when in his judgment it is necessary and advisable so to do in order to secure the collection of the short-term rental tax, may require any person subject to such tax to file with him a bond with such surety as the director of finance determines is necessary to cover the payment of the tax, penalty or interest due or which may become due from such person.

(Code 1980, § 20-73; Code 1995, § 20-325; Ord. No. 1137, § 10, 11-10-2009)

State law reference— Authority to so provide, Code of Virginia, §§ 58.1-3510, 58.1-630.

Sec. 20-322. - Jeopardy assessment.

If the director of finance is of the opinion that the collection of the tax or any amount of the tax required to be collected and paid under this article will be jeopardized by delay, he shall make an assessment of the tax or amount of tax required to be collected and shall mail or issue a notice of such assessment to the taxpayer, together with a demand for immediate payment of the tax or of the deficiency in tax declared to be in jeopardy, including penalties. In the case of a tax for a current period, the director of finance may declare the taxable period of the taxpayer immediately terminated and shall cause notice of such finding and declaration to be mailed or issued to the taxpayer, together with a demand for immediate payment of the tax based on the period declared terminated, and such tax shall be immediately due and payable, whether or not the time otherwise allowed by law for filing a return and paying the tax has expired. Assessments provided for in this section shall become immediately due and payable, and, if any such tax, penalty or interest is not paid upon demand by the director of finance, he shall proceed to collect the tax, penalty or interest by legal process or, in his discretion, he may require the taxpayer to file such bond as in his judgment may be sufficient to protect the interest of the county.

(Code 1980, § 20-74; Code 1995, § 20-326)

State law reference— Authority to so provide, Code of Virginia, §§ 58.1-3510, 58.1-631.

Sec. 20-323. - Period of limitations.

Except as otherwise provided in section 20-307(5), the tax imposed by this article shall be assessed within three years from the date on which such taxes became due and payable, or in the case of a false or fraudulent return with intent to evade payment of the tax imposed by this article, or a failure to file a return, the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time within six years from such date. The director of finance shall not examine any person's records beyond the three-year period of limitations unless he has reasonable evidence of fraud or reasonable cause to believe that such person was required by law to file a return and failed to do so.

(Code 1980, § 20-75; Code 1995, § 20-327; Ord. No. 1137, § 11, 11-10-2009)

State law reference— Authority to so provide, Code of Virginia, §§ 58.1-3510, 58.1-634.

Secs. 20-324 – 20-349. - Reserved.

ARTICLE XI. - LICENSE TAX

***Cross reference** – Amusements, ch. 4; billiard parlors, § 4-31 et seq.; dance halls, § 4-61 et seq.; musical or entertainment festivals, § 4-91 et seq.; closing out and similar sales, ch. 8; massage establishments, ch. 12; dealers in precious metals and gems, § 15-104 et seq.; pawnbrokers, § 15-144 et seq.; adult businesses, § 15-181 et seq.; taxicabs and other vehicles for hire, ch. 21.

***State law reference** – Authority to levy license taxes, Code of Virginia, §§ 58.1-3702, 58.1-3703; limitations on levy, Code of Virginia, § 58.1-3706; mandatory ordinance provisions, Code of Virginia, § 58.1-3703.1.

DIVISION 1. - GENERALLY**Sec. 20-350. - Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Affiliated group means:

(1) One or more chains of corporations subject to inclusion connected through stock ownership with a common parent corporation which is a corporation subject to inclusion if:

- a. Stock possessing at least 80 percent of the voting power of all classes of stock and at least 80 percent of each class of the nonvoting stock of each of the corporations subject to inclusion, except the common parent corporation, is owned directly by one or more of the other corporations subject to inclusion; and
- b. The common parent corporation directly owns stock possessing at least 80 percent of the voting power of all classes of stock and at least 80 percent of each class of the nonvoting stock of at least one of the other subject to inclusion corporations. As used in this subdivision, the term "stock" does not include nonvoting stock which is limited and preferred as to dividends; the phrase "corporation subject to inclusion" means any corporation within the affiliated group irrespective of the state or country of its incorporation; and the term "receipts" includes gross receipts and gross income.

(2) Two or more corporations if five or fewer persons who are individuals, estates or trusts own stock possessing:

- a. At least 80 percent of the total combined voting power of all classes of stock entitled to vote or at least 80 percent of the total value of shares of all classes of the stock of each corporation; and
- b. More than 50 percent of the total combined voting power of all classes of stock entitled to vote or more than 50 percent of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each such person only to the extent such stock ownership is identical with respect to each such corporation.

When one or more of the corporations subject to inclusion, including the common parent corporation, is a nonstock corporation, the term "stock" as used in this subsection shall refer to the nonstock corporation membership or membership voting rights, as is appropriate to the context.

(3) Two or more entities if such entities satisfy the requirements of subsection (1) or (2) of this definition if they were corporations and the ownership interests therein were stock.

Assessment means a determination as to the proper rate of tax, the measure to which the tax rate is applied, and ultimately the amount of tax, including additional or omitted tax, that is due. An assessment shall include a written assessment made pursuant to notice by the assessing official or a self-assessment

made by a taxpayer upon the filing of a return or otherwise not pursuant to notice. Assessments shall be deemed made by an assessing official when a written notice of assessment is delivered to the taxpayer by the assessing official or an employee of the assessing official, or mailed to the taxpayer at his last known address. Self-assessments shall be deemed made when a return is filed, or if no return is required, when the tax is paid. A return filed or tax paid before the last day prescribed in this chapter for the filing or payment thereof shall be deemed to be filed or paid on the last day specified for the filing of a return or the payment of tax, as the case may be.

Assessor or assessing official means the director of finance.

Base year means the calendar year preceding the license year, except as provided elsewhere in this article.

Business means a course of dealing which requires the time, attention and labor of the person so engaged for the purpose of earning a livelihood or profit. Business implies a continuous and regular course of dealing, rather than an irregular or isolated transaction. A person may be engaged in more than one business. The following acts create a rebuttable presumption that a person is engaged in a business:

- (1) Advertising or otherwise holding oneself out to the public as being engaged in a particular business; or
- (2) Filing tax returns, schedules and documents that are required only of persons engaged in a trade or business.

Definite place of business means an office or location at which occurs a regular and continuous course of dealing for 30 consecutive days or more. A definite place of business for a person engaged in business may include a location leased or otherwise obtained from another person on a temporary or seasonal basis or real property leased to another. A person's residence shall be deemed to be a definite place of business if there is no definite place of business maintained elsewhere and the person would not be licensable as a peddler or itinerant merchant.

Entity means a business organization, other than a sole proprietorship, that is a corporation, limited liability company, limited partnership, or limited liability partnership duly organized under the laws of the state or another state.

Financial services means the buying, selling, handling, managing, investing, and providing of advice regarding money, credit, securities, or other investments.

Fuel sales shall mean retail sales of alternative fuel, blended fuel, diesel fuel, gasohol, or gasoline, as such terms are defined in Code of Virginia, § 58.1-2201.

Gas retailer means a person or entity engaged in business as a retailer offering to sell at retail on a daily basis alternative fuel, blended fuel, diesel fuel, gasohol, or gasoline, as such terms are defined in Code of Virginia, § 58.1-2201.

Gross receipts means the whole, entire, total receipts, without deduction.

Gross receipts of the business.

- (1) The term "gross receipts of the business" means the gross sales of merchandise and the gross receipts of the business, occupation or profession from all earnings, fees, commissions, brokerage charges and rentals, and from all income whatsoever arising from or growing out of the conduct of the business, occupation or profession licensed in this article during the license year immediately

preceding the license year for which the tax is being computed, without any deductions whatsoever, unless otherwise expressly provided.

(2) The term "gross receipts of the business" shall not include:

- a. Amounts received and paid to the United States, the state or any county, city or town for the state retail sales or use tax, for any local sales tax or meal tax or any local excise tax on cigarettes, or amounts received for any federal or state excise taxes on motor fuels.
- b. Any amount representing the liquidation of a debt or conversion of another asset to the extent that the amount is attributable to a transaction previously taxed (e.g., the factoring of accounts receivable created by sales which have been included in the receipts even though the creation of such debt and factoring are a regular part of the business).
- c. Any amount representing returns and allowances granted by the business to its customer.
- d. Receipts which are the proceeds of a loan transaction in which the taxpayer is the obligor.
- e. Receipts representing the return of principal of a loan transaction in which the taxpayer is the creditor, or the return of principal or basis upon the sale of a capital asset.
- f. Rebates and discounts taken or received on account of purchases by the taxpayer. A rebate or other incentive offered to induce the recipient to purchase certain goods or services from a person other than the offeror, and which the recipient assigns to the taxpayer in consideration of the sale of goods and services shall not be considered a rebate or discount to the taxpayer, but shall be included in the taxpayer's gross receipts together with any handling or other fees related to the incentive.
- g. Withdrawals from inventory for purposes other than sale or distribution and for which no consideration is received; and the occasional sale or exchange of assets other than inventory, whether a gain or loss is recognized for federal income tax purposes.
- h. Investment income not directly related to the privilege exercised by a licensable business not classified as rendering financial services. This exclusion shall apply to interest on bank accounts of the business, and to interest, dividends and other income derived from the investment of its own funds in securities and other types of investments unrelated to the licensed privilege. This exclusion shall not apply to interest, late fees and similar income attributable to an installment sale or other transaction that occurred in the regular course of business.

State law reference— Similar provisions, Code of Virginia, § 58.1-3732(A).

(3) The following shall be deducted from gross receipts or gross purchases that would otherwise be taxable:

- a. Any amount paid for computer hardware and software that are sold to a United States federal or state government entity provided that such property was purchased within two years of the sale to said entity by the original purchaser who shall have been contractually obligated at the time of purchase to resell such property to a state or federal government entity. This deduction shall not occur until the time of resale and shall apply to only the original cost of the property and not to its resale price, and the deduction shall not apply to any of the tangible personal property which was the subject of the original resale contract if it is not resold to a state or federal government entity in accordance with the original contract obligation.
- b. Any receipts attributable to business conducted in another state or foreign country in which the taxpayer (or its shareholders, partners or members in lieu of the taxpayer) is liable for an income or other tax based upon income.

State law reference— Similar provisions, Code of Virginia, § 58.1-3732(B).

License year or license tax year means the calendar year for which a license is issued for the privilege of

engaging in business.

Person means individuals, firms, partnerships, associations, corporations and combinations of individuals of whatever form or character, including any trustee, receiver or personal representative thereof carrying on or continuing a business, profession, trade or occupation. The term "person" also shall include governmental entities and agencies, where appropriate.

Professional services means services performed by architects, attorneys-at-law, certified public accountants, dentists, engineers, land surveyors, surgeons, veterinarians, and practitioners of the healing arts (the arts and sciences dealing with the prevention, diagnosis, treatment and cure or alleviation of human physical or mental ailments, conditions, diseases, pain or infirmities) and such occupations, and no others, as the state department of taxation may list in the BPOL guidelines promulgated pursuant to Code of Virginia, § 58.1-3701. The term "profession" implies attainments in professional knowledge as distinguished from mere skill, and the application of knowledge to uses for others rather than for personal profit.

Purchases means all goods, wares and merchandise received for sale at each definite place of business of a wholesale merchant. The term shall also include the cost of manufacture of all goods, wares and merchandise manufactured by any wholesale merchant and sold or offered for sale. A wholesale merchant may elect to report the gross receipts from the sale of manufactured goods, wares and merchandise if it cannot determine the cost of manufacture or chooses not to disclose the cost of manufacture.

Real estate services means providing a service with respect to the purchase, sale, lease, rental, or appraisal of real property.

(Code 1980, § 12-2; Code 1995, § 20-351; Ord. No. 909, § 1, 10-25-1995; Ord. No. 935, § 1, 10-9-1996; Ord. No. 1109, § 1, 8-14-2007)

Cross reference – Definitions and rules of construction, § 1-2.

Sec. 20-351. - Criminal penalty.

Except as otherwise provided in this article, any person who shall violate any provision of this article shall be punished as provided in section 1-13.

(Code 1980, § 12-38; Code 1995, § 20-352)

Sec. 20-352. - Assistants to director of finance.

The director of finance shall designate such persons in his department as may be necessary to serve as assessors, collectors and clerks in the assessing, collection and issuance of licenses under the provisions of this article, and such persons within the finance department, in all respects, shall be acting as agents of the director of finance and under his supervision and control fulfilling the terms and conditions of this article.

(Code 1980, § 12-39; Code 1995, § 20-353)

Sec. 20-353. - Business section manager.

(a) Appointment. The director of finance shall designate some person in the department of finance to act as business section manager, and shall designate such persons in the department of finance to act as business inspectors as the director of finance may deem necessary and proper, who shall at all times be under the supervision and control of the director of finance.

(b) Police powers. Police powers are conferred upon the business section manager and business inspectors while engaged in performing their duties as such under the provisions of this article, and they shall exercise all the powers and authority of police officers granted to them in performing those duties. The business section manager and business inspectors shall ascertain the name of each person engaged in conducting any business, occupation or profession in the county without having obtained a license therefor, and the name of each person having a slot machine in any place mentioned in this article without having obtained a license therefor. The business section manager and business inspectors may have a summons issued for any such person charging him with a violation of the provisions of this article and may serve a copy of such summons upon such person in the manner provided by law. He shall return the original to the general district court with the manner and time of service stated thereon.

(Code 1980, § 12-34; Code 1995, § 20-354)

Sec. 20-354. - License required.

(a) It shall be unlawful for any person conducting or engaged in any business, trade or occupation in the county, who is required by this article to obtain a license therefor, to conduct or engage in such business, trade or occupation without having first obtained the license required by this article.

(b) Any person who engages in a business without obtaining the required license or after being refused a license shall not be relieved of the tax imposed under this article.

(Code 1980, § 12-38; Code 1995, § 20-355; Ord. No. 935, § 2, 10-9-1996)

Sec. 20-355. - Proper zoning required; use permit.

It shall be the duty of every person applying for a business license to ascertain if the location for the conducting of such business, trade or occupation is properly zoned and has the necessary use permit before making application for such business license as may be required. The director of finance, in any case where he knows that the location is not properly zoned for the type of business, trade or occupation applying for a business license, shall refuse to issue such business license.

(Code 1980, § 12-5; Code 1995, § 20-357)

Sec. 20-356. - Levy of tax.

There shall be levied and collected for each license tax year, or for such other period of time as may be specifically provided in this article, the license taxes as set forth in this article. The taxes imposed by the provisions of this article are in all cases imposed upon the privilege of doing business in the county, including all phases and activities of the business, trade or occupation conducted in the county.

(Code 1980, § 12-1; Code 1995, § 20-358)

State law reference – Exemptions, Code of Virginia, § 58.1-3703.

Sec. 20-357. - Application required.

Each person shall apply for a license prior to beginning business or no later than March 1 of the current license year if he filed a license application during the preceding license year. The application shall be on forms prescribed by the assessing official.

(Code 1980, § 12-6; Code 1995, § 20-359; Ord. No. 909, § 1, 10-25-1995; Ord. No. 935, § 3, 10-9-1996)

State law reference – Mandatory provisions, Code of Virginia, § 58.1-3703.1(A)2.a.

Sec. 20-358. - Estimation of gross receipts – New businesses.

Every person beginning a business, occupation or profession that is subject to a tax equal to a percentage of the gross receipts of the business shall estimate the amount of the gross receipts of the business that he will receive between the date of beginning business and the end of the then-current license tax year, and the license tax on every such person beginning business shall be a sum equal to the percentage of the difference between that estimate and any applicable deduction prescribed by the particular provision of this article applicable to such business.

(Code 1980, § 12-7; Code 1995, § 20-360; Ord. No. 909, § 1, 10-25-1995)

Sec. 20-359. - Same – Businesses not in existence for full year.

Every person whose business, occupation or profession is subject to a tax equal to a percentage of the gross receipts of the business, and who was licensed for only a part of the next preceding license tax year, shall estimate the amount of the gross receipts of the business that he will receive during the then-current license tax year, and the license tax on every such taxpayer shall be a sum equal to the percentage of the difference between that estimate and any applicable deduction prescribed by the particular provision of this article applicable to such business.

(Code 1980, § 12-8; Code 1995, § 20-361; Ord. No. 909, § 1, 10-25-1995)

Sec. 20-360. - Estimation of tax base other than gross receipts – New businesses.

Every person beginning a business, occupation or profession that is subject to a tax equal to a percentage of a basis other than gross receipts of the business shall estimate the amount of the applicable tax base for the period between the date of beginning of business and the end of the then-current license tax year, and the tax for that year shall be an amount equal to the percentage of the difference between that estimated and any applicable deduction at the rate prescribed by the applicable provisions of this article with respect to such business.

(Code 1980, § 12-9; Code 1995, § 20-362; Ord. No. 909, § 1, 10-25-1995)

Sec. 20-361. - Same – Businesses not in existence for full year.

Every person whose business, occupation or profession is subject to a tax equal to a percentage of a basis other than the gross receipts of the business, and who was assessable for only a part of the next preceding license tax year, shall estimate the amount of the applicable tax base for the then-current license tax year, and the license tax on every such taxpayer shall be a sum equal to the percentage of the difference between that estimate and any applicable deduction prescribed by the particular provision of this article applicable to such business.

(Code 1980, § 12-10; Code 1995, § 20-363; Ord. No. 909, § 1, 10-25-1995)

Sec. 20-362. - Correction of estimate at close of tax year.

