

## **CHAPTER 22. TAXATION**

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## CHAPTER 22. TAXATION

### ARTICLE I. In General

#### § 22-1. Failure to file returns.

A. It shall be unlawful and a Class 3 misdemeanor for any person, firm or corporation to fail or refuse to file a tax return required by this chapter.

B. The penalty for failure to file a tax return required by this chapter on or before the date prescribed for such filing shall be ten percent (10%) of the tax assessable on the return, but in no event shall the penalty be more than ten dollars (\$10.00) and in no case shall it exceed the amount of the tax assessable. Such penalty shall be added to the amount of taxes or levies due from such taxpayer, which when collected by the Treasurer, shall be accounted for in his settlements.

C. Penalty for failure to file a return may be assessed on the day after such return is due.

D. The assessment of a penalty shall not be deemed a defense to any criminal prosecution for failing to make a return as required by this article.

*State law reference—Virginia Code §§ 58.1-3916 and 58.1-3916.1.*

#### § 22-2. Failure to pay tax when due.

A. A penalty equal to ten percent (10%) of the tax past due shall be assessed against every person, firm or corporation owning taxable real estate, tangible personal property or machinery and tools on January first of any year who fails to pay when due the annual taxes or levies on such real estate, tangible personal property or machinery and tools; provided, however, that the penalty shall in no case exceed the amount of the tax past due.

B. Penalty for failure to pay any tax may be assessed on the day after the first installment is due.

C. Such penalty shall be added to the amount of taxes or levies due from such taxpayer, which when collected by the Treasurer, shall be accounted for in his settlements.

(Ord. 5/13/20; Ord. 8/26/20, effective 9/1/20)

*State law reference—Virginia Code § 58.1-3916.*

#### § 22-3. Interest on delinquencies.

In addition to the penalties provided in this chapter, any tax on tangible personal property, real estate or machinery and tools remaining unpaid on the first day following the

day such taxes are due to be filed shall be delinquent and interest upon the principal and penalties of all such taxes and levies at the rate of ten percent (10%) per annum shall be added to the amount of tax due from such taxpayer, which, when collected by the Treasurer, shall be accounted for in his settlements.

(Ord. 5/13/20; Ord. 8/26/20, effective 9/1/20)

*State law reference—Virginia Code § 58.1-3916.*

#### **§ 22-4. Payments by credit card.**

A. The Treasurer is authorized, in his discretion, to accept payment of local taxes, other fees or charges generated by the sale of utility services by use of a credit card.

B. In addition to any penalties and interest arising pursuant to other provisions of law, there shall be added to such payment as a service charge for the acceptance of such card, a sum equal to the amount charged to the county, but in no event shall such sum exceed four percent (4%) of the amount of tax, penalty and interest paid. (Ord. 3/28/89)

*State law reference—Virginia Code § 58.1-3013.*

#### **§ 22-5. Manufactured Home Park Register.**

A. Every manufactured home park owner shall keep or cause to be kept a register, and such register shall be open to inspection by the Commissioner of the Revenue during reasonable hours. The register shall contain:

1. The name and address of each manufactured home occupant.
2. The name and address of each manufactured home owner.
3. The make, model, year, length and width of each manufactured home.
4. The date of placement of each manufactured home.
5. The date of removal of each manufactured home and the forwarding address.

B. Every manufactured home park owner shall, not later than February 1 of each year, upon the request of the Commissioner of the Revenue, submit to the Commissioner of the Revenue a tabulation of the manufactured homes occupying manufactured home spaces on the first day of January. Such tabulation shall contain all of the information required on the register. (Ord. 1/25/77; Ord. 10/27/92)

*State Law Reference—Virginia Code § 58.1-3901.*

#### **§ 22-6. Powers of the Commissioner of the Revenue.**

In the enforcement of the provisions of this chapter, the Commissioner of the Revenue, in addition to the powers herein specifically granted, shall have all the enforcement authority that state law confers upon Commissioners of the Revenue generally with respect to taxes, including, but not limited to, the following:

- A. To require access to books of account or other papers and records;
- B. To require information to be furnished relating to the requirement of a return or assessment of a tax;
- C. To summon any person, by certified mail, return receipt requested, or otherwise, to appear before him at his office at a time to be specified in such summons and to answer under oath questions pertaining to the levy of a tax or the assessment of taxable property of any person, firm or corporation;
- D. To require the exhibit to the Commissioner of the Revenue any real or personal property which may relate to the requirement of a return or assessment of a tax upon any person, firm or corporation; and
- E. To proceed by warrant to enforce compliance with the provisions of this chapter.

*State law reference—Virginia Code §§ 58.1-3100 et seq.*

**§ 22-7. Payment of administrative fees, attorney’s fees, and collection agency’s fees to cover the costs associated with the collection of delinquent taxes.**

Any person liable for local taxes who fails to pay the taxes on or before the due date shall, in addition to all penalties and interest, pay a fee to cover the administrative costs associated with the collection of delinquent taxes. Such fee shall be imposed no earlier than 30 days after notice of the delinquency had been sent to the taxpayer and shall be equal to the maximum amounts allowed by section 58.1-3958 of the Virginia Code, as amended, or such other Virginia statute regulating the amount of such fees or covering the subject of fees in such cases. In addition to the administrative fee, the Treasurer may add to the delinquent tax bill, any collection agency’s fee or attorney’s fees actually contracted for, not to exceed twenty (20) percent of the delinquent tax bill. (Ord. 02/25/09)

*State law reference—Virginia Code §58.1-3958 et seq.*

**§ 22-8. Procedure for Board of Equalization.**

A. The Board of Equalization shall be appointed by the Circuit Court in accordance with § 58.1-3370 of the Code of Virginia.

B. The Board of Equalization shall meet in manner and frequency as needed in accordance with § 58.1-3378. Except that the Board of Equalization shall dispose of all applications for adjustments to assessments no later than October 31<sup>st</sup> in the year in which it was appointed to serve. All applications to the Board of Equalization for adjustments to assessments must be received by the Board no later than September 1<sup>st</sup> in the year the Board was appointed to serve. (Ord. 8/14/13; Ord. 3/13/24)

## **§ 22-9. Penalty for Passing Bad Checks.**

The fee for the uttering, publishing or passing of any check, draft, or order for payment of taxes or any other sums due, which is subsequently returned for insufficient funds or because there is no account or the account has been closed, or because such check, draft, or order was returned because of a stop-payment order placed in bad faith on the check, draft, or order by the drawer, shall be thirty dollars (\$30). (Ord. 6/24/20)

*State law reference—Virginia Code § 15.2-106.*

## **§ 22-10. Reserved.**

# **ARTICLE II. Real Property Tax.**

## **§ 22-11. Installment payments.**

The tax levied on real estate situated in the county shall be due and payable in two (2) equal installments, the first installment being due and payable on June fifth of each calendar year and the second installment being due and payable on December fifth of each calendar year.

*State law reference—Virginia Code § 58.1-3916.*

## **§ 22-12. Exemption for elderly and disabled persons.**

### **A. Definitions.**

“Eligible person” means a person who is at least age 65 or permanently and totally disabled.

“Dwelling” includes an improvement to real estate exempt pursuant to this article 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 this chapter; household goods classified pursuant to this chapter; or household goods exempted from personal property tax pursuant to this chapter.

“Real estate” includes manufactured homes.

**B. Exemption granted.** The following real estate is exempt to the extent provided for in this section from the county real estate tax:

1. Real estate and manufactured homes owned on January first of the taxable year by and occupied as the sole dwelling of anyone at least sixty-five (65) years of age; or

2. Real estate and manufactured homes owned on January first of the taxable year by and occupied as the sole dwelling of anyone found to be permanently and totally disabled; or

3. A dwelling jointly held on January first of the taxable year by a spouse if either spouse is sixty-five (65) years of age or over or is permanently and totally disabled.

C. Administration. The exemption shall be administered by the Commissioner of the Revenue according to the general provisions contained in this section. The Commissioner of the Revenue is hereby authorized and empowered to prescribe, adopt, promulgate and enforce rules and regulations in conformity with the general provisions of this section, including the requirements of answers under oath, as may be necessary, to determine qualifications for exemption as specified by this section. The Commissioner of the Revenue may require the production of certified tax returns and appraisal reports to establish income or financial worth.

D. Restrictions and conditions. Any exemption under this section shall be subject to the following restrictions and conditions:

1. The total combined income during the immediately preceding calendar year from all sources of the owners of the dwelling living therein, and of the owners' relative living in the dwelling, shall not exceed fifty-five thousand dollars (\$55,000.00). Gross combined income of applicant during the year immediately preceding the taxable year shall not exceed \$55,000.00. Gross combined income shall include all income for a) owners of the dwelling who use it as their principal residence; b) owner's relatives who live in the dwelling, and c) nonrelatives of the owner who live in the dwelling.

2. The net combined financial worth, including equitable interests, as of the thirty-first day of December of the immediately preceding calendar year, of the owners, and of the spouse of any owner, excluding the value of the dwelling and the land, not exceeding ten (10) acres, upon which it is situated, shall not exceed one hundred twenty-five thousand dollars (\$125,000.00).