Every estimate made in accordance with the provisions of sections 20-358 through 20-361 shall be subject to correction by the director of finance at the close of the license tax year so that the final correct tax shall be computed upon the basis of the actual amount of the applicable tax base at the end of the license tax year.

(Code 1980, § 12-11; Code 1995, § 20-364)

Sec. 20-363. - Designation of business location.

Every license to engage in any business, occupation or profession, unless expressly authorized elsewhere or otherwise by law, shall designate the place of such business, occupation or profession at some specified house or other definite place within the county. Engaging in any such business, occupation or profession elsewhere than at such house or definite place, unless expressly authorized elsewhere or otherwise by law, shall constitute a violation of the provisions of this article. A license which does not specify such house or definite place shall be void, provided that, where the license required is such as to clearly show that the licensee does not have a special house or definite place of business in the county, the license shall designate the residence or place of business of the licensee wherever it may be.

(Code 1980, § 12-13; Code 1995, § 20-365)

Sec. 20-364. - Persons engaged in more than one business, occupation or profession.

(a) Every person engaged in more than one business, occupation or profession in the county for which license taxes are prescribed by this article at more than one rate shall be assessed with and shall pay the license tax prescribed for the respective businesses.

(b) A person engaged in two or more businesses, occupations or professions carried on at the same place of business may elect to obtain one license for all such businesses, occupations and professions if all of the following criteria are satisfied:

(1) Each business, occupation or profession is licensable at the location and has satisfied any requirements imposed by state law or other provisions of this Code;

(2) All of the businesses, occupations or professions are subject to the same tax rate, or, if subject to different tax rates, the taxpayer agrees to be taxed on all businesses, occupations and professions at the highest rate; and

(3) The taxpayer agrees to supply all information the assessor may require concerning the nature of the several businesses, occupations and professions and their gross receipts or purchases.

The license receipt shall show the respective businesses, occupations or professions that are covered by the consolidated license tax.

(Code 1980, § 12-14; Code 1995, § 20-366; Ord. No. 909, § 1, 10-25-1995)

State law reference—Mandatory provisions, Code of Virginia, § 58.1-3703.1(A)1.

Sec. 20-365. - Transfer of license.

No license issued pursuant to this article shall be assignable or transferable.

(Code 1980, § 12-15; Code 1995, § 20-367)

Sec. 20-366. - Change in existing partnerships.

Where there is a change in a partnership federal tax identification number, it shall be considered that there is the creation of a new partnership for the purposes of this article and a beginner's license shall be required of such new partnership.

(Code 1980, § 12-16; Code 1995, § 20-368)

Sec. 20-367. - Change in business location.

When a person has obtained a license to carry on any business, occupation or profession at any

definite place in the county and desires to remove to any other place in the county and wishes his license altered accordingly, the director of finance shall make such alteration, unless there is an express provision elsewhere forbidding removal or alteration in the license.

(Code 1980, § 12-19; Code 1995, § 20-369)

Sec. 20-368. - Required records; examination of records.

Every person who is assessable with any license tax shall keep sufficient records to enable the assessor to verify the correctness of the tax paid for each of the license years assessable and to enable the assessor to ascertain what is the correct tax that was assessable for each of those years. All such records, books of accounts and other information shall be open to inspection and examination by the assessor in order to allow the assessor to establish whether a particular receipt is directly attributable to the taxable privilege exercised within the county. The assessor shall have the power and right to examine the books and records of any taxpayer liable for taxes assessable under this article, with respect to the possible liability of any person using the facilities of such taxpayers, as well as with respect to the liability of the taxpayer whose books and records are so examined. Such records shall be open to inspection at all reasonable hours. The assessor shall provide the taxpayer with the option to conduct the inspection in the taxpayer's local business office, if the records are maintained there. In the event the records are maintained outside the county, copies of the appropriate books and records shall be sent to the assessor's office upon demand. Every person who fails to keep such books and records and to preserve them shall be assessed with and pay a penalty of \$25.00 per year in addition to any tax assessed under section 20-375. This penalty shall be assessed and collected in the same manner as license taxes generally are assessed and collected.

(Code 1980, § 12-22; Code 1995, § 20-370; Ord. No. 909, § 1, 10-25-1995; Ord. No. 935, § 4, 10-9-1996)

State law reference—Mandatory provisions, Code of Virginia, § 58.1-3703.1(A)9.

Sec. 20-369. - Date of assessment and payment.

Except as may be provided elsewhere in this article and for beginners as provided herein, every license tax assessable under this article shall be assessable and due and payable on March 1 of each license year. Every license tax assessable on a person beginning business shall be assessable and due and payable, if not based on gross receipts, with the application, and, if based on gross receipts, 30 days after the commencement of the business.

(Code 1980, § 12-23; Code 1995, § 20-371; Ord. No. 909, § 1, 10-25-1995; Ord. No. 935, § 5, 10-9-1996)

State law reference—Mandatory provisions, Code of Virginia, § 58.1-3703.1(A)2.b.

Sec. 20-370. - Penalty for failure to file return or pay tax; interest on unpaid tax.

If any license tax is not filed and paid within the times provided for in this article, the following penalties and interest shall be assessed:

- (1)** A penalty of ten percent of the tax shall be imposed upon the failure to file an application or the failure to pay a tax by the due date. Only the late filing penalty shall be imposed by the assessing official if both the application and payment are late; however, both penalties shall be assessed if the taxpayer has previously failed to comply with filing or payment deadlines. Any penalty imposed shall be assessed on the day after the payment or filing was due and shall become a part of the tax. The penalties shall not be imposed or if imposed shall be abated by the official who assessed them, if

the failure to file or pay was not the fault of the taxpayer or was the fault of the official who assessed them. In order to demonstrate lack of fault, the taxpayer must show that he acted responsibly and that the failure was due to events beyond his control.

The term "acted responsibly," as used in this section, means that: (i) the taxpayer exercised the level of reasonable care that a prudent person would exercise under the circumstances in determining the filing and payment obligations for the business and (ii) the taxpayer undertook significant steps to avoid or mitigate the failure, such as requesting appropriate extensions (where applicable), attempting to prevent a foreseeable impediment, acting to remove an impediment once it occurred, and promptly rectifying a failure once the impediment was removed or the failure discovered.

The term "events beyond the taxpayer's control" includes, but is not limited to, the unavailability of records due to fire or other casualty; the unavoidable absence (e.g., due to death or serious illness) of the person with the sole responsibility for tax compliance; or the taxpayer's reasonable reliance in good faith upon erroneous written information from the assessing official, who was aware of the relevant facts relating to the taxpayer's business when he provided the erroneous information.

(2) Interest shall be charged on the late payment of the tax from the due date until the date paid without regard to fault or other reason for the late payment. Interest shall accumulate on such sums owed at a rate of ten percent per annum, commencing on the first day following the day such taxes are due. No interest shall be charged on a late payment if the late payment is made not more than 30 days from the due date of the tax.

(3) No interest shall accrue on an adjustment of estimated tax liability to actual liability at the conclusion of a base year if such adjustment is paid within 30 days of its assessment.

(Code 1980, § 12-24; Code 1995, § 20-372; Ord. No. 909, § 1, 10-25-1995; Ord. No. 935, § 6, 10-9-1996)

State law reference – Mandatory provisions, Code of Virginia, § 58.1-3703.1(A)2.c – (A)2.e.

Sec. 20-371. - Installment payments.

Whenever the aggregate amount of license taxes, exclusive of peddlers or slot machines, assessed at any one time under this article as of the first day of any license tax year against any one person with respect to the businesses, occupations and professions conducted by him in any one place is \$200.00 or more, then that aggregate amount of license taxes may be due and payable as follows: one-half thereof on March 1 of the license tax year and one-half on or before June 15 of the license tax year. If one-half of that aggregate is not paid on or before March 1 of the license tax year, the whole of the aggregate of license tax shall become due and payable on March 1 of the license tax year and there shall be added thereto the appropriate penalties and interest set forth in section 20-370. If the first half of the license taxes is paid on or before March 1 of the license tax year and the last half of the aggregate of such license taxes is not paid on or before June 15 of the license tax year, there shall be added thereto a late payment penalty and interest as set forth in section 20-370.

(Code 1980, § 12-26; Code 1995, § 20-374; Ord. No. 909, § 1, 10-25-1995; Ord. No. 935, § 7, 10-9-1996)

Sec. 20-372. - Proration of tax on closing of business.

If a person permanently ceases to engage in a business, occupation or profession within the county during a year for which a license tax has already been paid under this article, the taxpayer shall be entitled, upon application, to a refund for that portion of the license tax already paid, prorated on a monthly basis,

so that the licensee is taxed only for that fraction of the year during which the business was operated within the county. However, in no event shall a refund be issued on any part of a flat fee or minimum flat tax. The operation of a business for any portion of a month shall be considered a full month for prorating purposes. The county may, at its sole discretion, elect to remit any funds in the ensuing fiscal year and may offset against such refund any amount of past-due taxes owed by the same taxpayer.

(Code 1980, § 12-27; Code 1995, § 20-375)

State law reference – Proration, Code of Virginia, § 58.1-3710.

Sec. 20-373. - Payment of interest not construed as extending time for payment of tax.

Nothing contained in this article as to liability for additional interest on assessments shall be construed as extending the time for payment of such assessments or prevent prosecutions for nonpayment thereof.

(Code 1980, § 12-28; Code 1995, § 20-376)

Sec. 20-374. - Powers and duties of director of finance in regard to incorrect returns.

In any case, except where otherwise provided in this article, in which the director of finance has reason to believe that the return or statement filed is incorrect, he shall cause an investigation of the taxpayer's books and records to be made and shall ascertain whether such person has made a true and correct return or statement, and to that end the director of finance or his assistant is expressly authorized and empowered, when necessary, to summon such person before him and require the production of all his books and papers which he has reasonable cause to believe will throw any light upon the matter under investigation and shall also be authorized and empowered to make such other and further investigation and examination as he may deem proper in order to accurately determine the proper return or statement to be made by such person.

(Code 1980, § 12-29; Code 1995, § 20-377)

Sec. 20-375. - Procedure upon failure to file return or pay tax.

Whenever any person required under the provisions of this article to file a return or statement shall fail or refuse to file such return or statement, the director of finance shall make an estimate of the amount of taxes due the county by such person upon the best information available and assess the taxes on the basis of that information.

(Code 1980, § 12-30; Code 1995, § 20-378)

Sec. 20-376. - Assessment of additional or omitted taxes.

(a) If the assessor ascertains that any person has not been assessed with a license tax levied in this article for the then-current license tax year or that any person has been regularly assessed with a license tax levied in this article for the then-current license tax year but upon a correct audit and computation of the license tax the assessment thereof should have been in an increased amount, then the assessor shall assess the taxpayer with the proper license tax for the then-current license tax year, adding thereto the relevant penalties as prescribed by section 20-370(1), except as provided in subsection (c) of this section, and interest shall be computed upon the taxes and penalty from the first day of the month following the date such tax was due and shall accrue thereon from such date until payment at a rate of ten percent per annum. Notwithstanding the above, no interest shall be charged on any late payment, provided that the late

payment is made not more than 30 days from the due date of the tax.

(b) If the assessor ascertains that any person has not been assessed with a license tax levied in this article for any license tax year of the three preceding license tax years or if the assessor ascertains that any person has been regularly assessed with a license tax levied in this article for any license tax year of the three preceding license tax years but that upon a correct audit and computation of the license tax the assessment thereof should have been in an increased amount, then the assessor shall assess the taxpayer with the proper additional or omitted license tax or taxes found to be due at the rate or rates prescribed for that year or years, plus the relevant penalties prescribed in section 20-370(1), except as provided in subsection (c) of this section, and interest which shall be computed upon the taxes and penalty from the first day following the due date in the year in which such taxes should have been paid and shall accrue thereon from such date until payment at a rate of ten percent per annum. Notwithstanding the above, no interest shall be charged on any late payment, provided that the late payment is made not more than 30 days from the due date of the tax.

(c) If the taxpayer can demonstrate that the assessment was necessitated through no fault on his part, penalty and interest shall accrue after 30 days from such date of assessment until payment.

(d) Notwithstanding subsection (c) of this section, in the case of an assessment of additional tax made by the assessor, if the application and, if applicable, the return was made in good faith and the understatement of tax was not due to any fraud, reckless or intentional disregard of law by the taxpayer, there shall be no late payment penalty assessed with the additional tax.

(e) The director of finance shall collect such penalties and interest along with the tax and in the same manner as the tax may be collected.

(f) Whenever an assessment of additional or omitted tax by the assessing official is found to be erroneous, all interest and penalty charged and collected on the amount of the assessment found to be erroneous shall be refunded together with interest on the refund at the rate set out in section 20-382 from the date of payment or due date, whichever is later.

(Code 1980, § 12-32; Code 1995, § 20-379; Ord. No. 909, § 1, 10-25-1995; Ord. No. 935, § 8, 10-9-1996)

State law reference— Similar provisions as to subsection (f), Code of Virginia, § 58.1-3703.1(A)2.e.

Sec. 20-377. - Relief from erroneous assessment; appeals.

(a) Except as otherwise provided in this article, the director of finance shall assess all license taxes prescribed in this article. Any person aggrieved by the action of the director of finance may apply to him as provided herein or to a court of record for relief from the alleged erroneous assessment within the time and in the manner provided by general law.

(b) Any person assessed with a license tax as a result of an appealable event may apply within one year from the last day of the tax year for which such assessment is made, or within one year from the date of the appealable event, whichever is later, to the director of finance for a correction of the assessment. The application must be filed in good faith and sufficiently identify the taxpayer, the tax periods covered by the challenged assessments, the remedy sought, each alleged error in the assessment, the grounds upon which the taxpayer relies, and any other facts relevant to the taxpayer's contention. The director of finance may hold a conference with the taxpayer if requested by the taxpayer, or require submission of additional information and documents, an audit or further audit, or other evidence deemed necessary for a proper and equitable determination of the application. The assessment shall be deemed prima facie correct. The director of finance shall undertake a full review of the taxpayer's claims and issue a determination to the taxpayer setting forth the facts and arguments in support of his decision. The taxpayer may at any time also file an administrative appeal of the classification applicable to the taxpayer's business, including whether the business properly falls within a business license subclassification established by the county. However, the appeal of the classification of the business shall not apply to any license year for which the tax commissioner has previously issued a final determination relating to any license fee or

license tax imposed upon the taxpayer's business for the year. In addition, any appeal of the classification of a business shall in no way affect or change any limitations period prescribed by law for appealing an assessment. Every assessment pursuant to an appealable event shall include or be accompanied by a written explanation of the taxpayer's right to a correction and the specific procedure to be followed, including the name and address of the person to whom the application should be directed, an explanation of the required content of the application for a correction and the deadline for filing the request for a correction. For purposes of facilitating an administrative appeal of the classification applicable to a taxpayer's business, the county shall maintain on its website the specific procedures to be followed with regard to such appeal and the name and address to which the appeal should be directed.

(c) Provided a timely and complete application for relief is made, collection activity with respect to the amount in dispute related to any assessment by the director of finance shall be suspended until a final determination is issued by the director of finance, unless the director of finance determines that: (i) collection would be jeopardized by delay, (ii) the taxpayer has not responded to a request for relevant information after a reasonable time, or (iii) the appeal is frivolous. Interest shall accrue in accordance with the provisions of sections 20-370 and 20-376 as to that portion of the assessment which has remained unpaid during the pendency of the application to the director of finance for relief and was determined to be properly due and owing, but no further penalty shall be assessed while collection action is suspended.

(d) Upon an application for correction pursuant to subsection (b) of this section, any person assessed with a license tax as a result of a determination, or that has received a determination with regard to the person's appeal of the license classification or subclassification of the person's business, that is adverse to the position asserted by the taxpayer in such application may apply within 90 days of the determination by the director of finance to the tax commissioner for the Commonwealth for a correction of such assessment or determination. The appeal shall be in such form as the tax commissioner may prescribe and the taxpayer shall serve a copy of the appeal upon the director of finance. The tax commissioner shall permit the director of finance to participate in the proceedings, and shall issue a determination to the taxpayer within 90 days of receipt of the taxpayer's application, unless the taxpayer and the director of finance are notified that a longer period will be required. The application shall be treated as an application pursuant to Code of Virginia, § 58.1-1821, and the tax commissioner pursuant to Code of Virginia, § 58.1-1822 may issue an order correcting such assessment or correcting the license classification or subclassification of the business and the related license tax or fee liability.

(e) On receipt of a notice of intent to file an appeal to the tax commissioner, the director of finance shall further suspend collection activity with respect to the amount in dispute related to any assessment by the director of finance until a final determination is issued by the tax commissioner, unless the director of finance determines that: (i) collection would be jeopardized by delay, (ii) the taxpayer has not responded to a request for relevant information after a reasonable time, or (iii) the appeal is frivolous. Interest shall accrue in accordance with the provisions of sections 20-370 and 20-376, but no further penalty shall be imposed while collection action is suspended. The requirement that collection activity be suspended shall cease unless an appeal is filed and served on the necessary parties within 30 days of the service of notice of intent to file such appeal.

(f) Promptly upon receipt of the final determination of the tax commissioner with respect to an appeal pursuant to subsection (e) of this section, the director of finance shall take those steps necessary to calculate the amount of tax owed by or refund due to the taxpayer consistent with the tax commissioner's determination and shall provide that information to the taxpayer.

(1) If the determination of the tax commissioner sets forth a specific amount of tax due, the director of finance shall issue a bill to the taxpayer for such amount due, together with interest accrued and penalty, if any is authorized by this section, within 30 days of the date of the determination of the tax commissioner.

(2) If the determination of the tax commissioner sets forth a specific amount of refund due, the director of finance shall issue a payment to the taxpayer for such amount due, together with interest accrued pursuant to this section, within 30 days of the date of the determination of the tax commissioner.

(3) If the determination of the tax commissioner does not set forth a specific amount of tax due, or otherwise requires the director of finance to undertake a new or revised assessment that will result in an obligation to pay a tax that has not previously been paid in full, the director of finance shall promptly commence the steps necessary to undertake such new or revised assessment, and provide the same to the taxpayer within 60 days of the date of the determination of the tax commissioner, or within 60 days after receipt from the taxpayer of any additional information requested or reasonably required under the determination of the tax commissioner, whichever is later. The director of finance shall issue a bill to the taxpayer for the amount due, together with interest accrued and penalty, if any is authorized by this section, within 30 days of the date of the new assessment.

(4) If the determination of the tax commissioner does not set forth a specific amount of refund due, or otherwise requires director of finance to undertake a new or revised assessment that will result in an obligation on the part of the county to make a refund of taxes previously paid, the director of finance shall promptly commence the steps necessary to undertake such new or revised assessment or to determine the amount of refund due in the case of a correction to the license classification or subclassification of the business, and provide it to the taxpayer within 60 days of the date of the determination of the tax commissioner, or within 60 days after receipt from the taxpayer of any additional information requested or reasonably required under the determination of the tax commissioner, whichever is later. The director of finance shall issue a refund to the taxpayer for the amount of tax due, together with interest accrued, within 30 days of the date of the new assessment or determination of the amount of the refund.

(g) Judicial review of determination of tax commissioner shall be in accordance with the following:

(1) *Judicial review.* Following the issuance of a final determination of the tax commissioner pursuant to subsection (f) of this section, the taxpayer or the director of finance may apply to the appropriate circuit court for judicial review of the determination, or any part thereof, pursuant to Code of Virginia, § 58.1-3984. In any such proceeding for judicial review of a determination of the tax commissioner, the burden shall be on the party challenging the determination of the tax commissioner, or any part thereof, to show that the ruling of the tax commissioner is erroneous with respect to the part challenged. Neither the tax commissioner nor the department of taxation shall be made a party to an application to correct an assessment merely because the tax commissioner has ruled on it.

(2) *Suspension of payment of disputed amount of tax due upon taxpayer's notice of intent to initiate judicial review.*

a. On receipt of a notice of intent to file an application for judicial review, pursuant to Code of Virginia, § 58.1-3984, of a determination of the tax commissioner pursuant to subsection (f) of this section, and upon payment of the amount of the tax related to any assessment by the director of finance that is not in dispute together with any penalty and interest then due with respect to such undisputed portion of the tax, the director of finance shall further suspend collection activity while the court retains jurisdiction unless the court, upon appropriate motion after notice and an opportunity to be heard, determines that:

1. The taxpayer's application for judicial review is frivolous;
2. Collection would be jeopardized by delay; or
3. Suspension of collection would cause substantial economic hardship to the county. For purposes of determining whether substantial economic hardship to the county would arise from a suspension of collection activity, the court shall consider the cumulative effect of

then-pending appeals filed within the county by different taxpayers that allege common claims or theories of relief.

- b.** Upon a determination that the appeal is frivolous, that collection may be jeopardized by delay, or that suspension of collection would result in substantial economic hardship to the county, the court may require the taxpayer to pay the amount in dispute or a portion thereof, or to provide surety for payment of the amount in dispute in a form acceptable to the court.
- c.** No suspension of collection activity shall be required if the application for judicial review fails to identify with particularity the amount in dispute or the application does not relate to any assessment by the director of finance.
- d.** The requirement that collection activity be suspended shall cease unless an application for judicial review pursuant to Code of Virginia, § 58.1-3984 is filed and served on the necessary parties within 30 days of the service of the notice of intent to file such application.
- e.** The suspension of collection activity authorized by this subsection shall not be applicable to any appeal of a local license tax that is initiated by the direct filing of an action pursuant to Code of Virginia, § 58.1-3984 without prior exhaustion of the appeals provided by subsections (b) and (d) of this section.

(3) *Suspension of payment of disputed amount of refund due upon locality's notice of intent to initiate judicial review.*

- a.** Payment of any refund determined to be due pursuant to the determination of the tax commissioner of an appeal pursuant to subsection (f) of this section shall be suspended if the county serves upon the taxpayer, within 60 days of the date of the determination of the tax commissioner, a notice of intent to file an application for judicial review of the tax commissioner's determination pursuant to Code of Virginia, § 58.1-3984 and pays the amount of the refund not in dispute, including tax and accrued interest. Payment of such refund shall remain suspended while the court retains jurisdiction unless the court, upon appropriate motion after notice and an opportunity to be heard, determines that the locality's application for judicial review is frivolous.
- b.** No suspension of refund activity shall be permitted if the county's application for judicial review fails to identify with particularity the amount in dispute.
- c.** The suspension of the obligation to make a refund shall cease unless an application for judicial review pursuant to Code of Virginia, § 58.1-3984 is filed and served on the necessary parties within 30 days of the service of the notice of intent to file such application.

(4) *Accrual of interest on unpaid amount of tax.* Interest shall accrue in accordance with the provisions of this article, but no further penalty shall be imposed while collection action is suspended.

(h) The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Amount in dispute, when used with respect to taxes due or assessed, means the amount specifically identified in the administrative appeal or application for judicial review as disputed by the party filing such appeal or application.

Appealable event means an increase in the assessment of a local license tax payable by a taxpayer, the denial of a refund, or the assessment of a local license tax where none previously was assessed, arising out of the director of finance's (i) examination of records, financial statements, books of account or other information for the purpose of determining the correctness of an assessment; (ii) determination regarding the rate or classification applicable to the licensable business; (iii) assessment of a local license tax when no return has been filed by the taxpayer; or (iv) denial of an application for correction of erroneous assessment attendant to the filing of an amended application for license.

An appealable event shall include a taxpayer's appeal of the classification applicable to a business, including whether the business properly falls within a business license subclassification established by the county, regardless of whether the taxpayer's appeal is in conjunction with an assessment, examination, audit, or any other action taken by the county.

Frivolous means a finding, based on specific facts, that the party asserting the appeal is unlikely to prevail upon the merits because the appeal is:

- (1) Not well grounded in fact;
- (2) Not warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law;
- (3) Interposed for an improper purpose, such as to harass, to cause unnecessary delay in the payment of tax or a refund, or to create needless cost from the litigation; or
- (4) Otherwise frivolous.

Jeopardized by delay means a finding by the director of finance, based on specific facts, a taxpayer designs to:

- (1) Depart quickly from the county;
- (2) Remove his property from the county;
- (3) Conceal himself or his property; or
- (4) Do any other act tending to prejudice or to render ineffective proceedings to collect the tax for the period in question.

(i) Any taxpayer whose application for correction pursuant to the provisions of subsection (b) of this section has been pending for more than one year without the issuance of a final determination may, upon not less than 30 days' written notice to the director of finance, elect to treat the application as denied and appeal the assessment or classification of the taxpayer's business to the tax commissioner in accordance with the provisions of subsection (d) of this section. The tax commissioner shall not consider an appeal filed pursuant to the provisions of this subsection if he finds that the absence of final determination on the part of the director of finance was caused by the willful failure or refusal of the taxpayer to provide information requested and reasonably needed by the director of finance to make the determination.

(Code 1980, § 12-33; Code 1995, § 20-380; Ord. No. 909, § 1, 10-25-1995; Ord. No. 935, § 9, 10-9-1996; Ord. No. 1033, § 1, 8-13-2002)

State law reference – Mandatory provisions, Code of Virginia, § 58.1-3703.1(A)5., (A)6.

Sec. 20-378. - Payment of tax with bad check.

If any check tendered for any tax due under this article is not paid by the bank on which it is drawn, the taxpayer for whom such check was tendered shall remain liable for the payment of the tax the same as if such check had not been tendered, and no license shall be deemed to have been granted upon the tendering of the bad check.

(Code 1980, § 12-36; Code 1995, § 20-381)

Sec. 20-379. - License application; extensions to be granted.

The assessing official may grant an extension of time, in which to file an application for a license, for reasonable cause. Any such extension shall be conditioned upon the timely payment of a reasonable estimate of the appropriate tax, subject to adjustment to the correct tax at the end of the extension, together

with interest from the due date until the date paid. If the estimate submitted with the extension is found to be unreasonable under the circumstances, a penalty of ten percent of the portion paid after the due date shall be assessed and added to the tax, and interest from the due date shall accrue at the rate of ten percent per annum on the unpaid portion.

(Code 1995, § 20-384; Ord. No. 909, § 3, 10-25-1995; Ord. No. 935, § 10, 10-9-1996)

State law reference – Mandatory provisions, Code of Virginia, § 58.1-3703.1(A)2.c.

Sec. 20-380. - Business situs requirement.

(a) Every person engaging in the county in any business, trade, profession, occupation or calling (collectively hereinafter "a business"), as defined in this article, unless otherwise exempted by law, shall apply for a license for each such business if:

- (1) The person has a definite place of business in the county;
- (2) There is no definite place of business anywhere and the person resides in the county;
- (3) There is no definite place of business in the county but the person operates amusement machines or is classified as an itinerant merchant, peddler, contractor subject to Code of Virginia, § 58.1-3715, or public service corporation.

(b) A separate license shall be required for each definite place of business.

(Code 1995, § 20-385; Ord. No. 909, § 3, 10-25-1995; Ord. No. 935, § 11, 10-9-1996)

State law reference – Mandatory provisions (subsection (a), Code of Virginia, § 58.1-3703.1(A)1.

Sec. 20-381. - Situs of gross receipts and purchases; apportionment.

(a) *General rule.* Whenever any tax imposed under this article is measured by gross receipts, the gross receipts included in the tax base shall be only those gross receipts attributed to the exercise of a licensable privilege at a definite place of business within the county. In the case of activities conducted outside of a definite place of business, such as during a visit to a customer location, the gross receipts shall be attributed to the definite place of business from which such activities are initiated, directed, or controlled. The situs of gross receipts for different classifications of business shall be attributed to one or more definite places of business or offices as follows:

- (1) The gross receipts of a contractor shall be attributed to the definite place of business at which his services are performed, or if his services are not performed at any definite place of business, then the definite place of business from which his services are directed or controlled, unless the contractor is subject to the provisions of Code of Virginia, § 58.1-3715 and sections 20-563 and 20-564.
- (2) The gross receipts of a retail or wholesale merchant shall be attributed to the definite place of business at which sales solicitation activities occur, or if sales solicitation activities do not occur at any definite place of business, then the definite place of business from which such activities are directed or controlled; however, a wholesale merchant or distribution house subject to license tax measured by purchases shall determine the situs of its purchases by the definite place of business at which or from which deliveries of the purchased goods, wares or merchandise are made to customers. Any wholesale merchant who is subject to license tax in two or more localities and who is subject to multiple taxation because the localities use different measures, may apply for the Virginia Department of Taxation for a determination as to the proper measure of purchases and gross receipts subject to license tax in each locality.
- (3) The gross receipts of a business renting tangible personal property shall be attributed to the definite place of business from which the tangible personal property is rented or, if the property is not

rented from any definite place of business, then the definite place of business at which the rental of such property is managed.

(4) The gross receipts from the performance of services shall be attributed to the definite place of business at which the services are performed or, if not performed at any definite place of business, then to the definite place of business from which the services are directed or controlled.

(b) *Apportionment.* If a taxpayer has more than one definite place of business and it is impractical or impossible to determine to which definite place of business gross receipts should be attributed under the general rule, the gross receipts of the business shall be apportioned between the definite places of business on the basis of payroll. Gross receipts shall not be apportioned to a definite place of business unless some activities under the applicable general rule occurred at, or were controlled from, such definite place of business. Gross receipts attributable to a definite place of business in another jurisdiction shall not be attributed to the county solely because the other jurisdiction does not impose a tax on the gross receipts attributable to the definite place of business in such other jurisdiction.

(c) *Agreements concerning apportionment.* The assessor may enter into agreements with any other local government of the commonwealth concerning the manner in which gross receipts shall be apportioned among definite places of business. However, the sum of the gross receipts apportioned by the agreement shall not exceed the total gross receipts attributable to all of the definite places of business affected by the agreement. If the assessing official is notified or becomes aware that his method of attributing gross receipts is inconsistent with the method of one or more local governments in which the taxpayer is licensed to engage in business and that the difference has, or is likely to, result in taxes on more than 100 percent of the gross receipts from all locations in the affected localities, the assessor shall make a good faith effort to reach an apportionment agreement with the other local governments involved. If an agreement cannot be reached, either the assessor or the taxpayer may seek an advisory opinion from the Virginia Department of Taxation pursuant to Code of Virginia, § 58.1-3701. Notice of the opinion request shall be given to the other party. Notwithstanding the provisions of Code of Virginia, § 58.1-3993, when a taxpayer has demonstrated to a court that two or more localities in the state have assessed taxes on gross receipts that may create a double assessment within the meaning of Code of Virginia, § 58.1-3986, the court shall enter such orders pending resolution of the litigation as may be necessary to ensure that the taxpayer is not required to pay multiple assessments even though it is not then known which assessment is correct and which is erroneous.

(Code 1995, § 20-386; Ord. No. 909, § 3, 10-25-1995; Ord. No. 935, § 12, 10-9-1996)

State law reference—Mandatory provisions, Code of Virginia, § 58.1-3703.1(A)3.

Sec. 20-382. - Interest to be paid.

Interest shall be paid on the refund of any license tax whether attributable to an amended return or other reason. Such interest, at the rate of ten percent per annum, shall be computed and paid from the date the taxes were required to be paid or were paid, whichever is later. No interest shall be paid on a refund if the refund is made not more than 30 days from the date of the payment that gave rise to the refund or the due date of the tax, whichever is later.

(Code 1995, § 20-387; Ord. No. 909, § 3, 10-25-1995; Ord. No. 935, § 14, 10-9-1996)

State law reference—Mandatory provisions, Code of Virginia, § 58.1-3703.1(A)2.e.

Sec. 20-383. - Written ruling from the director of finance.

Any taxpayer or an authorized representative of a taxpayer may request a written ruling from the director of finance regarding the assessment of license tax in a specific fact situation. Any person requesting such a ruling must provide all the relevant facts and may present a rationale for an interpretation of the law

most favorable to the taxpayer. In addition, the taxpayer or authorized representative may request a written ruling with regard to the classification applicable to the taxpayer's business, including whether the business properly falls within a business license subclassification established by the county. Any misrepresentation or change in the applicable law or the factual situation as presented in the ruling request shall invalidate any ruling issued. A written ruling will be revoked or amended automatically prospectively if there is a change in the law, a court decision or the guidelines issued by the state department of taxation upon which the ruling was based. A written ruling may be revoked or amended prospectively if the assessor notifies the taxpayer of a change in policy or interpretation upon which the ruling was based. However, any person who acts on a written ruling which later becomes invalid shall be deemed to have acted in good faith during the period when such ruling was in effect.

(Code 1995, § 20-388; Ord. No. 909, § 3, 10-25-1995; Ord. No. 935, § 14, 10-9-1996)

State law reference – Mandatory provisions, Code of Virginia, § 58.1-3703.1(A)8.

Sec. 20-384. - Limitations and extensions.

(a) Where, before the expiration of time prescribed for the assessment of any license tax imposed pursuant to this article, both the assessing official and the taxpayer have consented in writing to its assessment after such time, the tax may be assessed at any time prior to the expiration of the period agreed upon. The agreed-upon period may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

(b) Notwithstanding Code of Virginia, § 58.1-3903, the assessing official shall assess license tax omitted because of fraud or failure to apply for a license for the current license year and the six preceding license years.

(c) The period for collection of any license tax shall not expire prior to the period specified in Code of Virginia, § 58.1-3940, two years after the date of assessment if the period for assessment has been extended pursuant to subsection (a) of this section, two years after the final determination of an administrative appeal for which collection has been stayed, or two years after the final decision in a court application pursuant to Code of Virginia, § 58.1-3984, or similar law for which collection has been stayed, whichever is later.

(Code 1995, § 20-390; Ord. No. 935, § 42, 10-9-1996)

State law reference – Mandatory provisions, Code of Virginia, § 58.1-3703.1(A)4.

Secs. 20-385 – 20-413. - Reserved.

DIVISION 2. - BUSINESS AND MISCELLANEOUS SERVICES

Sec. 20-414. - Enumerated; amount of license tax.

(a) Every person engaged in one or more of the following businesses and having a definite place of business in the county, provided that the gross receipts of the business exceed \$400,000.00, shall pay a license tax equal to the greater of \$30.00 or 0.20 percent of the difference between the gross receipts of the business and \$400,000.00.

Accountant (other than certified public accountant).

Administration and management of health care plans.

Adult educational services, except those provided by religious or nonprofit organizations.

Appraiser or evaluator of personal property or damages to personal property.

Appraiser or evaluator of real estate for others for compensation.