E. Application for exemption. The person claiming such exemption shall file annually after January 1 but not later than April 1 with the Commissioner of the Revenue an affidavit setting forth the information required by § 58.1-3213 of the Code of Virginia (1950). In the event that a general reassessment deadline is extended, the person claiming such exemption shall file his or her application for exemption no later than April 19 of the reassessment year.

F. Calculation of amount of exemption. The person or persons qualifying for and claiming exemption shall be relieved of the portion of the real estate tax levied on the qualifying dwelling and land in the amount calculated in accordance with the following schedule

$$I = \begin{cases} 0 & \text{Income} \leq 25,000 \\ \frac{\text{Income} - 25,000}{150} * \frac{3}{10} & 25,000 < \text{Income} \leq 40,000 \\ 30 + \frac{\text{Income} - 40,000}{150} * \frac{7}{10} & 40,000 < \text{Income} \leq 55,000 \end{cases}$$

$$W = \begin{cases} 0 & \text{Net Worth} \leq 40,000 \\ \frac{\text{Net Worth} - 40,000}{350} * \frac{1}{10} & 40,000 < \text{Net Worth} \leq 75,000 \\ 10 + \frac{\text{Net Worth} - 75,000}{500} * \frac{9}{10} & 75,000 < \text{Net Worth} \leq 125,000 \end{cases}$$

$$\text{Relief (\%)} = 100 - I - W$$

The above exemption shall be prorated so that one-half of the exemption shall apply to the real estate tax due on June fifth, and one-half of the exemption shall apply to the real estate tax due on December fifth.

G. Determination of exemption. If, after audit and investigation, the Commissioner of the Revenue determines that such person or persons are qualified for exemption, he shall issue to such person a certificate which shall show the amount of the exemption from the claimant's real estate tax liability.

H. Penalties for violation of section.

1. Any person who shall falsely claim the exemption provided for in this section shall pay the Treasurer one hundred ten percent (110%) of such exemption.

2. The willful false claiming of the exemption authorized in this article shall constitute a misdemeanor and shall, upon conviction thereof, be punished in accordance with the provisions of chapter 1 of this code. The exemption herein authorized shall be effective

for the tax year commencing January 1, 1993, and for each tax year thereafter until otherwise provided by law or ordinance.

(Ord. 12/10/08; Ord. 9/25/13; Ord. 4/10/24)

*State law reference—Virginia Code §§ 58.1-3210 et seq.*

**§ 22-13. Abatement of levies on buildings razed, destroyed or damaged by fortuitous happenings.**

The Commissioner of the Revenue shall abate levies on buildings which are (i) razed, or (ii) destroyed or damaged by a fortuitous happening beyond the control of the owner. No such abatement, however, shall be allowed if the destruction or damage to such building shall decrease the value thereof by less than \$500. Also, no such abatement shall be allowed unless the destruction or damage renders the building unfit for use and occupancy for thirty days or more during the calendar year. The tax on such razed, destroyed or damaged building is computed according to the ratio which the portion of the year the building was fit for use, occupancy and enjoyment bears to the entire year. Application for such abatement shall be made to the commissioner of revenue by or on behalf of the owner of the building within six months of the date on which the building was razed, destroyed or damaged.

(Ord. 06/28/06)

*State law reference—Virginia Code § 58.1-3222.*

**§ 22-14. Assessment of new buildings.**

All new buildings substantially completed or fit for use and occupancy prior to November 1 of the year of completion shall be assessed when so completed or fit for use and occupancy, and the commissioner of the revenue shall enter in the books the fair market value of such building.

*State law reference—Virginia Code § 58.1-3292.*

**§ 22-15. Special assessments for agricultural, horticultural, or forest real estate.**

A. Provision for use value assessment and taxation. Use value assessment and taxation of real estate classified in § 58.1-3230 of the Code of Virginia (1950), as amended, is hereby provided in accordance with the provisions of Article 4, Chapter 32 of Title 58.1 of the Code of Virginia (1950), as amended. Such assessment and taxation shall include three of the four classes of real estate set forth in said section, including “real estate devoted to

agricultural use, real estate devoted to horticultural use, and real estate devoted to forest use.” (Ord. 3/9/22)

B. Additional provisions concerning zoning classifications. Use value assessment and taxation of real estate provisions classified in § 58.1-3237.1. of the Code of Virginia (1950), as amended, is hereby provided in accordance with the provisions of Article 4, Chapter 32 of Title 58.1 of the Code of Virginia (1950), as amended.

*State law reference—Virginia Code § 58.1-3231.*

C. Revalidation required. For continuation of assessment and taxation under this section, the property owner shall revalidate any applications previously approved. Revalidation shall be done annually with the Commissioner of the Revenue, on or before the date on which the last installment of property tax prior to the effective date of the assessment is due, on forms prepared by the Commissioner of the Revenue

*State law reference—Virginia Code § 58.1-3234.*

D. Application fees. Nonrefundable application fees in accordance with the following schedule shall accompany all applications for assessment or revalidation:

1. A fee of twelve dollars (\$12.00) plus twelve cents (12¢) per acre shall be required for each application.
2. A revalidation fee of twelve dollars (\$12.00) plus twelve cents (12¢) per acre shall be required every sixth year for each application. "Sixth year" shall mean the sixth year after the initial application for assessment and every sixth year thereafter. (Ord. 4/28/81; Augusta County Code 1969, § 22-27)

*State law reference—Virginia Code § 58.1-3234.*

E. Fee for late filing of revalidation forms. Late filing of revalidation forms before the effective date of the assessment is permitted on the payment of the late filing fee. The late filing fee shall be ten per cent (10%) of the amount, if any, by which the taxes payable on the basis of the assessment and taxation under this section are exceeded by the taxes that would have been payable had the revalidation form not been filed. (Ord. 3/25/86)

*State law reference—Virginia Code § 58.1-3234.*

F. Interest on roll-back taxes. Interest on roll-back taxes as provided by state law shall be at the rate of one-half per cent of the amount of the deferred tax and any penalty per month or fraction thereof until paid, but in no event shall it exceed the rate applicable to delinquent taxes generally in each of the tax years.

*State law reference—Virginia Code § 58.1-3237(B).*

G. Penalty for failure to report change in use. Any owner of real estate which has been zoned to more intensive use at the request of the owner or his agent or otherwise subject to or liable for roll-back taxes who fails, within sixty days following such change in use or zoning, to report such change to the Commissioner of the Revenue shall be liable for the penalties prescribed by § 22-1 of this chapter.

*State law reference—Virginia Code §§ 58.1-3243, 58.1-3916 and 58.1-3916.1.*

(Ord. 6/24/20)

**§§ 22-16 through 22-20. Reserved.**

### **ARTICLE III. Tangible Personal Property, Machinery and Tools and Merchants' Capital Taxes.**

**§ 22-21. Taxpayers to file returns.**

A. Every person, firm or corporation owning taxable tangible personal property or machinery and tools on January first of any year shall file a return thereof with the Commissioner of the Revenue on the forms provided by the Commissioner of the Revenue.

B. Such returns shall be filed on or before May first of each year, except such taxpayers who have received an extension for filing their state income tax returns shall not be required to file a return until the date on which their state income tax return is due.

*State law reference—Virginia Code § 58.1-3916.*

**§ 22-22. Exemptions -- Household goods and personal effects.**

The following household goods and personal effects owned and used by an individual or by a family or household incident to maintaining an abode in 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; phonographs, 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 § 46.2-100 of the Code of Virginia which may not be used for general transportation purposes.
9. All-terrain vehicles, mopeds, and off-road motorcycles as defined in § 46.2-100 of the Code of Virginia.
10. All other tangible personal property used by an individual or a family or household incident to maintaining an abode.

(Ord. 8/27/14)

*State law reference—Virginia Code § 58.1-3504.*

**§ 22-23. Exemptions -- Farm animals, grains and feeds, agricultural products, farm machinery, implements and equipment.**

Farm animals, grains and feeds used for the nurture of farm animals, agricultural products, and farm machinery, implements and equipment, as described in subdivisions 1 through 8, and 10, of § 58.1-3505(A) of the Code of Virginia (1950), as amended, are hereby exempt from taxation as tangible personal property. (Ord. 9/22/04, eff. 1/1/05)

**§ 22-24. Reserved.**

**§ 22-25. Imposition of tax.**

(a) A license tax authorized by Virginia Code Annotated Section 58.1-3712, as amended, is hereby levied upon all producers severing or extracting coal or gases from lands lying situate within Augusta County, Virginia, as hereinafter provided.

(b) A license tax authorized by Virginia Code Annotated Section 58.1-3712.1, as amended, is hereby levied upon all producers severing oil from lands lying situate within Augusta County, Virginia, as hereinafter provided.