Arboriculturist or pruner of trees and shrubs.
Assayer.
Auctioneer.
Auditing company or firm.
Blueprinter.
Bookkeeper, public.
Botanist.
Business management.
Claims adjustor.
Collection agent or agency.
Commercial artist.
Common crier.
Computer consultant or programmer.
Conductor of seminars.
Consulting or consultant service.
Custom house broker or freight forwarder.
Draftsman.
Ecologist.
Erection or improvement of buildings, furnisher of plans or specifications for or persons employed in consulting capacity in connection with architect.
Interpreter.
Investment broker, consultant or advisor.
Lumber measurer.
Manufacturer's agent.
Marriage or business counselor.
Merchandise broker.
Paralegal or legal assistant.
Photostater.
Public relations counselor and furnisher of publicity.
Recorder of proceedings in any court, commission or organization.
Recorder of securities transactions.
Sales agent or agency.
Security broker, dealer.
Sign painter or service.
Social counselor.
Speech therapist.
Tax return preparer or tax consultant.
Taxidermist.
Technician, including dental or medical.
Telecommunications services, including, but not limited to, telephone and cellular mobile radio communication services, provided by persons not subject to tax under section 20-821.
Title abstract or guaranty.

(b) If the gross receipts of the business are \$400,000.00 or less, an application shall be required to be filed, but no tax shall be due or paid.

(Code 1980, § 12-40.1; Code 1995, § 20-411; Ord. No. 909, § 1, 10-25-1995; Ord. No. 935, § 15, 10-9-1996; Ord. No. 962, § 1, 10-8-1997; Ord. No. 981, § 1, 10-14-1998; Ord. No. 991, § 1, 9-28-1999; Ord. No. 1007, § 1, 10-24-2000)

State law reference— Limitation on levy, Code of Virginia, § 58.1-3706.

Sec. 20-415. - Exemptions from requirement for auctioneer's license.

- (a) *Real estate agents or brokers.* No auctioneer's license shall be required of persons engaged in business as real estate agents or brokers who, as a part of their business, offer real estate for sale at public auction or public outcry.
- (b) *Sale of items at owner's residence.* No auctioneer's license shall be required for the sale of any wagon, carriage, automobile, mechanic's tools, used farming implements, livestock, poultry (dressed or undressed), seafood, vegetables, fruits, melons, berries, flowers or leaf tobacco, or for the sale of secondhand furniture and household effects, when being sold at the residence of the person desiring to dispose of them.

(Code 1980, §§ 12-40.2, 12-40.3; Code 1995, § 20-412)

Sec. 20-416. - Scientific research and development services.

- (a) Every person engaged in the business of furnishing scientific research and development services and having a definite place of business in the county, provided that the gross receipts of the business exceed \$400,000.00, shall pay a license tax equal to the greater of \$30.00 or 0.20 percent of the difference between the gross receipts of the business and \$400,000.00.
- (b) If the gross receipts of the business are \$400,000.00 or less, an application shall be required to be filed, but no tax shall be due or paid.

(Code 1980, § 12-162; Code 1995, § 20-413; Ord. No. 909, § 1, 10-25-1995; Ord. No. 935, § 16, 10-9-1996; Ord. No. 962, § 2, 10-8-1997; Ord. No. 981, § 2, 10-14-1998; Ord. No. 991, § 2, 9-28-1999)

Sec. 20-417. - Exclusion from gross receipts – Security brokers and dealers.

(a) For purpose of computing the tax under this division, the gross receipts of a security broker or security dealer shall not include amounts received by the broker or dealer that arise from the sale or purchase of a security to the extent that such amounts are paid to an independent registered representative as a commission on any sale or purchase of a security. The broker or dealer claiming the exclusion shall identify on its business license application each independent registered representative to whom the excluded receipts have been paid and, if applicable, the localities in the Commonwealth to which the independent registered representative is subject to business license taxes.

(b) For the purpose of this division:

- (1) "Security broker" means a "broker" as that term is defined under the Securities Exchange Act of 1934 (15 U.S.C. § 78a et seq.), or any successor law to the Securities Exchange Act of 1934, who is registered with the United States Securities and Exchange Commission.
- (2) "Security dealer" means a "dealer" as that term is defined under the Securities Exchange Act of 1934 (15 U.S.C. § 78a et seq.), or any successor law to the Securities Exchange Act of 1934, who is registered with the United States Securities and Exchange Commission.
- (3) "Independent registered representative" means an independent contractor registered with the United States Securities and Exchange Commission.

Secs. 20-418 – 20-445. - Reserved.

DIVISION 3. - PERSONAL SERVICES

Sec. 20-446. - Enumerated; amount of license tax.

(a) Every person engaged in one or more of the following businesses and having a definite place of business in the county, provided that the gross receipts of the business exceed \$400,000.00, shall pay a license tax equal to the greater of \$30.00 or 0.20 percent of the difference between the gross receipts of the business and \$400,000.00.

Abattoir.

Airport.

Addressing letters or envelopes.

Advertising.

Advertising agents and agency.

Agent finding tenants for and renting single rooms.

Ambulance service.

Analytical laboratory.

Artist, literary, craft and other creative productions.

Artist's representative.

Awnings: erecting, installing, storing or taking down.

Barbershop.

Baths: Turkish, Roman or other like bath or bath parlor.

Beauty parlor.

Billiard, pool or bagatelle parlor.

Blacksmith shop.

Blood or other body fluids: withdrawing, processing, storage.

Boat landing or boat basin.

Bodies, preparing for burial.

Boiler shop and machine shop.

Booking agent.

Bottle exchange.

Bounty hunter.

Bowling alley.

Burglar alarms, servicing.

Business research service.

Canvasser.

Caterer.

Cemetery.

Chartered club.

Check cashing or currency exchange services.

Chicken hatchery.

Cleaning: chimneys; clothes, hats, carpets or rugs; outside of buildings; furnaces; diapers and infants' underwear; linens, coats and aprons; windows; towels; work clothes; houses.

Clerical help, labor or employment.

Coin-operated machine services, excluding coin machine operators and pay telephones.
Computer information on-line services.
Concert manager.
Correspondent establishment or bureau.
Credit bureau.
Data processing services.
Demineralization of water.
Detective services.
Detoxification of chemicals.
Dietician.
Domestic help, labor or employment.
Duplicating services.
Dyeing clothes, hats, carpets or rugs.
Electrologist.
Embalmer.
Employment agency and staffing firm.
Engineering laboratory.
Environmental cleanup and related services.
Escort or dating service.
Films, leasing to others for compensation.
Frozen food locker plant.
Fumigation or disinfection of rats, termites, vermin or insects of any kind.
Funerals, conducting.
Garbage, trash or refuse collection service.
Gardener.
Golf course: miniature; driving range; open to public.
Hairdressing establishment.
Horses and mules: exhibiting trained and educated horses; boarding or keeping; renting.
Impoundment lot.
Interior decorator.
Janitorial service.
Kennel or small animal hospital.
Laundry.
Lawn maintenance.
Letter writing.
Locating of apartments, rooms or other living quarters.
Lock repairing.
Locksmith.
Mailing services.
Manicurist.
Massage practitioner.
Masseur.
Messenger service, except telephone or telegraph messenger service.

Mimeographing.

Monogramming.

Motion picture theater.

Motor vehicles: cleaning, greasing, polishing, oiling, repairing, towing, washing, vulcanizing, electrical and battery repair work.

Motor vehicles for hire and transportation of passengers, chauffeured.

Multigraphing.

Nursing homes and personal care facilities, including assisted living.

Nursing services, including nurses, nursing assistants and personal care providers.

Packaging services.

Packing, crating, shipping, hauling or moving goods or chattels for others.

Parking lot for storage of or parking of motor vehicles.

Personnel agency.

Pet sitter.

Photographer.

Photographic film processing and development.

Picture framing or gilding.

Plating or coating metals or other materials.

Polygraphic services.

Press clipping service.

Pressing clothes, hats, carpets or rugs.

Protective agents or agencies.

Public address system.

Public skating rink.

Publisher of county or city directory.

Real estate broker.

Reducing salon or health club.

Registries: physicians' or nurses'.

Renting airplanes.

Renting any kind of tangible personal property, except a person engaged in a short-term rental business subject to tax under article X of this chapter.

Renting or furnishing automatic washing machines.

Repair, renovating or servicing the following: bicycles; radios and television apparatus; electric refrigerators; pianos; pipe organs or other musical instruments; fire extinguishers; road construction machinery; road repair machinery; farm machinery; industrial or commercial machinery; business office machinery or appliances; household appliances; shoes; watches; jewelry; umbrellas; harnesses; leather goods or shoes; guns; window shades; dolls; cameras; toys; fountain pens; pencils; Kodaks; lawn mowers; mattresses or pillows; mirrors; electric motors; scales; saws or tools; rewinding electric apparatus; furniture; clothing or hosiery; septic tanks or systems; hats; carpets; rugs; repairing, servicing or renovating any other article not mentioned.

Scalp treating establishment.

Seamstress or tailor.

Sewage collection and disposal.

Sponging clothes, hats, carpets or rugs.

Spotting clothes, hats, carpets or rugs.

Statistical or actuarial service.

Stevedoring.

Survey taker.

Telephone answering or sanitizing service.

Telephone wiring or installation.

Tennis court.

Theater.

Ticket, transportation, travel and tour agents or brokers.

Title search.

Typesetting.

Undertaker.

Warehouse for storage of merchandise, tobacco, furniture, or other goods, wares or materials; cold storage warehouses; warehouse for icing or precooling goods, wares or merchandise.

Wheelwright shop.

Window dresser.

(b) If the gross receipts of the business are \$400,000.00 or less, an application shall be required to be filed, but no tax shall be due or paid.

(Code 1980, §§ 12-41, 12-161; Code 1995, § 20-431; Ord. No. 909, §§ 1, 2, 10-25-1995; Ord. No. 935, § 17, 10-9-1996; Ord. No. 962, § 3, 10-8-1997; Ord. No. 981, § 3, 10-14-1998; Ord. No. 1007, § 2, 10-24-2000)

State law reference – Limitations on levy, Code of Virginia, § 58.1-3706; real estate brokers, Code of Virginia, § 58.1-3732.2.

Sec. 20-447. - Exemption for nonprofit cemeteries; computation of gross receipts for other cemeteries.

Cemeteries operating as a nonprofit corporation or a stock corporation, the stock of which is, by the provisions of the charter of such corporation, non-dividend paying, shall be exempt from the provisions of this division. The gross receipts of a cemetery shall exclude the amounts received from the sale of burial lots.

(Code 1980, § 12-42; Code 1995, § 20-432)

Sec. 20-448. - Exclusions from gross receipts – Advertising agencies and advertisers.

(a) Advertising agents and agencies, when acting on the behalf of their clients in disseminating a message through the media, shall exclude amounts paid by them for the following: advertising space, radio time, electrical transcription, pressings, artwork, engraving, plate, mats, printing, printing stock and postage, from the amount of gross receipts of the business of the advertising agent or agency, in computing the basis for their license tax under this division.

(b) Advertisers, when acting on the behalf of their clients in creating material to be dispersed through the mail, shall be entitled to exclude those amounts which they have paid for postage.

(Code 1980, § 12-43; Code 1995, § 20-433)

Sec. 20-449. - Same – Real estate brokers.

(a) For the purpose of computing the tax under this division, a real estate broker shall exclude from his gross receipts the commissions on insurance premiums and receipts from conducting business with respect

to real estate belonging to such person and excluding interest, brokerage and other receipts from the business of lending money belonging to such person.

(b) If a real estate agent receives the full commission from the broker less an adjustment for the business license tax paid by the broker on such commission and the agent pays a desk fee to the broker, then the desk fee and other overhead costs paid by the agent to a broker shall not be included in the broker's gross receipts.

(Code 1980, § 12-44; Code 1995, § 20-434; Ord. No. 1035, § 1, 8-13-2002)

State law reference— Similar provisions, Code of Virginia, § 58.1-3732.2.

Sec. 20-450. - Same— Impounding lot operators.

The amounts received by the operator of an impounding lot for feeding animals shall be excluded from the gross receipts of the business for the purpose of computing the license tax under this division on such operator.

(Code 1980, § 12-46; Code 1995, § 20-436)

Sec. 20-451. - Additional licenses for slot machines or vehicles.

The license taxes prescribed in this article shall be in addition to the license taxes prescribed elsewhere upon slot machines or upon vehicles of any kind.

(Code 1980, § 12-47; Code 1995, § 20-437)

Sec. 20-452. - Limitation on gross receipts— Providers of funeral services.

Gross receipts of providers of funeral services shall not include amounts collected by any provider of funeral services on behalf of, and paid to, another person providing goods or services in connection with a funeral. The exclusion provided by this section shall apply if the goods or services were contracted for by the provider of funeral services or his customer. A provider of funeral services claiming the exclusion shall identify on its license application each person to whom the excluded receipts have been paid and the amount of the excluded receipts paid by the provider of funeral services to such person. As used in this section, the term "provider of funeral services" means any person engaged in the funeral service profession, operating a funeral service establishment, or acting as a funeral director or embalmer.

(Code 1995, § 20-438; Ord. No. 981, § 26, 10-14-1998)

State law reference— Similar provisions, Code of Virginia, § 58.1-3732.3.

Sec. 20-453. - Same— Staffing firms.

(a) Gross receipts of a staffing firm shall not include employee benefits paid by a staffing firm to, or for the benefit of, any contract employee for the period of time that the contract employee is actually employed for the use of the client company pursuant to the terms of a PEO services contract or temporary help services contract. The taxable gross receipts of a staffing firm shall include any administrative fees received by such firm from a client company, whether on a fee-for-service basis or as a percentage of total receipts from the client company.

(b) The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Client company means a person, as defined in Code of Virginia, § 1-230, that enters into a contract with

a staffing firm by which the staffing firm, for a fee, provides PEO services or temporary help services.

Contract employee means an employee performing services under a PEO services contract or temporary help services contract.

Employee benefits means wages, salaries, payroll taxes, payroll deductions, workers' compensation costs, benefits, and similar expenses.

PEO services or professional employer organization services means an arrangement whereby a staffing firm assumes employer responsibility for payroll, benefits, and other human resources functions with respect to employees of a client company with no restrictions or limitations on the duration of employment.

PEO services contract means a contract pursuant to which a staffing firm provides PEO services for a client company.

Staffing firm means a person, as defined in Code of Virginia, § 1-230, that provides PEO services or temporary help services.

Temporary help services means an arrangement whereby a staffing firm temporarily assigns employees to support or supplement a client company's workforce.

Temporary help services contract means a contract pursuant to which a staffing firm provides temporary help services for a client company.

(Code 1995, § 20-439; Ord. No. 981, § 27, 10-14-1998)

State law reference – Similar provisions, Code of Virginia, § 58.1-3732.4.

Secs. 20-454 – 20-474. - Reserved.

DIVISION 4. - PROFESSIONAL SERVICES

Sec. 20-475. - Enumerated; amount of tax.

(a) Every person engaged in one or more of the following businesses or professions and having a definite place of business in the county, provided that the gross receipts of the business or profession exceed \$400,000.00, shall pay a license tax equal to the greater of \$30.00 or 0.20 percent of the difference between the gross receipts of the business and \$400,000.00.

Architect.

Attorney at law.

Ceramic engineer.

Certified public accountant.

Chemical engineer.

Chemist.

Chiropodist.

Chiropractor.

Civil engineer.

Coal mining engineer.

Consulting engineer.

Contracting engineer.

Dentist.

Doctor of medicine.

Electrical engineer.

Heating and ventilating engineer.

Highway engineer.

Homeopath.

Industrial engineer.

Landscape architect.

Mechanical engineer.

Metallurgist.

Mining engineer.

Naturopathist (naturopath).

Optometrist.

Osteopath.

Patent attorney or agent.

Physician.

Physician services, chiropodist services, chiropractor services, dentist services, doctor of medicine services, homeopath services, naturopath services, optometrist services, osteopath services, physiotherapist services, podiatrist services, psychologist services, radiologist services or surgeon services provided by a health maintenance organization.

Physician's services provided by a nonprofessional corporation.

Physiotherapist.

Podiatrist.

Professional engineer.

Psychiatrist.

Psychologist.

Radio engineer.

Radiologist.

Railway engineer.

Refrigerating engineer.

Sanitary engineer.

Stream power engineer.

Structural engineer.

Surgeon.

Surveyor.

Veterinarian.

(b) If the gross receipts of the business or profession are \$400,000.00 or less, an application shall be required to be filed, but no tax shall be due or paid.

(Code 1980, § 12-48; Code 1995, § 20-461; Ord. No. 909, § 1, 10-25-1995; Ord. No. 935, § 18, 10-9-1996; Ord. No. 962, § 4, 10-8-1997; Ord. No. 981, § 4, 10-14-1998; Ord. No. 991, § 3, 9-24-1999)

Sec. 20-476. - State certificate of registration prerequisite to issuance of certain licenses.

No license shall be issued to one engaged in the practice of medicine, homeopathy, chiropractic,

naturopathy or chiropody, dentist, attorney at law, chemical engineer, civil engineer, highway engineer, sanitary engineer, or any other profession which requires a certification of registration and examination under the provisions of the Code of Virginia unless such person furnishes evidence to the director of finance that he has properly registered and has in effect a current registration as required by state law.

(Code 1980, § 12-52; Code 1995, § 20-462)

Secs. 20-477 – 20-505. - Reserved.

DIVISION 5. - AMUSEMENT PARKS, GARDENS OR BUILDINGS, ATHLETIC FIELDS AND PARKS, COLISEUMS, AUDITORIUMS AND DANCEHALLS

***Cross reference** – Amusements, ch. 4.

***State law reference** – Amusement machines, Code of Virginia, § 58.1-3720; permanent coliseums, arenas or auditoriums, Code of Virginia, § 58.1-3729.

Sec. 20-506. - Tax on owners and operators.

(a) Every person owning and operating an amusement park, garden, athletic field or park, coliseum and auditorium devoted to general amusement and entertainment which is open to the public and where admission charges are made and where a professional basketball, baseball or football game is conducted or where a motion picture, ballet, play, drama, lecture, monologue, comedy, musical review, musical show or concert is exhibited or conducted, or where an instrumental or vocal concert or concert presenting both instrumental and vocal music is conducted by another or others, or where there is presented or conducted a public show, exhibition or performance of any kind, or where there is operated an aggregation of Ferris wheels, toboggan ring or cane games, baby, knife or cane racks, shooting galleries, merry-go-rounds, hobbyhorses or carousels or where dancing is permitted, to which an admission fee is charged or for which compensation is in any manner received either directly or indirectly for the privilege of dancing, provided that the gross receipts of the business exceed \$400,000.00, shall pay a license tax equal to the greater of \$30.00 or 0.20 percent of the difference between the gross receipts of the business and \$400,000.00.

(b) If the gross receipts of the business are \$400,000.00 or less, an application shall be required to be filed, but no tax shall be due and paid.

(Code 1980, § 12-67; Code 1995, § 20-511; Ord. No. 909, § 1, 10-25-1995; Ord. No. 935, § 19, 10-9-1996; Ord. No. 962, § 5, 10-8-1997; Ord. No. 981, § 5, 10-14-1998)

Sec. 20-507. - Tax on promoters generally.

(a) Every person presenting a motion picture, ballet, drama, lecture, monologue, comedy, musical review, musical show or concert, or an instrumental or vocal concert or a concert of both instrumental and vocal music, or presenting a public show, exhibition or performance of any kind, or operating a merry-go-round, hobbyhorse, carousel or the like, or conducting a public dance, provided that the gross receipts of the business exceed \$400,000.00, shall pay a license tax equal to the greater of \$30.00 or 0.20 percent of the difference between the gross receipts of the business and \$400,000.00.

(b) If the gross receipts of the business are \$400,000.00 or less, an application shall be required to be filed, but no tax shall be due and paid.

(Code 1980, § 12-68; Code 1995, § 20-512; Ord. No. 909, § 1, 10-25-1995; Ord. No. 935, § 20, 10-9-1996; Ord. No. 962, § 6, 10-8-1997; Ord. No. 981, § 6, 10-14-1998)

Sec. 20-508. - Deduction of payments to charity from gross receipts.

So much of the gross receipts of any taxpayer taxable under sections 20-506 and 20-507 as is paid by the taxpayer directly to a religious, charitable or benevolent organization within the county as a contribution to that organization for the privilege of using its name and not as reimbursement to that organization of an expense in connection with the business license under this division shall be deducted from the gross receipts in computing the basis for license taxes under sections 20-506 and 20-507.

(Code 1980, § 12-69; Code 1995, § 20-513)

Sec. 20-509. - Tax on promoters of athletic contests or races.

(a) Every person presenting a professional basketball, baseball, football, wrestling or boxing match or similar competitive athletic performance, or presenting an automobile, horse, dog or animal race or automobile driving contest or stock race, provided that the gross receipts of the business exceed \$400,000.00, shall pay a license tax equal to the greater of \$30.00 or 0.20 percent of the difference between the gross receipts of the business and \$400,000.00.

(b) If the gross receipts of the business are \$400,000.00 or less, an application shall be required to be filed, but no tax shall be due and paid.

(Code 1980, § 12-70; Code 1995, § 20-514; Ord. No. 909, § 1, 10-25-1995; Ord. No. 935, § 21, 10-9-1996; Ord. No. 962, § 7, 10-8-1997; Ord. No. 981, § 7, 10-14-1998)

Sec. 20-510. - Applicability of division to charities.

No license taxes prescribed in this division shall be required to be paid for any amusement, performance, exhibition, entertainment or show held or conducted exclusively for religious, charitable or benevolent purposes; but the provisions of this division shall not be construed to allow without payment of the license taxes prescribed in this division any amusement, performance, exhibition, entertainment or show for charitable, religious or benevolent purposes by any person who makes it his business to give exhibitions, no matter what terms of contract may be entered into or under what auspices such amusement, performance, exhibition, entertainment or show is given by such person for religious, benevolent or charitable purposes. It is the intent and meaning of this section that every person who makes it his business to give performances, exhibitions, entertainments or shows for compensation, whether a part of the proceeds are for religious, charitable or benevolent purposes or not, shall pay the license taxes prescribed in this article. In any case where no license tax is required to be paid for the conduct of any amusement, performance, exhibition, entertainment or show held or conducted for religious, charitable or benevolent purposes, a permit from the director of finance shall be required before any such amusement, performance, exhibition, entertainment or show shall be held or conducted.

(Code 1980, § 12-71; Code 1995, § 20-515)

Sec. 20-511. - Amusements or entertainments of temporary nature.

Whenever any place of amusement or entertainment makes an admission charge which is subject to the license tax levied in this division and the operation of such place is of a temporary or transitory nature, the director of finance shall require a return and remittance of the license tax to be made on the day following its collection, if the operation is for one day only, or on the day following the conclusion of a series of performances or exhibitions conducted or operated for more than one day, or at such other reasonable time as he shall determine.

(Code 1980, §§ 12-74, 12-75; Code 1995, § 20-517)

Secs. 20-512 – 20-530. - Reserved.

DIVISION 6. - BONDSMEN

***State law reference** – Authority to license bondsmen, Code of Virginia, § 58.1-3724.

Sec. 20-531. - Levy of tax; amount.

(a) Every person who engages in the business of entering or offering to enter into bonds for others for compensation, whether as a principal or surety, provided that the gross receipts of the business exceed \$400,000.00, shall pay a license tax equal to the greater of \$30.00 or 0.20 percent of the difference between the gross receipts of the business and \$400,000.00.

(b) If the gross receipts of the business are \$400,000.00 or less, an application shall be required to be filed, but no tax shall be due and paid.

(Code 1980, § 12-83; Code 1995, § 20-571; Ord. No. 909, § 1, 10-25-1995; Ord. No. 935, § 22, 10-9-1996; Ord. No. 962, § 8, 10-8-1997; Ord. No. 981, § 8, 10-14-1998; Ord. No. 991, § 4, 9-28-1999)

State law reference – Fidelity and surety insurance, Code of Virginia, § 38.2-2400 et seq.

Sec. 20-532. - License from the Virginia department of criminal justice services required.

With the exception of any bondsman or his agent who has previously obtained a certificate from a judge of the circuit court and license under section 20-531 and whose certificate, license and right to act as a bondsman continues to remain in full force and effect, no license shall be issued to any person pursuant to section 20-531 until the applicant shall have first obtained a bail bondsman license from the Virginia Department of Criminal Justice Services, as provided by Code of Virginia, § 58.1-3724.

(Code 1980, § 12-84; Code 1995, § 20-572; Ord. No. 1078, § 1, 10-11-2005)

State law reference – Similar provisions, Code of Virginia, § 58.1-3724.

Secs. 20-533 – 20-557. - Reserved.**DIVISION 7. - CONTRACTORS**

***State law reference** – Contractor's license tax, Code of Virginia, §§ 58.1-3714, 58.1-3715.

Sec. 20-558. - Contractors defined.

For the purpose of this division, every person accepting or offering to accept orders or contracts for doing any work on or in any building or structure requiring the use of paint, stone, brick, mortar, cement, wood, structural iron or steel, sheet iron, galvanized iron, metallic piping, tin, lead or other metal or any other building material; accepting or offering to accept contracts to do any paving, curbing or other work on sidewalks, streets, alleys or highways or public or private property using asphalt, brick, stone, cement, concrete, wood or any composition; accepting or offering to accept an order for or contract to excavate earth, rock or other material for foundation or any other purpose or for cutting or trimming or maintaining rights-of-way; accepting or offering to accept an order or contract to construct any sewer of stone, brick, concrete, terra cotta or other material; accepting or offering to accept an order or contract for doing any work on or in any building or premises involving the erecting, installing, altering, repairing, servicing, or maintaining electric wiring, devices or appliances permanently connected to such wiring, or the erecting, repairing or maintaining of lines for the transmission or distribution of electric light and power; or

engaging in the business of plumbing and steamfitting shall be deemed to be a contractor, whether such work is done or offered to be done by day labor, general contract or subcontract.

(Code 1980, § 12-85; Code 1995, § 20-591; Ord. No. 909, § 1, 10-25-1995)

State law reference – Similar provisions, Code of Virginia, § 58.1-3714.

Sec. 20-559. - Amount of tax.

(a) Every contractor, for the privilege of transacting business in the county, including the performance in the county of a contract accepted outside the county, provided that the gross fees or gross receipts of the business exceed \$400,000.00, shall pay a license tax as follows:

(1) A fee contractor shall pay the greater of \$30.00 or 1.50 percent of the difference between the gross amount of all fees received from contracts accepted on a fee basis and \$400,000.00; and

(2) A contractor other than a fee contractor shall pay the greater of \$30.00 or 0.15 percent of the difference between the gross receipts from all contracts accepted on a basis other than a fee basis and \$400,000.00.

(b) If the gross amount of all fees received from contracts accepted on a fee basis or the gross receipts from all contracts accepted on a basis other than a fee basis is \$400,000.00 or less, an application shall be required to be filed, but no tax shall be due or paid.

(Code 1980, § 12-86; Code 1995, § 20-592; Ord. No. 909, § 1, 10-25-1995; Ord. No. 935, § 23, 10-9-1996; Ord. No. 962, § 9, 10-8-1997; Ord. No. 981, § 9, 10-14-1998)

Sec. 20-560. - Speculative builders.

(a) Every person engaged in the business of erecting a building for the purpose of selling or renting it and making no contract with a duly licensed contractor for the erection of such building, whether or not such person contracts with one or more duly licensed contractors for one or more portions, but does not contract with any one person for all of the work of erecting any one of such buildings, shall be deemed to be a speculative builder and for the privilege of transacting business in this county, provided that the total costs of the business exceed \$400,000.00, shall pay a license tax equal to the greater of \$30.00 or 0.15 percent of the difference between the entire cost (both hard and soft) of erecting the building, exclusive of the value of the land, but including the cost of off-site improvements (namely, water systems, sanitary sewerage systems, storm drainage systems and road, curb and gutter improvements) and \$400,000.00.

(b) If the entire costs of the business are \$400,000.00 or less, an application shall be required to be filed, but no tax shall be due or paid.

(c) No person who is duly licensed as a contractor under section 20-559 and who is also engaged in the business of speculative building for which a license tax would be otherwise prescribed by this section shall be liable for a separate license, assessable under this section, but every such person shall include in the basis for the tax to be computed under section 20-559 all of the costs which a speculative builder is required to include under the provisions of this section, which costs shall be considered as a part of the orders or contracts accepted by the taxpayer in computing the taxpayer's contractor's license tax.

(Code 1980, § 12-89; Code 1995, § 20-595; Ord. No. 909, § 1, 10-25-1995; Ord. No. 935, § 24, 10-9-1996; Ord. No. 962, § 10, 10-8-1997; Ord. No. 981, § 10, 10-14-1998)

Sec. 20-561. - Designation of place of business.

Every license of a contractor or speculative builder shall designate the regular office or place of business in the county, if there be one, as the specified house or definite place at which the business is to be conducted. If there be no such regular office or place of business in the county, but such person is

transacting business in the county, then such license shall designate the residence or place of business of the taxpayer, wherever it may be, and also the first place in the county at which work is to be performed, as the specified house or definite place at which the business is to be conducted.

(Code 1980, § 12-91; Code 1995, § 20-596; Ord. No. 909, § 1, 10-25-1995)

State law reference—Principal office location, Code of Virginia, § 58.1-3715.

Sec. 20-562. - Scope of license.

Every license issued under this division shall be valid throughout the county.

(Code 1980, § 12-92; Code 1995, § 20-597)

Sec. 20-563. - Exemption from tax when license purchased in other jurisdiction.

When a contractor or speculative builder shall have paid a local license tax to any city, town or county in which his principal office or branch office may be located, he shall be exempt from the payment of additional license tax to the county for conducting any such business within the confines of the county, except where the amount of business done by any such person in the county exceeds the sum of \$25,000.00 in any year, he shall be required to file an application and pay a license tax as provided in section 20-559 and shall be subject to all other provisions of this division. The director of finance shall have the power to require such periodic reports as he may deem necessary of all persons claiming exemption under this section. The exemption mentioned in this section shall not affect in any other way the requirements of this division.

(Code 1980, § 12-95; Code 1995, § 20-598; Ord. No. 909, § 1, 10-25-1995; Ord. No. 935, § 25, 10-9-1996)

State law reference—Similar provisions, Code of Virginia, § 58.1-3715.

Sec. 20-564. - Receipts for business done in other jurisdictions.

In computing the license tax of a contractor or speculative builder whose principal office or branch office is located in the county, there shall be exempt from the basis of taxation the amount of business done in any other city, town or county in which the contractor or speculative builder has:

- (1) A definite place of business; or
- (2) No definite place of business and upon which a local license tax has been assessed as provided in Code of Virginia, § 58.1-3715.

(Code 1980, § 12-96; Code 1995, § 20-599; Ord. No. 909, § 1, 10-25-1995; Ord. No. 1136, 11-10-2009)

State law reference—Similar provisions, Code of Virginia, § 58.1-3715.

Sec. 20-565. - Proration of tax on orders or contracts covering more than one year.

Any contractor's license tax imposed pursuant to this division shall be prorated on all orders or contracts covering more than one calendar year so as to ensure that the gross amount of each such order or contract is used only once as a basis for determining the amount of tax due.

(Code 1980, § 12-97; Code 1995, § 20-600)

Sec. 20-566. - Exhibition of license prerequisite to obtaining permits or county contracts; furnishing of list

of subcontractors.

Every contractor and speculative builder who proposes to do work in the county under a contract with the county shall, upon the award of such contract, exhibit to the proper county official the county license authorizing him to engage in the business for the year in which the contract is awarded, and shall furnish to that official and to the director of finance a list of his subcontractors. If any or all of such subcontracts have not been closed or awarded at the time of award of such contract, he shall furnish such list in writing immediately upon awarding of the subcontracts or contract. He shall not allow the work under any subcontract to proceed until the subcontractor shall have exhibited to him his county license to do such business in the county for the current year.

(Code 1980, § 12-93; Code 1995, § 20-602; Ord. No. 909, § 1, 10-25-1995)

Sec. 20-567. - Certification of compliance with workers' compensation coverage prerequisite to issuance or reissuance of license; penalty.

- (a) No person licensable under this division shall be issued or reissued a license if he:
- (1) Has not obtained or is not maintaining workers' compensation coverage for his employees; and
 - (2) At the time of application for such issuance or reissuance, is required to obtain or maintain such coverage pursuant to Code of Virginia, title 65.2, ch. 8 (Code of Virginia, § 65.2-800 et seq.).
- (b) Every person licensable under this division shall provide written certification at the time of any application for issuance or reissuance of a license that he is in compliance with the provisions of Code of Virginia, title 65.2, ch. 8 (Code of Virginia, § 65.2-800 et seq.), and will remain in compliance with such provisions at all times during the license year.
- (c) The director of finance shall forward the signed certification required by subsection (b) of this section to the Virginia Workers' Compensation Commission, who shall conduct periodic compliance audits of selected contractors.
- (d) Any person who knowingly presents or causes to be presented with his license application a false certificate of compliance shall be guilty of a class 3 misdemeanor.

(Code 1995, § 20-603; Ord. No. 981, § 28, 10-14-1998)

State law reference— Similar provisions, Code of Virginia, § 58.1-3714; penalty for class 3 misdemeanor, Code of Virginia, § 18.2-11.

Sec. 20-568. - Contractors without a definite place of business in the commonwealth.

Any contractor, as defined in section 20-558, conducting business in the county for less than 30 days without a definite place of business in any county, city or town of the commonwealth shall be subject to the license tax imposed under section 20-559 where the amount of business done by the contractor in the county exceeds or will exceed the sum of \$25,000.00 for the license year. That portion of the gross receipts of a contractor subject to the license tax pursuant to this section shall not be subject to such tax in any other county, city or town.

(Code 1995, § 20-604; Ord. No. 991, § 12, 9-28-1999)

State law reference— Similar provisions, Code of Virginia, § 58.1-3715.

Sec. 20-569. - Prerequisite to issuance or renewal of license.

- (a) Any person applying for or renewing a license under this division shall furnish prior to the issuance or

renewal of the license either (i) satisfactory proof that he is duly licensed or certified under the terms of Code of Virginia, tit. 54.2, ch. 11 or (ii) a written statement, supported by an affidavit that he is not subject to licensure or certification as a contractor or subcontractor pursuant to Code of Virginia, tit. 54.1, ch. 11.

(b) No license shall be issued or renewed under this division unless the contractor has furnished his license or certificate number issued pursuant to Code of Virginia, tit. 54.1, ch. 11 or evidence of being exempt from the provisions of Code of Virginia, tit. 54.1, ch. 11.

Secs. 20-570–20-599. - Reserved.

DIVISION 8. - HOTELS AND RESTAURANTS

Sec. 20-600. - Hotels.