**§ 22-26. Definitions.**

For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them:

*Gross receipts.* The fair market value measured at the time such coal or gases are utilized or sold for utilization in Augusta County, Virginia, or at the time they are placed in transit for shipment from Augusta County, Virginia. The term “gross receipts” shall include only those receipts derived from property located within this County and shall not include any receipts arising from the sale or disposition of coal or gases extracted prior to the required licensing date described in Section 22-29 hereof.

*Owner.* The owner of legal or equitable interest in said coal or gases at the time of severance.

*Person.* Any person, firm, concern, receiver, receivers, trustee, executor, partner or partnership, administrator, agent, institution, association, company, corporation, and persons acting under declaration of trust.

*Producer.* Every “person,” as defined in this article, engaged in the business of “severing” coal or gases from the earth in Augusta County, Virginia, including any “owner” so engaged.

*Severed, severing, and severance.* The taking from the land, earth, or soil situate in Augusta County, Virginia, any coal or gases in any manner whatsoever.

#### **§ 22-27. Rate of taxation.**

(a) The license tax herein adopted shall be at the rate of one percent of the gross receipts from the sale or sales of coal or gases severed or extracted from Augusta County, Virginia.

(b) The license tax herein adopted shall be at the rate of one-half of one percent of the gross receipts from the sale or sales of oil severed or extracted from Augusta County, Virginia.

#### **§ 22-28. Keeping of records, filing of returns and payment of tax.**

Except as otherwise provided in this article, the keeping of records, the filing of returns required herein and the payment of said taxes shall be by the producer engaged in the business of severing said coal or gases, whether it be the owner of the soil or any other person.

(a) Returns shall be filed with the Commissioner of Revenue of this County on the twentieth day of each month, for the preceding calendar month stating the quantity (tonnage or m.c.v.) of coal or gases, seams or sands mined, and the gross receipts from sale of coal or gases. Such returns shall be accompanied by a statement under oath of the completeness and accuracy of the return files.

(b) Taxes due on the gross receipts shown by such returns shall be payable to the Treasurer on or before the due date of the return for each calendar month.

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

(2) Each such producer, carrier, or pipeline owner, operator or user shall make such records available for examination by the Commissioner of Revenue of this County, or his authorized agents, at its office or offices where such reports are usually kept. (Ord. 6/27/12)

### **§22-29. License period.**

Any producer engaging in the severance of coal or gases from lands situate in Augusta County, Virginia, shall apply to the Commissioner of Revenue of this County for a license on or before July 1, 2012, or on or before beginning severance, whichever is later. Such license shall be effective only for the calendar month in which issued, with the license tax for that month to be paid within the time prescribed by this ARTICLE.

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

(Ord. 6/27/12)

### **§ 22-30. Reserved.**

## **ARTICLE IV. Recordation Tax.**

### **§ 22-31. Levy.**

There is hereby imposed a recordation tax, in an amount equal to one-third of the amount of the state recordation tax collectible for the Commonwealth, upon the first recordation of each taxable instrument in the county. No tax shall be levied under this section when the state recordation tax is fifty cents.

*State law reference—Virginia Code § 58.1-3800.*

### **§§ 22-32 through 22-40. Reserved.**

## **ARTICLE V. Tax on Wills and Administrations.**

### **§ 22-41. Tax on wills and administrations.**

There is hereby imposed a county tax on the probate of every will or grant of administration in an amount equal to one-third of the state tax on such probate of a will or grant of administration.

*State law reference—Virginia Code § 58.1-3805.*

**§§ 22-42 through 22-50. Reserved.**

## **ARTICLE VI. Consumer Utility Taxes.**

### **§ 22-51. Definitions.**

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

Nonresidential consumer means the owner or tenant of property who is charged by the seller for its utility service at a rate different from the residential rate approved by the State Corporation Commission. (Ord. 10/25/00)

Purchaser means every person who purchases a utility service.

Residential (Repealed Ord. 10/25/00)

Residential consumer means the owner or tenant of property who is charged by the seller for its utility service at a rate determined by the State Corporation Commission as residential. (Ord. 10/25/00)

Seller means every person, whether a public service corporation or a municipality or private corporation or not, who sells or furnishes a utility service.

Utility service means a local exchange telephone service or electric service furnished within the county.

*State law reference—Virginia Code § 58.1-3812.*

### **§ 22-52. Telegraph and telephone companies.**

A. There is hereby imposed a tax for general purposes on the consumers of the utility service or services provided by telegraph and telephone companies or other corporations coming within the provisions of Chapter 26, Title 58.1, of the Code of Virginia (1950), as amended. The tax is imposed at the rate of twenty percent (20%) of the monthly amount charged to consumers of the utility service, but shall not be applicable to any amount so charged in excess of fifteen dollars (\$15.00) per month for residential consumers, or to any

amount so charged in excess of one hundred fifty dollars (\$150.00) per month for nonresidential consumers. (Ord. 4/28/92; Ord. 10/25/00)

B. The tax imposed by paragraph A of this section is also imposed on the consumers of mobile local telecommunication services. The rate, however, shall equal the lesser of the rate set forth in paragraph A of this section or the maximum rate permitted by state law. (Ord. 5/1/96)

*State law reference—Virginia Code § 58.1-3812.*

### **§ 22-53. Light and power companies.**

There is hereby imposed a tax for general purposes on the consumers of electricity provided by electric suppliers as defined in § 58.1-400.2 of the Code of Virginia (1950), as amended. The tax is imposed at the following rates:

A. \$0.015094 per kilowatt hour (kwh) delivered to a residential consumer, plus a minimum tax of \$1.40 per month. The maximum amount of tax imposed on residential consumers pursuant to this section shall be limited to three dollars (\$3.00).

B. \$0.014169 per kilowatt hour (kwh) delivered to a nonresidential consumer, plus a minimum tax of \$2.29 per month. The maximum amount of tax imposed on nonresidential consumers pursuant to this section shall be limited to thirty dollars (\$30.00) per month.

(Ord. 4/28/92; Ord. 10/25/00, effective 1/1/01)

*State law reference—Virginia Code § 58.1-3814.*

### **§ 22-54. Computation.**

A. Bills shall be considered monthly bills if rendered twelve (12) times annually with each bill covering a period of approximately one (1) month or a portion thereof.

B. In all cases where the seller, collects the price for utility service in stated periods, the tax imposed and levied by this article shall be computed on the amount of purchase during the month or period according to each bill rendered, provided the amount of tax collected shall be the nearest whole cent to the amount computed.

C. If bills for utility service are submitted less frequently than monthly, covering periods longer than one (1) month, the maximum amounts of such bills which shall be subject to the tax levied by this article shall be increased by multiplying the appropriate maximum fixed by §§ 22-52 and 22-53 herein for the utility service involved by the number of months of service covered by such bills.

**§ 22-55. Seller to collect, report and remit.**

A. It shall be the duty of every seller acting as the tax collection medium or agency for the county to collect from the purchaser for use of the county, the tax imposed and levied by this article at the time of collecting the purchase price charged therefor, and the taxes collected during each calendar month or billing period shall be reported and paid by each seller to the Treasurer of the county by the last day of the first calendar month thereafter.

B. The seller shall report to the county by the last day of the first calendar month after the billing period for which he collects the tax the name and address of any purchaser who has refused to pay his tax for the billing period.

C. The Commissioner of the Revenue may prescribe forms for the filing of any report or the payment of any funds required by this article.

D. The Treasurer of the county shall be charged with the power and duty of collecting taxes imposed and levied under this article.

**§ 22-56. Seller's records.**

A. Each seller shall keep complete records showing all purchasers of utility service in the county, which records shall show:

1. The price charged against each purchaser with respect to each purchase,
2. The date thereof and the date of payment thereof, and
3. The amount of tax imposed by this article.

B. Such records 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 thereof during such times as they may desire.

**§ 22-57. Exceptions.**

A. The United States of America, the Commonwealth of Virginia and its political subdivisions, and the commissions, boards, authorities and agencies thereof are hereby exempted from the payment of the tax imposed and levied by this article with respect to the purchase of utility services used by such governmental entities.

B. The tax imposed and levied by § 22-52 herein with respect to local exchange telephone service shall apply to all charges made for local exchange telephone service, not otherwise exempted, except local messages which are paid for by inserting coins in coin-operated telephones.

**§ 22-58. Tax for enhanced emergency telephone service.**

A. All words and phrases when used in this section shall, for the purposes of this section, have the meanings respectively ascribed to them in § 58.1-3813 of the Code of Virginia, (1950), as amended, except in those instances where the context clearly indicates a different meaning.

B. There is imposed and levied by the County of Augusta, Virginia, a special tax on the consumers of the telephone service or services provided by any corporation coming within the provisions of Chapter 26 of Title 58.1 of the Code of Virginia (1950), as amended, except that no such tax is imposed on federal, state and local government agencies.

C. The tax imposed and levied by this section shall be collected and remitted by telephone utilities as provided in § 22-55 of this chapter.