(a) *Definition.* Every person who keeps a public inn or lodginghouse of more than ten bedrooms, where transient guests are fed or lodged for pay, in the county shall be deemed to be engaged in the business of keeping a hotel. For purposes of this subsection, the term "transient guest" means a person who puts up for less than a week at such hotel, but such a house is no less a hotel because some of its guests put up for longer periods than a week.

(b) *Levy; amount of tax.* Every person operating a hotel, as defined in the preceding section, provided that the gross receipts of the business exceed \$400,000.00, shall pay an annual license tax equal to the greater of \$30.00 or 0.20 percent of the difference between gross receipts of the business, except receipts from the cost of telephone service and use, and except rent from stores or other space operated independently on ground level with an outside entrance, and \$400,000.00.

(c) If the gross receipts of the business are \$400,000.00 or less, an application shall be required to be filed, but no tax shall be due and paid.

(Code 1980, §§ 12-101, 12-102; Code 1995, § 20-641; Ord. No. 909, §§ 1, 2, 10-25-1995; Ord. No. 935, § 26, 10-9-1996; Ord. No. 962, § 11, 10-8-1997; Ord. No. 981, § 1, 10-14-1998; Ord. No. 991, § 5, 9-28-1999)

Sec. 20-601. - Restaurants, soda fountains and similar businesses.

(a) Every person engaged in the business of operating an eating house, lunchstand, lunchroom, restaurant or soda fountain, or who shall sell, offer for sale, cook or otherwise furnish for compensation, diet, food or refreshments of any kind, at his house or place of business, for consumption therein, provided that the gross receipts of the business exceed \$400,000.00, shall pay a license tax therefor equal to the greater of \$30.00 or 0.20 percent of the difference between the gross receipts of the business and \$400,000.00.

(b) If the gross receipts of the business are \$400,000.00 or less, an application shall be required to be filed, but no tax shall be due or paid.

(c) Every license issued to such person shall authorize the licensee to sell, offer for sale, cook or otherwise furnish for compensation, at retail only and not for resale, diet, food or refreshments of any kind at the house or place of business of the licensee for consumption therein. A separate license shall be required for each house or definite place of business.

(Code 1980, § 12-103; Code 1995, § 20-642; Ord. No. 909, § 1, 10-25-1995; Ord. No. 935, § 27, 10-9-1996; Ord. No. 962, § 12, 10-8-1997; Ord. No. 981, § 12, 10-14-1998)

Sec. 20-602. - Applicability of restaurant license tax when meals furnished in hotel or lodginghouse.

If meals are furnished by public lodginghouses, hotels, inns or tourist homes to persons other than those to whom bedrooms are also furnished for compensation, or if meals are furnished to those who are

furnished bedrooms and an additional charge is made for such meals, then in addition to the license tax otherwise imposed in this division there shall be assessed a restaurant license tax for the gross receipts of the business from such meals, including the additional charges for meals furnished those to whom bedrooms are also furnished.

(Code 1980, § 12-105; Code 1995, § 20-644)

Secs. 20-603—20-622. - Reserved.

DIVISION 9. - LOAN COMPANIES AND BANKERS

Sec. 20-623. - Term defined.

For purposes of this division, the term "person" shall mean, in addition to the definition provided in section 20-350, a real estate investment trust, including its qualified subsidiaries engaged in business activities subject to taxation under this division, as the terms "real estate investment trust" and "qualified subsidiary" are defined in section 856 of the Internal Revenue Code, and also including any of the real estate investment trust's nonqualified subsidiaries provided that stock possessing at least 90 percent of the equity of each nonqualified subsidiary is owned directly or indirectly by the real estate investment trust and further provided that the nonqualified subsidiary is engaged in business activities subject to taxation under this division.

(Code 1980, § 12-107; Code 1995, § 20-661)

Cross reference— Definitions and rules of construction, § 1-2.

Sec. 20-624. - Small loan companies.

(a) Every person licensed pursuant to Code of Virginia, title 6.2, ch. 15 (Code of Virginia, § 6.2-1500 et seq.) provided that the gross receipts of the business exceed \$400,000.00, shall pay a license tax equal to the greater of \$30.00 or 0.20 percent of the difference between the gross receipts of the business, excluding repayments of principal, and \$400,000.00. In no event, however, shall the tax calculated as 0.20 percent, as stated in this subdivision, exceed \$90,000.00.

(b) If the gross receipts of the business, excluding repayments of principal, are \$400,000.00 or less, an application shall be required to be filed, but no tax shall be due or paid.

(Code 1980, § 12-108; Code 1995, § 20-662; Ord. No. 909, § 1, 10-25-1995; Ord. No. 935, § 28, 10-9-1996; Ord. No. 962, § 13, 10-8-1997; Ord. No. 981, § 13, 10-14-1998; Ord. No. 991, § 6, 9-28-1999)

Sec. 20-625. - Persons other than small loan companies lending money for purchase of chattels secured by liens; purchasers of conditional sale contracts.

(a) Every person, other than a person licensed pursuant to Code of Virginia title 6.2, ch. 15 (Code of Virginia § 6.2-1500 et seq.) engaged in the business of lending money to others for the purchase of motor vehicles, refrigerators, radios, oil or gas burners, electrical appliances, household furniture or equipment, or any other goods or chattels, whether new or used, secured by a lien on such goods or chattels, or paying the purchase price of any goods or chattels for the buyer and securing the sum so paid by a lien on the goods or chattels, or, by the purchase from a dealer of conditional sales contracts or chattels, mortgages, and the notes or other obligations, if any, secured thereby, or in any other manner or by any other method financing in whole or in part, the purchase of such goods or chattels by or for others; and every person, other than a person licensed pursuant to Code of Virginia, title 6.2, ch. 15 (Code of Virginia, § 6.2-1500 et seq.), engaged in the business of lending money to others, secured by lien on such goods or chattels, whether for the

purchase thereof or not, provided that the gross receipts of the business exceed \$400,000.00, shall pay a license tax equal to the greater of \$30.00 or 0.20 percent of the difference between the gross receipts of the business, excluding repayments of principal, and \$400,000.00. In no event, however, shall the tax calculated under the provision of the previous sentence as 0.20 percent exceed \$90,000.00.

(b) If the gross receipts of the business, excluding repayments of principal, are \$400,000.00 or less, an application shall be required to be filed, but no tax shall be due or paid.

(c) Nothing herein shall require the payment of any license tax under this section by any bank or trust company.

(Code 1980, § 12-109; Code 1995, § 20-663; Ord. No. 909, § 1, 10-25-1995; Ord. No. 935, § 29, 10-9-1996; Ord. No. 962, § 14, 10-8-1997; Ord. No. 981, § 14, 10-14-1998; Ord. No. 991, § 7, 9-28-1999)

State law reference – Bank and trust company exemption, Code of Virginia, § 58.1-3703(C)12.

Sec. 20-626. - Other moneylenders.

(a) Every person, except those engaged in first mortgage loans and first mortgage note purchasing, conducting or engaging in any of the following money lending or note purchasing occupations, businesses or trades, namely: an industrial loan company, loan or mortgage company, insurance premium finance company, pawnshop or pawnbroker, a factor, a buyer of promissory notes, deed of trust notes or installment loan agreements, provided that the gross receipts of the business exceed \$400,000.00, shall pay for the privilege an annual license tax therefor equal to the greater of \$30.00 or 0.20 percent of the difference between the gross receipts of the business and \$400,000.00. In no event, however, shall the tax calculated under the provision of the previous sentence as 0.20 percent exceed \$90,000.00.

(b) If the gross receipts of the business are \$400,000.00 or less, an application shall be required to be filed, but no tax shall be due or paid.

(c) Notwithstanding subsection (e) of this section, the maximum tax for industrial loan associations shall not exceed \$500.00.

(d) A pawnshop or pawnbroker must comply with the requirements of Code of Virginia, title 54.1, ch. 40 (Code of Virginia, § 54.1-4000 et seq.) and chapter 15, article V of this Code before issuance of a license under this section.

(e) The term "gross receipts," as used in this section, shall be deemed to mean the gross interest, gross discount, gross commission or other gross receipts earned by means of, or resulting from, such financial transactions. The term "gross receipts" shall not include amounts received as payment of principal.

(Code 1980, § 12-110; Code 1995, § 20-664; Ord. No. 909, § 1, 10-25-1995; Ord. No. 935, § 30, 10-9-1996; Ord. No. 962, § 15, 10-8-1997; Ord. No. 981, § 15, 10-14-1998; Ord. No. 991, § 8, 9-28-1999)

Sec. 20-627. - Persons making first mortgage loans or purchasing mortgage notes.

(a) Every person conducting or engaging in a first mortgage money lending or first mortgage note purchasing occupation, business or trade, provided that the gross receipts of the business exceed \$400,000.00, shall pay for the privilege an annual license tax therefor equal to the greater of \$30.00 or 0.20 percent of the difference between the gross receipts of the business and \$400,000.00. In no event, however, shall the tax calculated under the provision of the previous sentence as 0.20 percent exceed \$90,000.00.

(b) If the gross receipts of the business are \$400,000.00 or less, an application shall be required to be filed, but no tax shall be due or paid.

(c) The term "gross receipts," as used in this section, shall be deemed to mean the gross interest, discount, gross commission or other gross receipts earned by means of, or resulting from, such financial transactions. The term "gross receipts" shall not include amounts received as payment of principal.

(Code 1980, § 12-111; Code 1995, § 20-665; Ord. No. 909, § 1, 10-25-1995; Ord. No. 935, § 31, 10-9-1996; Ord.

No. 962, § 16, 10-8-1997; Ord. No. 981, § 16, 10-14-1998; Ord. No. 991, § 9, 9-28-1999)

Sec. 20-628. - Savings and loan companies.

Every savings and loan company, firm or corporation having its principal office in the county shall pay a license tax of \$50.00.

(Code 1980, § 12-112; Code 1995, § 20-666)

State law reference— Authority to levy, Code of Virginia, § 58.1-3730.

Sec. 20-629. - Exemption for federal and state-chartered credit unions.

The provisions of this division shall not apply to federal or state-chartered credit unions.

(Code 1980, § 12-112.1; Code 1995, § 20-667)

Secs. 20-630—20-646. - Reserved.

DIVISION 10. - RETAIL MERCHANTS

Sec. 20-647. - License and payment of tax required; "retail merchant" defined.

Every person engaged in the business of a retail merchant shall obtain a license for the privilege of doing business in the county and shall pay a license tax therefor. The term "retail merchant," as used in this division, shall include every merchant who sells to others at retail only and not for resale. The term "retail merchant," as used in this division, shall also include any person engaged in the short-term rental business as defined in § 20-311.

(Code 1980, § 12-115; Code 1995, § 20-691)

Sec. 20-648. - Amount of tax.

(a) Every person engaged in the business of a retail merchant, provided that the gross receipts of the business exceed \$400,000.00, shall pay a license tax equal to the greater of \$30.00 or 0.20 percent of the difference between the gross receipts of the business and \$400,000.00.

(b) If the gross receipts of the business are \$400,000.00 or less, an application shall be required to be filed, but no tax shall be due or paid.

(Code 1980, § 12-116; Code 1995, § 20-692; Ord. No. 909, § 1, 10-25-1995; Ord. No. 935, § 32, 10-9-1996; Ord. No. 962, § 17, 10-8-1997; Ord. No. 981, § 17, 10-14-1998)

State law reference— Limitation on tax on retail merchant, Code of Virginia, § 58.1-3706(A)2.

Sec. 20-649. - Combination wholesale and retail merchants.

Any person who is both a retail merchant and a wholesale merchant is hereby required to obtain both classes of licenses; provided that any retail merchant who desires to do a wholesale business also may elect to do such wholesale business under his retailer's license by paying license taxes under the provisions of this division as a retailer on both his retail and wholesale business.

(Code 1980, § 12-113; Code 1995, § 20-693)

State law reference— Wholesale merchants license tax limitation, Code of Virginia, § 58.1-3716.

Sec. 20-650. - Commission merchants.

(a) For purposes of this article, the term "commission merchant" shall mean any person engaged in the business of selling merchandise on commission by sample, circular, or catalogue for a regularly established retailer, who has no stock or inventory under his control other than floor samples held for demonstration or sale and owned by the principal retailer. A commission merchant shall be taxed on commission income and shall not be subject to tax on total gross receipts from such sales. Every person engaged in the business of a commission merchant, provided that the gross commissions of the business exceed \$400,000.00, shall pay a license tax equal to the greater of \$30.00 or 0.20 percent of the difference between the gross commissions of the business and \$400,000.00.

(b) If the gross commissions of the business are \$400,000.00 or less, an application shall be required to be filed, but no tax shall be due or paid.

(c) Goods, wares and merchandise not belonging to a retail merchant which are offered for sale by the retail merchant or by any other person at the retail merchant's duly licensed place of business shall require such retail merchant to take out the license of a commission merchant as provided in subsection (a) of this section.

(Code 1980, §§ 12-114, 12-124; Code 1995, § 20-694; Ord. No. 909, §§ 1, 2, 10-25-1995; Ord. No. 935, § 33, 10-9-1996; Ord. No. 962, § 18, 10-8-1997; Ord. No. 981, § 18, 10-14-1998; Ord. No. 991, § 10, 9-28-1999)

State law reference — Taxation of commission merchants, Code of Virginia, § 58.1-3733.

Sec. 20-651. - Sales promotional shows and flea markets.

(a) A group of persons or merchants may sell or offer for sale at retail at a sales promotional show or flea market their goods, wares and merchandise, upon the payment of a license tax in the amount of \$250.00. Such license shall authorize all sales conducted at such show. Such license shall not be granted for a period of time in excess of seven consecutive days.

(b) For purposes of this section, a sales promotional show is defined as a show, consisting of a group of persons or merchants, to stimulate the sale of specific classes of goods, wares and merchandise, such as but not limited to recreational goods, motor vehicles, antiques, hobby crafts, etc.

(c) For purposes of this section, a flea market is defined as a group of persons assembling for the purpose of selling their goods, wares and merchandise which are primarily secondhand articles.

(d) The license tax specified in this section shall apply only to shows and flea markets having gross sales of less than \$125,000.00. Persons participating in shows and flea markets having gross sales in excess of \$125,000.00 shall be subject to the license tax specified in section 20-648.

(Code 1980, § 12-117; Code 1995, § 20-695)

Sec. 20-652. - Applicability of division to manufacturers.

All goods, wares and merchandise manufactured by a retail merchant and sold as merchandise shall be considered as sales; provided that this division shall not be construed as applying to manufacturers who sell or offer for sale at the place of manufacture goods, wares and merchandise manufactured by them. A manufacturer may, without a retail merchant's license, sell at the place of manufacture the goods, wares and merchandise manufactured by him. If a manufacturer desires to sell other than at the place of manufacture, at retail only and not for resale, the goods, wares and merchandise manufactured by him, such manufacturer must take out a retail merchant's license. When a manufacturer establishes a place for the sale of his goods, wares and merchandise, other than at his place of manufacture, at retail only and not for resale, the gross receipts of the business shall include not only the amount of sales made by such manufacturer of goods, wares and merchandise purchased from others, but also the gross receipts from the

sale of the goods, wares and merchandise manufactured by him, sent from the point of manufacture and sold at or through such place; and he is required to report, as provided in this division, not only the amount of sales of goods, wares and merchandise purchased by him from others and sold, but also the amount of sales of goods, wares and merchandise manufactured by him either within or without the county and offered for sale by him and sold at or through a place in the county other than the place of manufacture. Notwithstanding the provisions of this section, with respect to goods, wares or merchandise manufactured by a retail merchant and sold or offered for sale by him at or through a place in the county other than the place of manufacture and shipped directly to the customer, the retail merchant is required to report, as provided in this division, only the amount of goods, wares and merchandise delivered within the state.

(Code 1980, § 12-118; Code 1995, § 20-696)

Sec. 20-653. - Reserved.

(Code 1980, § 12-119; Code 1995, § 20-697)

Sec. 20-654. - Cooperatives.

Every cooperative association, society, company or exchange created or operating under the provisions of Code of Virginia, title 13.1, ch. 3, art. 1 (Code of Virginia, § 13.1-301 et seq.), and every nonprofit, cooperative association, with or without capital stock, created or operating under the provisions of Code of Virginia, title 13.1, ch. 3, art. 2 (Code of Virginia, § 13.1-312 et seq.), and every cooperative marketing or purchasing association or corporation incorporated or organized under the general corporation laws of this state and brought under the provisions of Code of Virginia, title 13.1, ch. 3 (Code of Virginia, § 13.1-301 et seq.), whether such association, society, company, exchange or corporation be organized or brought under the provisions of those sections of the Code of Virginia prior or subsequent to the effective date of the ordinance from which this section is derived and whether chartered under the laws of this state or otherwise chartered and doing business in this state and conducting a mercantile, merchandise or brokerage business on the cooperative plan, shall be taxable as a merchant by the county. Every such association, society, company, exchange or corporation which sells to others at retail only and not for resale shall be a retail merchant and taxable as such under this division.

(Code 1980, § 12-123; Code 1995, § 20-698)

State law reference— Authority to tax cooperatives, Code of Virginia, §§ 13.1-311, 13.1-341.

Sec. 20-655. - Operators of coin-in-the-slot machines.

Every person who sells merchandise by means of machines operated on the coin-in-the-slot principle shall pay the merchant's license tax prescribed by this division. All such machines are to be plainly marked so as to show the name and address of the owner thereof.

(Code 1980, § 12-125; Code 1995, § 20-699)

Sec. 20-656. - Special license for closing out business.

If, after the close of the year for which a license is issued under this division, the retail merchant elects not to renew it but desires the privilege to sell whatever goods, wares and merchandise he may have on hand at the time, it shall be lawful for him to do so upon obtaining a license and the payment of a license tax therefor measured by the retail sale value of such goods, wares and merchandise, less any applicable

deduction, which value he shall estimate and report to the director of finance. No additional purchases shall be made and added to the goods, wares and merchandise on hand after the estimate has been made. No such license shall be assigned or transferred.

(Code 1980, § 12-122; Code 1995, § 20-700; Ord. No. 909, § 1, 10-25-1995)

Cross reference – Closing out and similar sales, ch. 8.

Sec. 20-657. - Exemption for sales conducted by nonprofit organizations at events sponsored by county government.

The license taxes specified in this article shall not apply to retail sales, sales promotional shows and flea markets being conducted by nonprofit organizations at an event sponsored or cosponsored by the county government and authorized by the county manager.

(Code 1980, § 12-125.1; Code 1995, § 20-701)

Sec. 20-658. - Estimation of gross receipts for new businesses.

For the purpose of ascertaining the tax to be paid under this division by a retail merchant beginning business, he shall estimate the gross receipts of the business which he will receive between the date of the issuance of his license and the end of the then-current license year, including an estimate of the sales of goods, wares and merchandise manufactured by him to be offered for sale at the place at which he conducts his business as a retail merchant, provided that such place is not the place of manufacture, and his beginner's tax shall be computed on the basis of his gross receipts so ascertained, less any applicable deduction, subject to correction after the close of the license year upon the basis of his actual sales.

(Code 1980, § 12-120; Code 1995, § 20-702; Ord. No. 909, § 1, 10-25-1995)

Secs. 20-659 – 20-689. - Reserved.

DIVISION 11. - WHOLESALE MERCHANTS

***State law reference** – Authority to levy, Code of Virginia, § 58.1-3716.

Sec. 20-690. - Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Purchases means all goods, wares and merchandise received for sale at each definite place of business of a wholesale merchant and shall not be construed to exclude any goods, wares and merchandise otherwise coming within the meaning of the word. All goods, wares and merchandise manufactured by a wholesale merchant and sold or offered for sale as merchandise shall be considered as purchases within the meaning of this section; provided that this section shall not be construed to apply to manufacturers who offer for sale at the place of manufacture the goods, wares and merchandise manufactured by them, but such manufacturer may, without a wholesale merchant's license, sell at the place of manufacture the goods, wares and merchandise manufactured by him. If a manufacturer desires to sell or offers for sale the goods, wares and merchandise manufactured by him, other than at the place of manufacture, to others for resale or at wholesale to institutional, commercial or industrial users, then such manufacturer must take out a wholesale merchant's license and the amount of license tax is to be measured not only by the amount of purchases made by such manufacturer from others, if any, but also by the goods, wares and merchandise

manufactured by him, if any, and he is required to report, as provided in this division, not only the amount of goods, wares and merchandise purchased by him from others and offered for resale, but also the amount of goods, wares and merchandise manufactured by him either within or without the county and sold or offered for sale by him at his place of business or office in this county, other than the place of manufacture. The term "purchases," as used in this division in relation to the purchase price of goods, wares and merchandise sold by a manufacturer at or through a place other than the place of manufacture, shall be the cost of manufacturing such goods, wares and merchandise together with the factory markup and overhead.

Wholesale merchant means any person or merchant who sells goods, wares and merchandise for resale by the purchaser, including sales when the goods, wares and merchandise will be incorporated into goods and services for sale, or who sells at wholesale to institutional, commercial or industrial users.

(Code 1980, § 12-128; Code 1995, § 20-721; Ord. No. 909, § 1, 10-25-1995; Ord. No. 935, § 34, 10-9-1996)

Sec. 20-691. - License required; tax basis.

- (a) Provided that the total amount of purchases of the business exceed \$400,000.00 every person engaged in the business of a wholesale merchant shall obtain a license for the privilege of doing business in the county and shall pay a license tax therefor to be measured by the amount of purchases made by him during the next preceding license year.
- (b) If the purchases of the business are \$400,000.00 or less, an application shall be required to be filed, but no tax shall be due or paid.
- (c) A wholesale merchant may elect to report the gross receipts from the sale of manufactured goods, wares and merchandise if the wholesale merchant cannot determine the cost of manufacturing or chooses not to disclose the cost of manufacturing. If such election is made, the wholesale merchant shall be taxed upon the basis and at the rate set out in section 20-648.

(Code 1980, § 12-126; Code 1995, § 20-722; Ord. No. 909, § 1, 10-25-1995; Ord. No. 935, § 35, 10-9-1996; Ord. No. 962, § 19, 10-8-1997; Ord. No. 981, § 19, 10-14-1998)

Cross reference – Definitions and rules of construction, § 1-2.

Sec. 20-692. - Amount of tax.

- (a) For every license issued to a person engaged in the business of a wholesale merchant, the amount to be paid shall be as follows:
 - (1) If the amount of purchases throughout the next preceding calendar year do not exceed \$10,000.00, the amount shall be \$25.00;
 - (2) When such purchases exceed \$10,000.00, the amount shall be:
 - a. \$25.00 on the first \$10,000.00 and \$0.20 on every \$100.00 in excess of \$10,000.00 but not exceeding \$5,000,000.00;
 - b. \$0.15 on each \$100.00 in excess of \$5,000,000.00 but not exceeding \$15,000,000.00;
 - c. \$0.10 per each \$100.00 upon all purchases in excess of \$15,000,000.00 but not exceeding \$25,000,000.00;
 - d. \$0.05 per each \$100.00 upon all purchases in excess of \$25,000,000.00 but not exceeding \$50,000,000.00;
 - e. \$0.025 per each \$100.00 upon all purchases in excess of \$50,000,000.00 but not exceeding \$100,000,000.00; and
 - f. \$0.0125 per each \$100.00 upon all purchases in excess of \$100,000,000.00.
- (b) Each wholesale merchant shall receive a deduction of \$400,000.00 from purchases prior to determining

his tax liability.

(Code 1980, § 12-127; Code 1995, § 20-723; Ord. No. 909, § 1, 10-25-1995; Ord. No. 935, § 36, 10-9-1996; Ord. No. 962, § 20, 10-8-1997; Ord. No. 981, § 20, 10-14-1998)

Sec. 20-693. - Junk dealers and dealers in secondhand paper.

Every junk dealer and secondhand paper dealer shall pay for the privilege of transacting business the merchant's license tax prescribed by this division for wholesale merchants; provided, however, this section shall not apply to a retail merchant who receives and purchases at his retail store waste paper, recyclable containers or other such recyclable material.

(Code 1980, § 12-159; Code 1995, § 20-724; Ord. No. 1053, § 2, 9-9-2003)

Sec. 20-694. - Reserved.

(Code 1980, § 12-129; Code 1995, § 20-725)

Sec. 20-695. - Cooperatives.

Every cooperative association, society, company or exchange created or operating under the provisions of Code of Virginia, title 13.1, ch. 3, art. 1 (Code of Virginia, § 13.1-301 et seq.), and every nonprofit, cooperative association, with or without capital stock, created or operating under the provisions of Code of Virginia, title 13.1, ch. 3, art. 2 (Code of Virginia, § 13.1-312 et seq.), and every cooperative marketing or purchasing association or corporation incorporated or organized under the general corporation laws of this state and brought under the provisions of Code of Virginia, title 13.1, ch. 3 (Code of Virginia, § 13.1-301 et seq.), whether such association, society, company, exchange or corporation is organized or brought under the provisions of those sections of the Code of Virginia prior or subsequent to the effective date of the ordinance from which this section is derived, and whether chartered under the laws of this state or otherwise chartered and doing business in this state, and conducting a mercantile, merchandise or brokerage business on the cooperative plan, shall be taxable as a merchant by the county. Every such association, society, company, exchange or corporation which sells to others for resale only, or which sells at wholesale to institutional, commercial or industrial users, shall be a wholesale merchant and taxable as such under this division.

(Code 1980, § 12-130; Code 1995, § 20-726)

State law reference— Authority to tax cooperatives, Code of Virginia, §§ 13.1-311, 13.1-341.

Sec. 20-696. - Special license for closing out business.

If, after the close of the year for which a license is issued under this division, the wholesale merchant elects not to renew it but desires the privilege to sell whatever goods, wares and merchandise he may have on hand at the time, it shall be lawful for him to do so upon obtaining a license and the payment of a license tax therefor upon the basis of regarding such goods, wares and merchandise as purchases for the purpose of computing the license tax. No additional purchases shall be made and added to the goods, wares and merchandise on hand. No such license shall be assigned or transferred.

(Code 1980, § 12-133; Code 1995, § 20-727)

Cross reference – Closing out and similar sales, ch. 8.

Sec. 20-697. - Businesses requiring commission merchant's license.

Goods, wares and merchandise not belonging to a wholesale merchant which are offered for sale by the wholesale merchant or by any other person at the wholesale merchant's duly licensed place of business shall require such wholesale merchant to take out the license of a commission merchant as provided in section 20-650(a).

(Code 1980, § 12-134; Code 1995, § 20-728)

Sec. 20-698. - Sale and delivery of goods at place other than place of business.

A wholesale merchant who has been duly licensed by the county may, other than at a definite place of business, sell and deliver at the same time to licensed dealers or retailers, but not to consumers, anywhere in the county, without the payment of any additional license tax of any kind for any such privilege to the county, unless otherwise provided by law.

(Code 1980, § 12-135; Code 1995, § 20-729)

Sec. 20-699. - Computation of tax for new businesses or businesses not in existence for full year.

(a) For the purpose of ascertaining the tax to be paid by a wholesale merchant beginning business, his purchases shall be considered to be the amount of goods, wares and merchandise bought to commence business with, including goods, wares and merchandise manufactured by him to be offered for sale at the place at which he conducts his business as a wholesale merchant, provided such place is not the place of manufacture; also including an estimate of purchases which the wholesale merchant will make between the date of the issuance of his license and the end of the current license year; and including an estimate of the amount of goods, wares and merchandise manufactured by him to be offered for sale at the place at which he conducts his business as a wholesale merchant, provided such place is not the place of manufacture. His beginner's license tax shall be computed upon the basis of the purchases so ascertained, less any applicable deduction, subject to correction after the close of the year upon the basis of his actual purchases.

(b) The license tax of every wholesale merchant who was licensed at a definite place of business for only a part of the next preceding license year shall be computed for the then-current license year on the basis of an estimate of purchases, less any applicable deduction, which the wholesale merchant will make throughout the then-current license year, including an estimate of the amount of goods, wares and merchandise manufactured by him to be offered for sale at the place at which he conducts his business as a wholesale merchant, provided such place is not the place of manufacture.

(Code 1980, § 12-131; Code 1995, § 20-730; Ord. No. 909, § 1, 10-25-1995)

Sec. 20-700. - Correction of estimated tax.

Every estimate of purchases made by or for a wholesale merchant beginning business and every estimate of purchases made by or for a wholesale merchant licensed for only a part of the next preceding license tax year, including every estimate of the amount of goods, wares and merchandise manufactured by any such wholesale merchant to be offered for sale at the place at which he conducts his business as a wholesale merchant, provided such place is not the place of manufacture, shall be subject to correction by the director of finance, so that the tax shall be finally based upon the correct amount of purchases actually made, less any applicable deduction.

(Code 1980, § 12-132; Code 1995, § 20-731; Ord. No. 909, § 1, 10-25-1995)

Secs. 20-701 – 20-728. - Reserved.

DIVISION 12. - ITINERANT AND TRANSIENT MERCHANTS

***State law reference** – Itinerant vendors, retail, Code of Virginia, § 58.1-3717.

Sec. 20-729. - Itinerant merchants.

(a) Definition. Every person engaged in temporary or transient business in the county and who, for the purpose of carrying on such business, hires, leases or occupies any building or structure, motor vehicle, tent, car, boat or public room, or any part thereof, for any period less than one year for the purpose of selling or offering for sale goods, wares and merchandise to others at retail only and not for resale, except goods, wares and merchandise received from bankruptcy sales, trustee sales, railroad wrecks, fire sales, slaughter sales or sales of like character or designation, and stock received from expositions and fairs, whether such person associates temporarily with another merchant or engages in such temporary or transient business in connection with or as a part of the business or in the name of another merchant or not, shall be deemed an itinerant merchant.

(b) License required; amount of tax. Every itinerant merchant shall obtain a license for the privilege of doing business in the county and shall pay a license tax of \$200.00 minimum, or a tax based on an amount estimated to be the amount of sales that he will make between the time of beginning business and the close of the license tax year, based on the rate of the retail merchant's license, if that amount is greater, and such license tax paid shall be subject to correction after the close of license year based on the gross receipts at the rate of taxation for retail merchants; provided that the license tax for any one calendar year shall not be less than \$200.00 or more than \$500.00.

(c) Prerequisites to issuance of license. Every itinerant merchant, when applying for a license to do business in the county, shall report to the director of finance the street and house number of the place where he proposes to conduct business, and no license shall be issued unless such place is adequately illuminated in the daytime without the aid of artificial light. He shall further report in detail the goods, wares and merchandise to be sold at such place and what statements or representations are to be made or advertised concerning them; and, if previously engaged in a like or similar business, he shall designate all the places where the business has been conducted within the preceding 12 months.

(Code 1980, §§ 12-136 – 12-138; Code 1995, § 20-751)

State law reference – Peddlers and itinerant merchants, Code of Virginia, § 58.1-3717.

Sec. 20-730. - Exception for sales by court officers.

Nothing in this division shall be construed to require the payment of a license tax for the sale of goods, wares and merchandise by an assignee, trustee, executor, fiduciary, officer in bankruptcy or other officer appointed by any court of this state or of the United States.

(Code 1980, § 12-141; Code 1995, § 20-753)

Secs. 20-731 – 20-758. - Reserved.

DIVISION 13. - PEDDLERS

***State law reference** – Peddlers, Code of Virginia, § 58.1-3717.

Sec. 20-759. - Applicability of state law.

The definition of a peddler as provided in Code of Virginia, § 58.1-3717(A), and the exemptions provided in Code of Virginia, § 58.1-3717(D) and other sections of the Code of Virginia with reference to peddlers generally shall be applicable in this division.

(Code 1980, § 12-142; Code 1995, § 20-771)

Sec. 20-760. - Amount of tax.

(a) *Generally.* Except as otherwise provided, the license tax for peddling or bartering, for each person so engaged or employed, when he travels on foot, shall be \$200.00. When such person peddles otherwise than on foot the fee shall be \$200.00 each vehicle used in such peddling.

(b) *Peddlers of ice, wood or coal.* The tax on peddlers of ice, wood or coal not produced by them, but purchased for resale, shall be \$30.00 for each vehicle used in such peddling.

(c) *Peddlers of homegrown agricultural products.* The tax on peddlers of meat, milk, butter, eggs, poultry, fish, oysters, game, vegetables, fruits or other family supplies of a perishable nature not grown or produced by them shall \$50.00 for each vehicle used in such peddling.

(d) *Seafood peddlers.* The tax on peddlers of seafood who buy the seafood they peddle directly from persons who catch or take such seafood shall be \$15.00.

(e) *Persons peddling to licensed dealers or retailers.* The tax on peddlers of goods, wares and merchandise who shall peddle goods, wares or merchandise to licensed dealers or retailers shall be the same as that imposed on wholesale merchants under division 11 of this article, and the merchandise distributed through such peddling shall be regarded as purchases for the purpose of measuring the license tax.

(Code 1980, §§ 12-143 – 12-146; Code 1995, § 20-772)

Sec. 20-761. - Transfer of license; proration of tax; payment of tax.

A peddler's license shall not be transferable, and the tax shall not be subject to proration. The full amount of the license tax shall be paid when assessed.

(Code 1980, § 12-148(a); Code 1995, § 20-774)

Sec. 20-762. - Time limit on parking of vehicles.

It shall be unlawful for a peddler to park, stand, stop or allow a vehicle to remain in any place for the purpose of peddling any longer than is necessary to conclude a sale of any goods, wares or merchandise or a continuous uninterrupted series of sales thereof; and, in any event, it shall be unlawful for a peddler to park, stand, stop or allow a vehicle to remain in any place for the purpose of peddling more than 30 minutes in any day.

(Code 1980, § 12-148(b); Code 1995, § 20-775)

Secs. 20-763 – 20-792. - Reserved.**DIVISION 14. - COIN-OPERATED MACHINES**

***State law reference** – Amusement machines, tax, Code of Virginia, § 58.1-3720.

Sec. 20-793. - Term defined; amount of tax.

(a) Every person engaged in the business of selling, leasing, renting or otherwise furnishing or providing a

coin-operated machine or device operated on the coin-in-the-slot principle shall be deemed a coin machine operator, provided that the term "coin machine operator" shall not include a person owning less than three coin machines and operating such machines on property owned or leased by such person.

(b) Every coin-machine operator shall pay a license tax equal to \$200.00 plus 0.20 percent of the difference between the gross receipts received by the operator from coin machines or devices operated within the county and \$400,000.00.