D. The tax imposed and levied by this section shall be the sum of Two Dollars (\$2.00) multiplied by the number of months, or portion thereof, covered by the bill. The tax shall be for the use of the county to offset recurring maintenance, repair and system upgrade costs, and salaries or portion of salaries of dispatchers or call-takers paid by the county which are directly attributable to the E-911 program. (Ord. 5/1/96)

E. Reserved. (Ord. 5/1/96)

F. The tax imposed and levied by this section shall be subject to the notification and jurisdictional provisions of § 58.1-3812 of the Code of Virginia (1950), as amended.

G. For the purpose of compensating a telephone utility for accounting for and remitting the tax levied by this section, such telephone utility shall be allowed three percent of the amount of the tax due and accounted for in the form of a deduction in submitting the return and paying the amount due by it.

*State law reference—Virginia Code § 58.1-3813.*

**§ 22-59. Violations of article; penalty.**

Any purchaser failing, refusing or neglecting to pay the tax imposed or levied by this article, any seller violating the provisions of this article, and any officer, agent or employee of any seller violating the provisions of this article shall be guilty of a Class 4 misdemeanor. Each failure, refusal, neglect or violation and each day's continuance thereof, shall constitute a separate offense.

**§ 22-60. Reserved**

## ARTICLE VII. Transient Occupancy Tax.

### § 22-61. Definitions.

For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Hotel shall mean any public or private hotel, inn, hostelry, tourist home or house, motel, rooming house, or other lodging place within Augusta County offering lodging for four (4) or more persons at any one time, and the owner and operator thereof, who for compensation, furnishes lodging to any transients as hereinafter defined.

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

Transient shall mean any person who, for any period of not more than thirty (30) consecutive days, either at his own expense or at the expense of another, obtains lodging or the use of any space in any hotel as hereinabove defined, for which lodging or use of space a charge is made.

*State law reference-Virginia Code § 58.1-3819.*

### § 22-62. Levy and rate.

A. In addition to all other taxes of every kind now or hereafter imposed by law, there is hereby imposed and levied on each and every transient, a tax equivalent to six (6) percent of the total amount paid for room rental by or for any such transient to any hotel. The excess of such tax over two (2) percent but not exceeding five (5) percent is hereby designated and to be spent solely for tourism, marketing of tourism or initiatives that attract travelers to the Augusta County area and generate tourism revenues in the Augusta County area. The remainder of such tax is hereby designated for the purpose of funding the general operation of the county government. (Ord. 3/24/21, effective 7/1/21)

B. In accordance with the provisions of Virginia Code § 58.1-3819, any determination as to how to attract travelers to Augusta County and generate tourism revenues in Augusta County shall be made in consultation with the local tourism industry organizations, or, if there are no local tourism industry organizations in Augusta County within the meaning of said § 58.1-3819, such determination shall be made by the Board of Supervisors of Augusta County after holding a public hearing. (Ord. 5/7/97)

*State law reference—Virginia Code § 58.1-3819.*

### § 22-63. Exceptions.

No tax shall be payable hereunder on room rental paid to any hospital, medical clinic, convalescent home or home for the aged. Also, no tax shall be payable hereunder on space rental paid to any travel campground.

*State law reference—Virginia Code § 58.1-3819.*

**§ 22-64. 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 hereby imposed from the transient on whom the same is levied or from the person paying for such room rental, at the time payment for such room rental is made.

*State law reference—Virginia Code § 58.1-3819.*

**§ 22-65. Reports and remittances.**

A. The person collecting any such tax shall make out a report upon such forms and setting forth such information as the Commissioner of the Revenue may prescribe and require, showing the amount of room rental charges collected and the tax required to be collected, and shall sign and deliver the same to the Commissioner of the Revenue.

B. The Commissioner of the Revenue shall determine whether the report is in proper form and upon such determination shall cause a copy to be delivered to the Treasurer.

C. The person collecting any such tax shall remit the tax to the Treasurer.

D. Said reports and remittances shall be made on or before the twentieth day of the month following each month and covering the amount of tax collected during the preceding month.

*State law reference—Virginia Code § 58.1-3819.*

**§ 22-66. Interest and penalties.**

If any person shall fail or refuse to remit to the Treasurer the tax required to be collected and paid under this article within the time and in the amount specified in this article, there shall be added to such tax by the Treasurer interest at the rate of ten (10) percent per annum from the first day following the day such tax is due upon the amount of the tax for each year or portion thereof from the date upon which the tax is due as provided in this article.

*State law reference—Virginia Code § 58.1-3819.*

**§ 22-67. Determination of tax due by the Commissioner of the Revenue.**

If any person required to collect and remit the tax imposed by this article fails to file a report, or if the Commissioner of the Revenue has reasonable cause to believe that an erroneous report has been filed, the Commissioner of the Revenue may proceed to determine the amount due to the county and in connection therewith shall make such investigations and take such testimony and other evidence as may be necessary and he shall report his determination to the Treasurer; provided, however, that notice and opportunity to be heard be given any person who may become liable for the amount owing prior to any determination by the Commissioner of the Revenue.

*State law reference—Virginia Code § 58.1-3819.*

**§ 22-68. Cessation of business; report and tax due immediately.**

Whenever any person required to collect and pay to the county a tax under § 22-62 of this article shall quit or otherwise dispose of his business, any tax under the provisions of this article shall become immediately due and such person shall immediately make a report and pay the tax due.

*State law reference—Virginia Code § 58.1-3819.*

**§ 22-69. Commissioner of the Revenue, other powers and duties.**

It shall be the duty of the Commissioner of the Revenue to ascertain the name of every person operating a hotel in the county, liable for the collection of the tax levied by § 22-62 of this article. The Commissioner of the Revenue shall have the power to adopt rules and regulations not inconsistent with the provisions of this article for the purpose of determining the amount due to the county under this article. A copy of such rules and regulations shall be on file and available for public examination in the Commissioner of the Revenue's office. Failure or refusal to comply with any rules and regulations promulgated under this section shall be deemed a violation of this article.

*State law reference—Virginia Code § 58.1-3819.*

**§ 22-70. Penalty.**

Any person intentionally failing to file a report required by this article shall be guilty of a misdemeanor and upon conviction thereof punishment shall not exceed that prescribed for a Class 3 misdemeanor as provided in § 18.2-11 of the Code of Virginia (1950), as amended. Each such failure shall constitute a separate offense. Such conviction shall not relieve any such person from the payment, collection or remittance of such tax, penalties and interest, as provided in this article.

*State law reference—Virginia Code § 58.1-3819.*

## ARTICLE VIII. Food and Beverage Tax.

### § 22-71. Definitions.

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

**Beverage.** As used herein, the term beverage shall mean alcoholic beverages as defined in Virginia Code § 4.1-100 and nonalcoholic beverages served as a part of a meal and purchased in and from a food establishment.

**Cater.** The furnishing of food or beverages, or both, on the premises of another, for compensation.

**Commissioner.** The Commissioner of the Revenue and any duly designated deputies, assistants, inspectors or other employees.

**Treasurer.** The Treasurer and any duly designated deputies, assistants, inspectors or other employees.

**Food.** All food, beverages or both, including alcoholic beverages, purchased in or from a food establishment, whether prepared in such food establishment or not, and whether consumed on the premises or not, and without regard to the manner, time or place of service.

**Food establishment.** Any place where food is prepared for service to the public on or off the premises, or any place where food is served, including but not limited to, lunch rooms, short order places, cafeterias, coffee shops, cafes, taverns, delicatessens, dining accommodations of public or private corporations, dining accommodations of public and private schools and colleges, mobile point of food service, such as push cart operations, hot dog stands and similar operations, caterer's kitchen or premises, and grocery stores and convenience stores selling prepared foods ready for human consumption at a delicatessen counter.

**Meal.** Meal shall mean any prepared food and beverage as defined herein offered or held out for sale by a food establishment for the purpose of being consumed by any person to satisfy the appetite and is ready for immediate consumption. All such food and beverage, unless otherwise specifically exempted or excluded herein shall be included, whether intended to be consumed on the seller's premises or elsewhere, whether designated as breakfast, lunch, snack, dinner, supper or by some other name, and without regard to the manner, time or place of service. (Ord. 8/23/00)

Editor's note: The food and beverage tax was originally adopted by ordinance on 12/9/92. The current ordinance based on statewide model ordinance, was adopted on 8/23/00.

### § 22-72. Imposition of tax.

There is hereby imposed and levied by the county on each person a tax at the rate of six (6) percent on the amount paid for meals purchased from any food establishment, whether prepared in such food establishment or not and whether consumed on the premises or not. (Ord. 8/23/00; Ord 3/24/21, effective 7/1/21)

**§ 22-73. Collection of tax by seller.**

Every person receiving any payment for food with respect to which a tax is levied hereunder shall collect and remit the amount of the tax imposed by this article from the person on whom the same is levied or from the person paying for such food at the time payment for such food is made; provided, however, no blind person operating a vending stand or other business enterprise under the jurisdiction of the Department for the Visually Handicapped and located on property acquired and used by the United States for any military or naval purpose shall be required to collect or remit such taxes.