(Code 1980, § 12-150; Code 1995, § 20-791; Ord. No. 909, § 1, 10-25-1995; Ord. No. 935, § 37, 10-9-1996; Ord. No. 962, § 21, 10-8-1997; Ord. No. 981, § 21, 10-14-1998; Ord. No. 991, § 11, 9-28-1999)

State law reference – Authority to levy tax, Code of Virginia, § 58.1-3720.

Sec. 20-794. - Exemptions.

The provisions of section 20-793 shall not be applicable to operators of weighing machines, operators of automatic baggage or parcel-checking machines or receptacles, operators of vending machines which are constructed to vend only goods, wares and merchandise or postage stamps or provide service only, operators of viewing machines or photomat machines, or operators of devices or machines affording rides to children or for the delivery of newspapers.

(Code 1980, § 12-151; Code 1995, § 20-792)

State law reference – Similar provisions, Code of Virginia, § 58.1-3721.

Sec. 20-795. - Stickers or decals to be displayed on machines.

Each machine licensed by a coin-machine operator and merchant placing vending machines shall have conspicuously located thereon a decal, sticker or other adhesive label which shall clearly denote the name and address of the machine owner. Such sticker or decal shall be no less than one inch by two inches in size.

(Code 1980, § 12-153; Code 1995, § 20-793)

State law reference – Stickers as evidence of payment of license tax, Code of Virginia, § 58.1-3722.

Sec. 20-796. - Penalty.

Any person having any coin-operated machine or other device subject to this division and failing to procure a county license therefor, or otherwise violating this division, shall be subject to the penalty provided in section 1-13 for each offense.

(Code 1980, § 12-154; Code 1995, § 20-794)

State law reference – Similar provisions, Code of Virginia, § 58.1-3723.

Sec. 20-797. - Article not construed as permitting operation of unlawful machine.

Nothing contained in this article shall be construed as permitting any person to keep, maintain, exhibit or operate any coin machine or other device the operation of which is prohibited by law.

(Code 1980, § 12-149; Code 1995, § 20-795)

Secs. 20-798 – 20-817. - Reserved.**DIVISION 15. - UTILITY AND SERVICE COMPANIES**

***State law reference** – Authority to levy license tax on certain public service corporations, rate limitation, Code of Virginia, §§ 58.1-2690, 58.1-3731.

Sec. 20-818. - Amount of tax on persons furnishing water.

(a) Every person engaged in the business of furnishing water, provided that the gross receipts of the business exceed \$400,000.00, shall pay for the privilege an annual license tax equal to 0.50 percent of the difference between the gross receipts of the business accruing to such person from sales to the ultimate consumer in the county and \$400,000.00.

(b) If the gross receipts of the business are \$400,000.00 or less, an application shall be required to be filed, but no tax shall be due or paid.

(Code 1980, § 12-155; Code 1995, § 20-811; Ord. No. 909, § 1, 10-25-1995; Ord. No. 935, § 38, 10-9-1996; Ord. No. 962, § 22, 10-8-1997; Ord. No. 981, § 22, 10-14-1998)

State law reference – Water companies, tax authorized, Code of Virginia, § 58.1-3731.

Sec. 20-819. - Amount of tax on persons furnishing heat, light and power, and gas.

(a) Every person engaged in the business of furnishing heat, light and power, and gas for domestic, commercial and industrial consumption in the county, provided that the gross receipts of the business exceed \$400,000.00, shall pay for the privilege an annual license tax equal to 0.50 percent of the difference between the gross receipts of the business accruing to such person from sales to the ultimate consumer in the county and \$400,000.00.

(b) If the gross receipts of the business are \$400,000.00 or less, an application shall be required to be filed, but no tax shall be due or paid.

(c) For purposes of this section, the term "gross receipts" shall not include receipts for services furnished to federal, state and local public authorities, their officers or agents or sales to other electric utilities for resale.

(Code 1980, § 12-156; Code 1995, § 20-812; Ord. No. 909, § 1, 10-25-1995; Ord. No. 935, § 39, 10-9-1996; Ord. No. 962, § 23, 10-8-1997; Ord. No. 981, § 23, 10-14-1998)

State law reference – Authority to levy license tax on heat, light and power companies, Code of Virginia, § 58.1-3731.

Sec. 20-820. - Deductions from gross receipts.

There shall be deducted any sum paid by such person to the county as merchant's license tax from the amount of gross receipts when computing the amount of gross receipts as required by sections 20-818 and 20-819. The amount paid for motor vehicle license tax shall not be considered as deductible.

(Code 1980, § 12-157; Code 1995, § 20-813)

Sec. 20-821. - Amount of tax for telephone and telegraph businesses.

(a) Any person engaged in the business of providing telephone service, including cellular mobile radio communications services, or telegraph service in the county, provided that the gross receipts of the business exceed \$400,000.00, shall pay a license tax equal to 0.50 percent of the difference between the gross receipts

of the business accruing to such person from sales to the ultimate consumer in the county and \$400,000.00.

(b) If the gross receipts of the business are \$400,000.00 or less, an application shall be required to be filed, but no tax shall be due or paid.

(c) In the case of telephone companies, charges for long distance calls shall be excluded in computing the basis for license taxation.

(Code 1980, § 12-158; Code 1995, § 20-814; Ord. No. 909, § 1, 10-25-1995; Ord. No. 935, § 40, 10-9-1996; Ord. No. 962, § 24, 10-8-1997; Ord. No. 981, § 23, 10-14-1998)

State law reference – Authority to impose license tax on telephone and telegraph businesses, Code of Virginia, § 58.1-3731.

Secs. 20-822 – 20-840. - Reserved.

ARTICLE XII. FOOD AND BEVERAGE TAX*

***State Law reference: Authority to adopt, Code of Virginia, § 58.1-3833.**

Sec. 20-841. - Definitions.

The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Beverage: the term “beverage” means alcoholic beverages as defined in Code of Virginia, § 4.1-100 and nonalcoholic beverages served as part of a meal.

Grocery items: the term “grocery items” means any food and foodstuffs, green groceries, including whole fruits and vegetables, beverages and household goods usually prepackaged or measured into quantities for household use from containers made for retail grocery or baking sales and usually not suitable for immediate consumption by the purchaser. Grocery items, sometimes called staples, include, by way of illustration and not limitation, sugar, flour, spices, dry pasta, loaves of bread, whole chickens, ground coffee, coffee beans, loose or bagged tea, cooking oils, and canned and jarred goods.

Meals: the term “meals” means any prepared food and beverage sold for human consumption, whether designated as breakfast, lunch, dinner, supper or by some other name, and without regard to the manner, time, and place of service or consumption, except that the following do not constitute meals: (1) grocery items, (2) snack foods alone, (3) beverages alone, and (4) any combination consisting entirely of snack foods, beverages, or grocery items.

Restaurant: the term “restaurant” means any one of the following:

(1) Any place where food is prepared for service to the public on or off the premises, or any place where food is served. Examples of such places include but are not limited to lunchrooms, short order places, cafeterias, coffee shops, cafes, taverns, delicatessens, dining accommodations of public or private clubs, kitchen facilities of hospitals and nursing homes, dining accommodations of

public and private schools and colleges, and kitchen areas of local correctional facilities subject to standards adopted under Code of Virginia, § 53.1-68. Excluded from the definition are places manufacturing packaged or canned foods which are distributed to grocery stores or other similar food retailers for sale to the public.

(2) Any place or operation which prepares or stores meals for distribution to persons of the same business operation or of a related business operation for service to the public. Examples of such places or operations include but are not limited to operations preparing or storing food for catering services, push cart operations, hotdog stands, and other mobile points of service. Such mobile points of service are also deemed to be restaurants unless the point of service and of consumption is in a private residence.

Snack foods: the term "snack foods" means any candy, chewing gum, peanuts and other nuts, popcorn, cookies, crackers, donuts, muffins, bagels, and fried or baked goods of a similar nature, potato chips, ice cream or frozen yogurt, single-serving cakes and pies, and other items of essentially the same nature consumed for essentially the same purpose.

Sec. 20-842. - Levy of tax; amount.

For the purpose of funding the operational needs and capital projects of the Henrico County Public Schools, there is hereby imposed and levied by the county a tax on food and beverages sold as meals by restaurants and on prepared foods ready for human consumption at a delicatessen counter sold by grocery stores and convenience stores. The rate of the tax shall be four percent of the sales price. In the computation of this tax, any fraction of one-half cent (\$.005) or more shall be treated as one cent (\$.01).

Sec. 20-843. - Exemptions.

The following transactions shall not be subject to the tax under this article:

- (1) Food and beverages sold through vending machines;
- (2) Food and beverages sold by boardinghouses that do not accommodate transients;
- (3) Food and beverages sold by cafeterias operated by industrial plants for employees only;
- (4) Food and beverages sold by restaurants to their employees as part of their compensation when no charge is made to the employee;
- (5) Food and beverages sold by volunteer fire departments and rescue squads; nonprofit churches or other religious bodies; educational, charitable, fraternal, or benevolent organizations the first three times per calendar year and, beginning with the fourth time, the first \$100,000.00 of gross receipts per calendar year from sales of food and beverages (excluding gross receipts from the first three times), as a fundraising activity, the gross proceeds of which are to be used by such church, religious body or organization exclusively for nonprofit educational, charitable, benevolent, or religious purposes;

(6) Food and beverages sold by churches that serve meals for their members as a regular part of their religious observances;

(7) Food and beverages sold by public or private elementary or secondary schools, colleges, and universities to their students or employees;

(8) Food and beverages sold by hospitals, medical clinics, convalescent homes, nursing homes, or other extended care facilities to patients or residents thereof;

(9) Food and beverages sold by day care centers;

(10) Food and beverages sold by homes for the aged, infirm, handicapped, battered women, narcotic addicts, or alcoholics;

(11) Food and beverages sold by age-restricted apartment complexes or residences with restaurants, not open to the public, where meals are served and fees are charged for such food and beverages and are included in rental fees;

(12) Food and beverages when used or consumed and paid for by the Commonwealth of Virginia, any political subdivision of the Commonwealth of Virginia, or the United States;

(13) Food and beverages provided by a public or private nonprofit charitable organization or establishment to elderly, infirm, blind, handicapped, or needy persons in their homes, or at central locations;

(14) Food and beverages provided by private establishments that contract with the appropriate agency of the Commonwealth of Virginia to offer food, food products, or beverages for immediate consumption at concession prices to elderly, infirm, blind, handicapped, or needy persons in their homes or at central locations;

(15) That portion of the amount paid by the purchaser as a discretionary gratuity in addition to the sales price;

(16) That portion of the amount paid by the purchaser as a mandatory gratuity or service charge added by the restaurant in addition to the sales price, but only to the extent that such mandatory gratuity or service charge does not exceed twenty percent of the sales price;

(17) Alcoholic beverages sold in factory sealed containers and purchased for off-premises consumption; and

(18) Food purchased for human consumption as "food" is defined in the Food Stamp Act of 1977, 7 U.S.C. § 2012, as amended, and federal regulations adopted pursuant to the Act, except for the following items: sandwiches, salad bar items sold from a salad bar, prepackaged single-serving salads consisting primarily of an assortment of vegetables, and nonfactory sealed beverages.

(19) Food and beverages sold by sellers at local farmers markets and roadside stands, when such sellers' annual income from such sales does not exceed \$2,500.00. For purposes of this

exemption, the sellers' annual income includes income from sales at all local farmers markets and roadside stands, not just those sales occurring in the County.

Sec. 20-844. - Certificate of registration.

(a) Every person responsible for the collection of the tax levied under this article shall file an application for a certificate of registration with the director of finance. The application shall be on a form prescribed by the director of finance to provide information for the assessment and collection of this tax and for the enforcement of the provisions of this article.

(b) Upon approval of the application by the director of finance a certificate of registration authorizing the collection of this meals tax shall be issued to the applicant.

(c) Each person with a certificate of registration pursuant to this section shall notify the director of finance of any changes to the information provided on their application for the certificate within thirty (30) days of the change.

Sec. 20-845. - Payment and collection of tax.

Every seller of food and beverages 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 and beverages becomes due and payable, whether payment is made in cash, by check, by electronic funds transfer, 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 and beverages 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. The wrongful and fraudulent use of such collections other than remittance of the same as provided by law shall constitute embezzlement pursuant to Code of Virginia, § 18.2-111.

Sec. 20-846. - Commission to seller for collection of tax.

For the purpose of defraying some of the costs incurred by the seller in collecting the tax imposed by this article, every seller who files and pays the tax levied under this article in a timely manner shall be allowed three percent of the amount of the tax due and accounted for in the form of a deduction on his return.

Sec. 20-847. - Reports and remittances generally.

(a) Every seller of food and beverages 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 director of finance may prescribe and require, and shall sign and deliver such report to the director of finance with a remittance of such tax. Such reports and remittance shall be made on or before the 20th day of each month, covering the amount of tax collected during the preceding month.

(b) Notwithstanding the foregoing provisions of this section, the director of finance may allow any person collecting the tax to elect to make reports and remittances on a quarterly basis when the

person has established for a period of one year that his monthly remittances average less than \$100.00 per month or on a seasonal basis for persons operating in the county only periodically during the year. Persons electing to make reports and remittances on a quarterly basis shall make them on or before the 20th day of the month following the close of the quarter. Persons electing to make reports on a seasonal basis shall make reports and remittances on or before the 20th day of the month following each month during which they operated, covering the amount of tax collected during the preceding month.

Sec. 20-848. - Preservation of records.

It shall be the duty of any seller of food and beverages liable for collection and remittance of the taxes imposed by this article to keep and preserve for a period of five years records showing gross sales of all food and beverages, the amount charged to the purchaser for each such purchase, the date of the purchase, the taxes collected on the purchase, and the amount of tax required to be collected under this article. The director of finance 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 of the records.

Sec. 20-849. - Duty of seller when going out of business.

Whenever any person required to collect or pay to the county a tax under this article shall cease to operate or otherwise dispose of a business required to collect or pay to the county a tax under this article, 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.

Sec. 20-850. - Enforcement; duty of director of finance; powers of business section manager.

(a) The director of finance shall promulgate rules and regulations for the interpretation, administration and enforcement of this article. It shall also be the duty of the director of finance 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 director of finance shall have all of the enforcement powers authorized under Code of Virginia, title 58.1, chapter 31, article 1 (Code of Virginia, § 58.1-3100 et seq.) for purposes of this article.

(b) Police powers are conferred upon the business section manager, appointed pursuant to Sec. 20-353 of Article XI of the Code, and business inspectors while engaged in performing their duties as such under the provisions of this article, and they shall exercise all the powers and authority of police officers granted to them in performing those duties. The business section manager and business inspectors may have a summons issued for any person charging him with a violation of the provisions of this article and may serve a copy of such summons upon such person in the manner provided by law. He shall return the original to the general district court with the manner and time of service stated on the summons.

Sec. 20-851. - Penalty for failure to file report or pay tax; interest on unpaid tax.

(a) If any person shall fail or refuse to file with the director of finance the report required under this article within the time specified in this article, there shall be assessed a penalty in the amount of ten percent of the tax assessable on such report. Such penalty shall be assessed on the day following the day on which the report was due. Any such penalty, when assessed, shall become a part of the tax. The imposition of such penalty shall not be deemed a defense to any criminal prosecution for failing to make any report required in this article.

(b) If any person shall fail or refuse to remit to the director of finance the tax required to be collected and paid under this article within the time specified in this article, there shall be assessed a penalty in the amount of ten percent of the tax past due. Such penalty shall be assessed on the day following the day on which the tax was due. Any such penalty, when assessed, shall become a part of the tax.

(c) In addition, there shall be assessed interest at the rate of ten percent per year on the amount of tax past due, which interest shall commence on the day following the day on which the tax was due and continue until paid.

Sec. 20-852. - Procedure upon failure to file return or pay tax.

If any person shall fail or refuse to collect the tax imposed under this article or to make within the time provided in this article the reports and remittance required in this article, the director of finance shall make an estimate of the amount of taxes due the county by such person upon the best information available and shall proceed to determine and assess against such person such tax and penalty and interest as provided for in this article. The director of finance shall notify such person by registered mail, sent to his last known address, of the amount of such tax and interest and penalty, and the total amount thereof shall be payable within ten days from the date of such notice.

Sec. 20-853. - Bond or letter of credit.

The director of finance shall require any seller with a record of late filing of the tax returns or of late remittance of the taxes required by this article to post annually a bond in a form acceptable to the director of finance and payable to the county to insure the seller's faithful performance of the requirements of this article. The bond shall be in an amount which is three times the taxes collected or which should have been collected by the seller during the preceding month, but in no case shall be less than \$1,000. An irrevocable letter of credit from a local bank approved by the director of finance with an expiration date not earlier than one year from the date of issuance in the amount specified in this section and payable to the county may be accepted in lieu of the bond.

Sec. 20-854. - Criminal penalties.

Any person required to collect, account for, and pay over the tax levied in this article who willfully fails to collect or truthfully account for and pay over such tax, and any such officer or person who willfully evades or attempts to evade any such tax or the payment thereof, shall be guilty of a class 1 misdemeanor. Any person who willfully violates any other provision of this article shall be guilty of a class 3 misdemeanor.

Sec. 20-855. - Severability.

The sections, paragraphs, sentences, clauses and phrases of this article are severable, and if any phrase, clause, sentence, paragraph or section of this article shall be declared unconstitutional or invalid by the valid judgment or decree of a court of competent jurisdiction, the remaining phrases, clauses, sentences, paragraphs and sections of this article shall remain valid.