All tax collections shall be deemed to be held in trust for the county. (Ord. 8/23/00)

**§ 22-74. Exemptions; limits on application.**

A. The tax imposed under this article shall not be levied on the following items when served exclusively for off-premises consumption:

1. Factory-prepackaged candy, gum, nuts and other items of essentially the same nature.
2. Factory-prepackaged donuts, ice cream, crackers, nabs, chips, cookies and items of essentially the same nature.
3. Food sold in bulk. For the purposes of this provision, a bulk sale shall mean the sale of any item that would exceed the normal, customary and usual portion sold for on premises consumption (e.g. a whole cake, a gallon of ice cream); provided, however, that a bulk sale shall not be deemed to include any food or beverage catered or delivered by a food establishment for off-premises consumption.
4. Alcoholic and non-alcoholic beverages sold in factory sealed containers.
5. Any food or food product purchased with food coupons issued by the United States Department of Agriculture under the Food Stamp Program or drafts issued through the Virginia Special Supplemental Food Program for Women, Infants, and Children.
6. Any food or food product purchased for home consumption as defined in the federal Food Stamp Act of 1977, 7 U.S.C. § 2012, as amended, except hot food or hot food products ready for immediate consumption. For the purposes of administering the tax levied hereunder, the following items whether or not purchased for immediate consumption are excluded from the said definition of food in the federal Food Stamp Act: sandwiches, salad bar items sold from a salad bar, prepackaged single-serving salads consisting primarily of an assortment of vegetables, and non-factory sealed beverages. This paragraph shall not affect provisions set forth in subparagraphs 3, 4 and 5 of Paragraph C below.

B. A grocery store, supermarket or convenience store shall not be subject to the tax except for sales from a delicatessen or other area designated for the sale of prepared food and beverages.

C. The tax imposed hereunder shall not be levied on the following purchases of food and beverages:

1. Food and beverages furnished by food establishments to employees as part of their compensation when no charge is made to the employee.
2. Food and beverages sold by day care centers, public or private elementary or secondary schools or food sold by any college or university to its students or employees.

3. Food and beverages for use or consumption and which are paid for directly by the Commonwealth, any political subdivision of the Commonwealth or the United States.

4. Food and beverages furnished by a hospital, medical clinic, convalescent home, nursing home, home for the aged, infirm, handicapped, battered women, narcotic addicts or alcoholics, or other extended care facility to patients or residents thereof.

5. Food and beverages furnished by a public or private non-profit charitable organization or establishment or a private establishment that contracts with the appropriate agency of the Commonwealth to offer meals at concession prices to elderly, infirm, blind, handicapped or needy persons in their homes or at central locations.

6. Food and beverages sold on an occasional basis by a non-profit educational, charitable or benevolent organization, church, or religious body as a fundraising activity, the gross proceeds of which are to be used by such organization exclusively for non-profit educational, charitable, benevolent or religious purposes.

7. Food and beverages sold through vending machines. (Ord. 8/23/00)

#### **§ 22-75. Gratuities and service charges.**

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

An amount or percent, whether designated as a gratuity, tip or service charge, that is added to the price of the food and beverages by the seller, and required to be paid by the purchaser, shall be deemed a part of the selling price of the food and beverages and shall be subject to the tax imposed by this article. (Ord. 8/23/00)

#### **§ 22-76. Duties of the Commissioner.**

A. It shall be the duty of the Commissioner of the Revenue to ascertain the name of every person operating a restaurant in the county who may be liable for the collection of the tax levied by this article.

B. If any person required to collect and remit the tax imposed by this article fails to file a report, or if the Commissioner has reasonable cause to believe that an erroneous report has been filed, the Commissioner may proceed to determine the amount due to the county. In connection with such determination, the Commissioner shall make such investigations and take such testimony and other evidence as may be necessary and shall report the determination to the Treasurer. However, notice and opportunity to be heard shall be given to any person who may become liable for the amount owing prior to any such determination by the Commissioner.

C. The Commissioner shall have the power to adopt rules and regulations not inconsistent with the provisions of this article for the purpose of determining the amount due to the county under this article. A copy of such rules and regulations shall be on file and available for public examination in the office of the Commissioner of the Revenue.

D. Failure or refusal to comply with any rules and regulations promulgated under this section shall be deemed a violation of this article. (Ord. 8/23/00)

**§ 22-77. Reporting of taxes collected; remittance; preservation of records.**

A. It shall be the duty of every person required by this article to collect the taxes imposed by this article to make a report thereof to the Commissioner setting forth such information as the Commissioner may prescribe and require, including all purchases taxable under this article, the amount charged the purchaser for each such purchase, the date thereof, the taxes collected thereon and the amount of tax required to be collected by this article. Such reports shall be made to the Commissioner.

B. The taxes required to be collected by this article shall be remitted to the Treasurer.

C. Said reports and remittances shall be made on or before the 20th day of the month following each month and covering the amount of tax collected during the preceding month. However, the remittance of the tax may be made quarterly on the 20th day of the month following each quarter if the total remittance for the quarter does not exceed ten dollars (\$10.00).

D. All records related to the calculation and imposition of the tax shall be kept and preserved for a period of five (5) years. The Commissioner or his/her duly authorized agents shall be entitled to examine such records at reasonable times and without unreasonable interference with the business of such person, for the purpose of administering and enforcing the provisions of this article, and to make copies of all or any parts thereof. (Ord. 8/23/00)

**§ 22-78. Duty of seller when going out of business.**

Whenever any person required to collect and pay to the county a tax imposed by this article shall cease to operate, go out of business or otherwise dispose of his business, any tax then payable to the county shall become immediately due and payable, and such person shall immediately make a report and pay the tax due to the county. (Ord. 8/23/00)

**§ 22-79. Interest.**

If any person shall fail or refuse to remit to the Treasurer the tax required to be collected and paid under this article within the time and in the amount specified in this article, there shall be added to such tax by the Treasurer interest at the rate of ten per cent (10%) per annum from the first day following the day such tax is due upon the amount of the tax for each year or portion thereof. (Ord. 8/23/00)

## **§ 22-80. Violations and penalties.**

A. Any person willfully failing or refusing to file a report or make payment as required under this article shall, upon conviction thereof, be guilty of a class I misdemeanor except that any person failing to file such a return shall be guilty of a class 3 misdemeanor if the amount of tax lawfully assessed in connection with the return is \$1,000.00 or less. Any person violating or failing to comply with any other provision of this article shall be guilty of a class I misdemeanor.

B. Except as provided in paragraph A above, any corporate or partnership officer, as defined in Virginia Code § 58-1-3906, or any other person required to collect, account for, or pay over the meals tax imposed under this article, who willfully fails to collect or truthfully account for or pay over such tax, or who willfully evades or attempts to evade such tax or payment thereof, shall, in addition to any other penalties imposed by law, be guilty of a class I misdemeanor.

C. Each violation of or failure to comply with this article shall constitute a separate offense. Conviction of any such violation shall not relieve any person from the payment, collection or remittance of the tax as provided in this article. (Ord. 8/23/00)

## **ARTICLE IX. Retail Sales and Use Tax.**

### **§ 22-81. Levy of retail sales tax.**

A local general retail sales tax at the rate of one percent (1%) to provide revenue for the general fund of the county is hereby levied. Such tax shall be subject to all the provisions of Chapter 6, Title 58.1 of the Code of Virginia (1950), as amended, and the rules and regulations published with respect thereto.

*State law reference—Virginia Code § 58.1-605.*

### **§ 22-82. Levy of use tax.**

A county use tax at the rate of one percent (1%) to provide revenue for the general fund of the county is hereby levied. Such tax shall be subject to all the provisions of Chapter 6, Title 58.1 of the Code of Virginia (1950), as amended, and the rules and regulations published with respect thereto.

*State law reference—Virginia Code § 58.1-606.*

### **§ 22-83. Exemption of certain energy sources.**

Notwithstanding the provisions of sections 22-81 and 22-82 above the retail sales tax and the use tax imposed by the county shall not apply to artificial or propane gas, firewood, coal or home heating oil used for domestic consumption as defined in subdivision 1 of Virginia Code § 58.1-609.10. (Ord. 9/22/81)

*State law reference—Virginia Code § 58.1-609.13.*

**§§ 22-84 through 22-90. Reserved.**

## **ARTICLE X. Bank Franchise Tax.**

### **§ 22-91. Definitions.**

For purposes of this article, the terms "bank" and "bank holding company" shall have the meaning ascribed to them in the Virginia Bank Franchise Tax Act.

*State law reference—Virginia Code § 58.1-1201.*

### **§ 22-92. Imposed.**

A. There is hereby imposed upon each bank located outside any incorporated town but otherwise within the boundaries of this county a tax on net capital equaling eighty percent (80%) of the state rate of franchise tax set forth in the Virginia Bank Franchise Tax Act for each \$100 of the net capital of the bank located in the county outside the corporate limits of any town.

B. A bank's net capital shall be computed as provided in the Virginia Bank Franchise Tax Act.

C. If any bank has offices located in two or more political subdivisions, one of which is this county, but outside any incorporated town in this county, the tax shall be apportioned as provided by the Virginia Bank Franchise Tax Act.

*State law reference—Virginia Code § 58.1-1210.*

### **§ 22-93. Assessment and collection.**

All provisions of the Virginia Bank Franchise Tax Act relating to the filing of returns, payment of the tax and penalties are hereby expressly incorporated into this article by reference.

*State law reference—Virginia Code § 58.1-1207.*

**§§ 22-94 through 22-100. Reserved.**

## **ARTICLE XI. Assessment of Special Court Costs.**

### **§ 22-101. Assessment for courthouse construction, renovation or maintenance.**

A. There is hereby assessed, as part of the costs in (i) each civil action and (ii) each criminal or traffic case in a district or circuit court of the county, including the circuit court, the general district court, and the juvenile and domestic relations court, the sum of Two Dollars (\$2.00).

B. This assessment shall be collected by the clerk of the court in which the action is filed, and remitted to the treasurer of the county and held by such treasurer subject to disbursements by the board of supervisors for the construction, renovation or maintenance of courthouse or jail and court-related facilities and to defray increases in the cost of heating, cooling, electricity and ordinary maintenance.

C. This assessment shall be in addition to any other fees prescribed by law.

*State law reference—Virginia Code § 17.1-281.*

### **§ 22-102. Assessment for law library.**

A. The contribution of the Augusta County Bar Association of all the law books and law periodicals owned by said Association and located within the Supreme Court of Virginia Law Library on the third floor of the Masonic Building is hereby accepted;

B. A law library is hereby established under the name of "Staunton-Augusta-Waynesboro Law Library" and the same shall be open for the use of the public under such rules and regulations as may be established by the Judge of the Circuit Court of Augusta County, by Order, from time to time; provided, however, that the use of the books owned by the Supreme Court of Virginia shall conform to such rules and regulations as the Supreme Court of Virginia may prescribe, from time to time, for the use of the said library and the times it shall be kept opened;

C. There is hereby assessed as part of the costs incident to each civil action filed in the Circuit Court of the County of Augusta, Virginia, (a court of record), the sum of Four Dollars (\$4.00), the General District Court of the County of Augusta, Virginia (a court not of record), the sum of Four Dollars (\$4.00), and the Juvenile and Domestic Relations District Court of the County of Augusta, Virginia (a court not of record), the sum of Four Dollars (4.00), such assessment to be collected by the Clerk of the Court in which the action is filed and remitted to the Treasurer of the County of Augusta and held by such Treasurer in a separate fund, subject to disbursements by the Judge of the Circuit Court of Augusta County for the acquisition of law books and law periodicals and other lawful disbursements. This assessment shall be in addition to all other costs prescribed by law but shall not apply to any action in which the Commonwealth or any political subdivision thereof or the federal government is a party and in which costs are assessed against the Commonwealth, political subdivision or the federal government. (Ord. 2/24/16, effective 07/01/16).

*State law reference—Virginia Code § 42.1-70.*

### **§ 22-103. Assessment for electronic summons system.**

A. There is hereby assessed, as part of the costs in each criminal or traffic case in a court of the county, including the circuit court, the general district court, and the juvenile and domestic relations court, the sum of Five Dollars (\$5.00).

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B. This assessment shall be collected by the clerk of the court in which the action is filed, and remitted to the treasurer of the county and held by such treasurer subject to disbursements by the board of supervisors to the Sheriff's Office to fund software, hardware, and associated equipment costs for the implementation and maintenance of an electronic summons system.

C. This assessment shall be in addition to any other fees prescribed by law.

*State law reference—Virginia Code § 17.1-279.1.*

(Ord. 7/23/14, effective 9/1/14)

**§§ 22-104 through 22-110. Reserved.**

## **ARTICLE XII. Exemptions.**

### **§ 22-111. Property exempt from taxation by classification.**

A. Pursuant to the authority granted in Article X, Section 6 (a) (6) of the Constitution of Virginia to exempt property from taxation by classification, the following classes of real and personal property shall be exempt from taxation:

1. Property owned directly or indirectly by the Commonwealth, or any political subdivision thereof.

2. Buildings with land they actually occupy, and the furniture and furnishings therein owned by churches or religious bodies and exclusively occupied or used for religious worship or for the residence of the minister of any church or religious body, and such additional adjacent land reasonably necessary for the convenient use of any such building.

3. Nonprofit private or public burying grounds or cemeteries.

4. Property owned by public libraries, law libraries of local bar associations when the same are used or available for use by a state court or courts or the judge or judges thereof, medical libraries of local medical associations when the same are used or available for use by state health officials, incorporated colleges or other institutions of learning not conducted for profit. This paragraph shall apply only to property primarily used for literary, scientific or educational purposes or purposes incidental thereto and shall not apply to industrial schools which sell their products to other than their own employees or students.

5. Property belonging to and actually and exclusively occupied and used by the Young Men's Christian Associations and similar religious associations, including religious mission boards and associations, orphan or other asylums, reformatories, hospitals and nunneries, conducted not for profit but exclusively as charities (which shall include hospitals operated by nonstock corporations not organized or conducted for profit but which may charge persons able to pay in whole or in part for their care and treatment).

6. Parks or playgrounds held by trustees for the perpetual use of the general public.

7. Buildings with the land they actually occupy, and the furniture and furnishings therein belonging to any benevolent or charitable organization and used by it exclusively for lodge purposes or meeting rooms, together with such additional adjacent land as may be necessary for the convenient use of the buildings for such purposes.

8. Property of any nonprofit corporation organized to establish and maintain a museum.

B. The real and personal property of an organization classified in Virginia Code §§ 58.1-3610 through 58.1-3622 and used by such organization for a religious, charitable, patriotic, historical, benevolent, cultural, or public park and playground purpose as set forth in Article X, Section 6 (a) (6) of the Constitution of Virginia, the particular purpose for which such organization is classified being specifically set forth within each section, shall be exempt from taxation, so long as such organization is operated not for profit and the property so exempt is used in accordance with the purpose for which the organization is classified.

C. Property which was exempt from taxation on December 31, 2002, shall continue to be exempt from taxation under the rules of statutory construction applicable to exempt property at the time such property became entitled to exemption.

D. Exemptions of property from taxation granted under this section on or after January 1, 2003, shall be strictly construed in accordance with Article X, Section 6 (f) of the Constitution of Virginia. (Ord.1/25/06, eff. retroactively to 1/1/06)

*State law reference—Virginia Code § 58.1-3651.*

### **§ 22-112. Property exempt from taxation by designation.**

Property not granted tax-exempt status prior to January 1, 2003, can be granted tax-exempt status by designation only by the adoption of an ordinance by the board of supervisors granting the exemption. The adoption of such an ordinance shall be pursuant to the provisions of Article 4.1, Chapter 36 of Title 58.1 of the Code of Virginia applicable to the exemption of property from taxation by designation; provided, an applicant for exemption by designation shall submit to the board of supervisors for its consideration materials responsive to the questions set forth therein and the following materials:

A. A determination letter issued by the Internal Revenue Service which confirms the tax-exempt status of the applicant under § 501(c) of the Internal Revenue Code.

B. Income statements, which show the revenues and expenditures of the applicant for its two preceding fiscal years and the current year to date

C. Operating budgets of the applicant for its two preceding fiscal years and the current year to date.

D. Any business licenses or licenses for serving alcoholic beverages issued to the applicant. (Ord.1/25/06, eff. retroactively to 1/1/06)

*State law reference—Virginia Code § 58.1-3651.*

### **ARTICLE XIII. Cigarette Tax**

#### **22-121. Definitions.**

Except where the context clearly indicates a different meaning, the following words, terms, and phrases shall, for purposes of this Chapter, have the meanings ascribed to them in this Section:

“Agent” means every local dealer and other person who shall be authorized by the Board to purchase and affix stamps to packages of cigarettes under the provisions of this Chapter.

“Board” or “BRCTB” means the Blue Ridge Cigarette Tax Board.

“Carton” means any container, regardless of material used in its construction in which packages of cigarettes are placed.

“Cigarette” means any roll of any size or shape for smoking, whether filtered or unfiltered, with or without a mouthpiece, made wholly or partly of cut, shredded or crimped tobacco or other plant or substitute for tobacco, whether the same is flavored, adulterated or mixed with another ingredient, if the wrapper or cover is made of any material other than leaf tobacco or homogenized leaf tobacco, regardless of whether the roll is labeled or sold as a cigarette or by any other name.

“County” means the County of Augusta, Virginia.

“Dealer” means and includes every manufacturer, manufacturer’s representative, self-wholesaler, wholesaler, retailer, cigarette machine operator, public warehouse, jobber, or other person who shall sell, receive, store, possess, distribute, or transport cigarettes within or into the County.

“Commissioner of Revenue” means the Commissioner of Revenue of Augusta County, Virginia and any of his or her duly authorized deputies and agents.

“Package” means and includes any container, regardless of the material used in its construction, in which separate cigarettes are placed without such cigarettes being placed into any container within the package. Packages are those containers of cigarettes from which individual cigarettes are ordinarily taken when they are consumed by their ultimate user.

“Person” means any individual, firm, unincorporated association, company, corporation, L.L.C., joint stock company, group, agency, syndicate, trust or trustee, receiver, fiduciary, partnership and conservator. The word “person” as applied to a partnership, unincorporated association or other joint venture means the partners or members thereof and as applied to a corporation shall include all the officers and directors thereof.

“Registered Agent” means every dealer and other person who shall be required to report and collect the tax on cigarettes under the provisions of this Chapter.

“Sale” or “Sell” means and includes every act or transaction, regardless of the method or means employed, including barter, exchange, the use of vending machines and other mechanical devices, or a criminal or tortious act whereby either ownership or possession or both, of any cigarettes shall be transferred within the County from a dealer or seller as herein defined to any other person for consideration.

“Seller” means every person who transfers title to any cigarettes, or in whose place of business title to any cigarettes is transferred, within the County for any purpose other than resale.

“Stamp” means a small gummed piece of paper or decal to be sold by the Board and to be affixed, manually or by machine, to every package of cigarettes sold at retail in the city, under the authorization of the commissioner of revenue.

“Treasurer” means the Treasurer of Augusta County and any of his or her duly authorized deputies, agents, or designees.

#### **22-122. Establishment of the Blue Ridge Cigarette Tax Board.**

(A) The ordinance adopted by the Augusta County Board of Supervisors, dated September 8, 2021, pertaining to the establishment of the Blue Ridge Cigarette Tax Board is hereby put into effect and made a part of this Chapter by reference.

(B) The Board's fiscal year shall be from July 1 through June 30.

*State Law Reference: Virginia Code § 58.1-3832.1.*

#### **22-123. Powers of the Blue Ridge Cigarette Tax Board.**

(A) The Board may delegate any of its powers to its Administrator or employees and may adopt regulations regarding the administration and enforcement of the provisions of this Chapter.

(B) The Board shall be granted the powers enumerated in Virginia Code § 58.1-3832.1 and duly provided for in the Blue Ridge Cigarette Tax Board Agreement entered into by the County by ordinance on September 8, 2021.

*State Law Reference: Virginia Code §§ 58.1-3832.1; 15.2-1300.*

#### **22-124. Amount Levied.**

In addition to all other taxes of every kind now or hereafter imposed by law, there is hereby levied and imposed by the County an excise tax on the sale of cigarettes equivalent to \$0.15 on each package containing twenty-five (25) or fewer cigarettes. The tax is to be paid by the seller, local dealer, or other agent, including registered agent, by affixing a stamp or causing

a stamp to be affixed to every package of cigarettes. The tax payable for each package of cigarettes sold within the County shall in no circumstance be paid more than once. The tax hereby levied shall not apply to free distribution of sample cigarettes in packages containing five or fewer cigarettes.

*State Law Reference: Virginia Code § 58.1-3830.*

#### **22-125. Methods of Payment.**

The tax imposed by this Chapter shall be evidenced by the use of a stamp purchased from the Board and affixed by the dealer or seller to every package of cigarettes to be sold within the County. The tax shall be paid at the time the stamps are purchased. Every dealer and every seller shall have the right to buy such stamps from the Board and to affix the same to packages of cigarettes as provided in this chapter. The purchase price of any tax stamps purchased pursuant to this Chapter shall be refunded, without penalties or additional fees, upon verification by the Board that the stamps have been returned to the Board.

*State Law Reference: Virginia Code §§ 58.1-3832; 58.1-3832.1.*

#### **22-126. Preparation and Sale of Stamps Generally – Discounts.**

For the purpose of making stamps available for use, the Board shall sell stamps of such denomination and in such quantities as may be necessary for the payment of the taxes imposed by this Chapter. In the sale of such stamps, the Board shall allow a discount of two percent (2%), or 1.5 cents per pack, of the denominational or face value of the stamps to cover the costs incurred in affixing the stamps to packages of cigarettes.

*State Law Reference: Virginia Code § 58.1-3832.1.*

#### **22-127. Duties of Dealers and Sellers.**

(A) Every dealer or other person liable for the tax in cigarettes is hereby required, and it shall be his or her duty, to purchase such stamps from the Board as shall be necessary to pay the tax levied and imposed by this Chapter and to affix or cause to be affixed the proper number of stamps of the prescribed monetary value to each package of cigarettes prior to delivering or furnishing such cigarettes to any seller.

(B) Every seller is hereby required, and it shall be his or her duty, to examine each package of cigarettes prior to exposing the same for sale for the purpose of ascertaining whether such package has the proper stamps affixed thereto as required by this Chapter. If upon such examination unstamped or improperly stamped packages of cigarettes are discovered, the seller shall either:

(1) Purchase and affix to such packages of cigarettes the proper stamps covering the tax imposed by this Chapter prior to exposing the cigarettes for sale; or

(2) Immediately notify the dealer who provided the cigarettes and refrain from exposing the same for sale until the tax is paid and packages are properly stamped or the

unstamped or improperly stamped packages of cigarettes are replaced with properly stamped packages. Upon such notification, the dealer shall forthwith either affix to the unstamped or improperly stamped packages the proper number of stamps covering the amount of tax due or shall replace such packages with others on which stamps have been properly fixed.

(C) In the event any seller elects to purchase and affix stamps before offering cigarettes for sale, the dealer delivering and furnishing such cigarettes shall not be required to purchase and affix stamps to such cigarettes provided that any such dealer shall, on the day following the day of such delivery, file with the Board a copy of the delivery memorandum showing the name and address of such seller and the quantity and type of cigarettes so delivered and furnished.

*State Law Reference: Virginia Code §§ 58.1-3830; 58.1-3832.*

## **22-128. Monthly Reports and Recordkeeping – Inspection.**

(A) It shall be the duty of each dealer to report monthly to the Board the following information:

- (1) The quantity of stamped cigarettes sold or delivered during the period requested by the Board to:
  - (a) Each dealer;
  - (b) Each seller; and
  - (c) Each separate person or place of business within the County;
- (2) The quantity of stamps on hand, both affixed and unaffixed, on the first day of the period of request and the quantity of stamps or stamped cigarettes received during the period; and
- (3) Such further information as the Board may require for the proper administration and enforcement of this Chapter for the determination of the exact number of cigarettes in the possession of each dealer or seller.

(B) Upon request by the Board, any seller shall provide the Board, in writing, with the name and address of the dealer who provides the seller with cigarettes.

(C) It shall be the duty of each dealer or other person liable for the tax imposed by this Chapter to maintain and keep for a period of three years, not including the current calendar year, records of the quantity of all cigarettes received, sold, stored, possessed, transferred, handled, or delivered by such dealer or person in any manner whatsoever, whether the same were stamped or unstamped, and to make all such records available for audit, inspection, and examination by the Commissioner at all reasonable times and upon demand.

*State Law Reference: Virginia Code § 58.1-3832.1.*

## **22-129. Assessment of Unpaid Taxes.**

(A) When, upon examination and audit of any invoices, records, books, canceled checks, or other memoranda touching on the purchase, sale, receipt, storage, or possession of tobacco products taxed herein, any dealer or other person liable for the tax is unable to furnish evidence to the Board of sufficient tax payments and stamp purchases to cover cigarettes which were sold, used, stored, received, purchased, or possessed by him, the Board shall, from the results of such examination and audit based upon such direct or indirect information available, assess the tax due and unpaid.

(B) The dealer or other person liable for the tax shall be notified by certified mail or hand delivery of such deficiency, and such tax, penalty, and interest assessed shall be due and payable within ten (10) days after notice of such deficiency has been issued.

*State Law Reference: Virginia Code §§ 58.1-3830; 58.1-3832; 58.1-3832.1.*

## **22-130. Display of Stamps - Seizure.**

(A) Stamps shall be placed upon each package of cigarettes in such manner as to be readily visible to the purchaser and shall be affixed to each package of cigarettes in such a manner that their removal will require continued application of water or steam.

(B) Any seller found to possess, prior to being offered for sale, more than six (6) cartons of cigarettes without the tax paid stamp affixed, who is not in the process of affixing such stamps thereto, shall be presumed to be in possession of untaxed cigarettes in violation of this Chapter. If such person has received the cigarettes within the preceding forty-eight (48) hours and has not offered them for sale, such presumption shall not apply.

(C) Any vending machine located within the County containing cigarettes upon which the stamp has not been affixed or containing cigarettes placed so as to not allow visual inspection of the stamp through the viewing area as provided for by the vending machine manufacturer shall be presumed to contain untaxed cigarettes in violation of this chapter. If a vending machine does not allow for visual inspection of the stamp, the Board is hereby authorized to direct the owner to open the machine in order to determine whether the cigarettes contained therein are stamped.

(D) Any cigarettes, coin operated vending machines, counterfeit stamps, or other property found in violation of this Chapter shall be declared contraband goods and may be seized by the Board accompanied by the Augusta County Sheriff's Office. In addition to any tax due, the dealer or other person liable for the tax possessing such untaxed cigarettes shall be subject to civil and criminal penalties herein provided.

(E) In lieu of seizure, the Board may seal such vending machines to prevent continued illegal sale or removal of such cigarettes. The removal of such seal from a vending machine by any unauthorized person shall be a violation of this Chapter. Nothing in this Chapter shall prevent the seizure of any vending machine at any time after it is sealed.

(F) All cigarette vending machines shall be plainly marked with the name, address, and telephone number of the owner of said machine.

(G) Any seized and confiscated cigarettes, vending machines, or other property used in the furtherance of any illegal evasion of the tax prescribed in this Chapter may be disposed of by sale or other method deemed appropriate by the Board thirty (30) days after notice is given to the person from whom the items were seized and to any other known holder of a property interest in the property. Such notice shall state that the owner or holder of a property interest may challenge the proposed sale and forfeiture by written appeal to the Administrator of the Board, or his or her designee, at least five (5) days prior to the date of the proposed sale. The appellant shall have the right to personally appear before the Administrator for the Board, or his or her designee, and to present any relevant evidence or witnesses, to question any witness for the County, and to assert any available affirmative defense. The Board Administrator, or his or her designee, shall render a written decision on the appeal within ten (10) working days. If a timely appeal is filed, no sale and forfeiture shall occur unless and until the Board Administrator, or his or her designee, renders a decision rejecting the appeal.

(H) No credit from any sale of cigarettes, vending machines, or other property seized shall be allowed toward any tax, penalties, or interest assessed.

(I) An inventory of the property seized pursuant to a violation of this section shall be prepared, and a copy shall be provided to the owner of the seized property as soon as practicable.

(J) When any property is seized for the purposes of forfeiture and an information naming that property has not been filed, neither the agency seizing the property nor any other law enforcement agency may request, require, or in any manner induce any person who asserts ownership, lawful possession, or any lawful right to the property to waive his interest in or rights to the property until an information has been filed.

*State Law Reference: Virginia Code §§ 58.1-3832; 58.1-3832.1.*

## **22-131. Refund for Unused or Damaged Stamps.**

(A) Should any person, after acquiring from the Board any stamps provided for in this Chapter, cease to be engaged in a business necessitating the use of the stamps or should the stamps be damaged to the extent that they are unusable, such person shall be entitled to a refund of the denominational or face amount of any such stamps, less any discount, upon presenting the stamps to the Board and furnishing an affidavit showing to the Commissioner's satisfaction that the stamps were acquired by such person but not used. Such person seeking a refund shall state in his or her affidavit the reason for requesting the refund.

(B) Any and all refunds for unused or damaged stamps provided for under this section may be made on vouchers approved by the Board. Such refunds shall be charged against the sums collected for the sale of said stamps. Payment to the person requesting the refund shall be made within thirty (30) days of the request, or such additional time necessary to comply with applicable law.

(C) Notwithstanding subsections (A) and (B) of this section above, no refund shall be paid to any person for stamps purchased that have been cancelled by the Board pursuant to this Chapter.

*State Law Reference: Virginia Code §§ 58.1-3830; 58.1-3832.*

### **22-132. Rules and Regulations.**

The Board is hereby authorized and empowered to jointly prescribe, adopt, promulgate, and enforce rules and regulations relating to the methods and means of cancellation of the stamps provided for in this Chapter and to any and all other matters pertaining to the administration and enforcement of the provisions of this Chapter. The Board is further authorized and empowered to examine the books, records, invoices, papers and any and all cigarettes in and upon any premises where the same are placed, stored, sold, offered for sale, or displayed for sale by a seller. The Board Administrator is authorized to delegate any of the powers and duties set out in this Chapter to one or more designees, except as may be prohibited by law.

*State Law Reference: Virginia Code §§ 58.1-3830; 58.1-3832; 58.1-3832.1.*

### **22-133. Violations.**

(1) Any person violating any of the provisions of this chapter shall be guilty of a Class 1 misdemeanor. Conviction and punishment for such violation shall not relieve any person from the payment of any tax, interest or penalty imposed by this chapter.

(2) Any person who fails to pay any cigarette tax at the time it is due shall pay a late payment penalty in the amount of ten (10) percent of the unpaid tax per month.

(3) Any person who fails to pay any cigarette tax at the time it is due shall pay interest on the tax found to be overdue and unpaid at the rate of three quarters of one percent per month.

(4) In addition, any person who shall perform any fraudulent act or fail to perform any act for the purpose of evading the payment of any tax imposed by this Chapter shall be required to pay a penalty in the amount of fifty (50) percent of any tax found to be overdue and unpaid.

(5) Each day's violation of, or noncompliance with, any of the provisions of this Chapter shall be and constitute a separate offense up to and until the date upon which all amounts owed are paid.

*State Law Reference: Virginia Code §§ 58.1-3830; 58.1-3832.*

### **22-134. Violations of chapter prohibited – Acts enumerated.**

It shall be unlawful and a violation of this Chapter for any person:

(1) To perform any act or fail to perform any act for the purpose of evading the payment of any tax imposed by this chapter or of any part thereof, or for any dealer or seller, with intent to violate any provision of this chapter, to fail or refuse to perform any of the duties imposed upon

him under the provisions of this chapter, or to fail or refuse to obey any lawful order which the Board may issue under this chapter;

(2) To falsely or fraudulently make, forge, alter or counterfeit any stamp, invoice or reports, to procure or cause to be made, forged, altered or counterfeited any such stamp, or knowingly and willfully to alter, publish, pass or tender as true any false, altered, forged or counterfeited stamp or stamps;

(3) To sell any cigarettes upon which the tax imposed by this chapter has not been paid and upon which evidence of payment thereof is not shown on each package of cigarettes;

(4) To reuse or refill with cigarettes any package from which the cigarettes have been removed, for which the tax has been paid;

(5) To remove from any package any stamp with intent to use or cause the same to be used after the same have already been used, or to buy, sell or offer for sale or give away any used, removed, altered or restored stamps, to any person, or to reuse any stamp which has theretofore been used for evidence of the payment of any tax prescribed in this chapter, or, except as to the Board, to sell or offer to sell any stamp provided for herein;

(6) To possess, store, use, authorize or approve the possession, storage or use for sale or resale of any cigarettes in quantities of more than 60 packages upon which the stamp has not been affixed; or

(7) To transport, authorize or approve the transportation of any cigarettes, in quantities of more than 60 packages into or within the County upon which the stamp has not been affixed, if they are:

(a) Not accompanied by a bill of lading or other document indicating the true name and address of the consignor or seller and the consignee or purchaser and the brands and quantity of cigarettes transported; or

(b) Accompanied by a bill of lading or other document which is false or fraudulent in whole or part; or

(c) Accompanied by a bill of lading or other document indicating:

(i) A consignee or purchaser in another state or the District of Columbia who is not authorized by the law of such other jurisdiction to receive or possess such cigarettes on which the taxes imposed by such other jurisdiction have not been paid, unless the tax of the state or district of destination has been paid and the said cigarettes bear the tax stamps of that state or district; or

(ii) A consignee or purchaser in the Commonwealth of Virginia but outside the city who does not possess a Virginia Sales and Use Tax Certificate, a Virginia Retail Tobacco License and, where applicable, both a business license and a retail tobacco license issued by the local jurisdiction of destination.

*Virginia Code §§ 58.1-3830; 58.1-3832; 58.1-3832.1.*

**22-135. Interest and Penalty.**

If any person shall sell cigarettes within the County without complying with this Chapter, such person shall be liable to the County for the amount of any tax that should have been collected thereon, and the Board shall add to such tax a penalty in the amount of ten percent or a minimum of \$2.00, and interest shall be payable on such overdue tax in the amount of ten percent (10%) per annum from the date of such unlawful sale.

*State Law Reference: Virginia Code §§ 58.1-3830; 58.1-3832; 58.1-3832.1.*

**22-136. Severability.**

If any section, clause, phrase, or part of this Chapter should for any reason be held invalid by a court of competent jurisdiction, such decision shall not affect the remainder of the Chapter, and every remaining section, clause, phrase or part thereof shall continue in full force and effect.

**22-137. Visibility of Stamps or Meter Markings.**

Stamps or the printed markings of a meter machine shall be placed upon each package of cigarettes in such manner as to be readily visible to the purchaser.

*State Law Reference: Virginia Code §§ 58.1-3830; 58.1-3832; 58.1-3832.1.*

**22-138. Altering Design of Stamps.**

The Board may from time to time and as often as it may deem advisable provide for the issuance and exclusive use of stamps of a new design and forbid the use of stamps of any other design.

*State Law Reference: Virginia Code §§ 58.1-3830; 58.1-3832; 58.1-3832.1.*

**22-139. Disposition of Revenue.**

Revenue derived from the tax imposed in this Chapter shall be distributed by the Board to the County and thereafter deposited by the Treasurer to the credit of the general fund of the County for utilization for such legal purposes as the Board of Supervisors of Augusta County may from time to time determine.

*State Law Reference: Virginia Code §§ 58.1-3830; 58.1-3832; 58.13832.1.*

(Ord. 09/08/21)