

Chapter 165 Taxation

Table of Contents

| | |
|--|----|
| Chapter 165 Taxation..... | 6 |
| General References..... | 6 |
| Code Of Virginia References | 6 |
| Article I Business Licenses..... | 7 |
| § 165-1. Intent. | 7 |
| § 165-2. Definitions..... | 7 |
| § 165-3. License requirements. | 8 |
| § 165-4. Due dates and penalties. | 9 |
| § 165-5. Rate of License Fee | 10 |
| § 165-6. Exemptions. | 10 |
| § 165-7 to § 165-14 Reserved for future use..... | 13 |
| Amendments Chapter 165-Article I | 13 |
| Article II Public Utilities License Tax ⁴² | 14 |
| § 165-15. Imposition. | 14 |
| § 165-16. Amount. | 14 |
| § 165-17. Payment. | 14 |
| Article III Vehicle License Tax ⁴³ | 15 |
| §165-18. Violations and penalties. | 15 |
| § 165-19. Persons and vehicles subject to tax; presentation of Virginia vehicle registration cards..... | 15 |
| § 165-20. Annual tax imposed; when and to whom tax payable. | 15 |
| § 165-21. Proration of tax. | 15 |
| § 165-22. Specifications for licenses; issuance and attachment to vehicles; procurement by county for issuance to vehicle owners. | 16 |
| § 165-23. Payment of personal property tax required..... | 16 |
| § 165-24. Fee for transfer or reissuance..... | 16 |
| § 165-25. License period of validity. | 16 |
| Amendments Chapter 165-Article III | 17 |
| Article IV Tangible Personal Property ⁴⁵ | 18 |
| § 165-27. Exemption of household goods and personal effects. | 18 |
| § 165-28. Exemption of farm animals..... | 18 |

| | |
|---|----|
| § 165-26. Penalty and interest on delinquent taxes. | 18 |
| § 165-29. Returns of tangible personal property. | 18 |
| § 165-30. Payment of administrative costs. | 19 |
| § 165-31. Relief from prorated tax and refunds. | 19 |
| §165-32 Personal Property Tax Relief Act of 1998. | 22 |
| Amendments Chapter 165-Article IV. | 23 |
| Article V Assessment of New Buildings ⁴⁸ | 25 |
| § 165-32. Assessment of new buildings substantially completed. | 25 |
| § 165-34. Extension of time for payment. | 25 |
| Article VI Exemption for Elderly and Disabled Persons ⁴⁹ | 26 |
| § 165-35. Definitions. | 26 |
| § 165-36. Eligibility. | 26 |
| § 165-37. Application for exemption; affidavit. | 27 |
| § 165-38. Changes in ownership, income or financial worth. | 27 |
| § 165-39. Amount of exemptions. | 28 |
| § 165-40. Certification to Treasurer. | 28 |
| § 165-41. Violations and penalties. | 28 |
| Amendments Chapter 165-Article VI. | 28 |
| Article VII Special Assessment for Land Preservation ⁵⁰ | 29 |
| § 165-42. Findings; tax imposed. | 29 |
| § 165-43. Filing of application; fee. | 29 |
| § 165-44. Qualification of property. | 30 |
| § 165-45. Use value and fair market value. | 30 |
| § 165-46. Rollback tax. | 30 |
| § 165-47. Penalty for misstatement of fact. | 31 |
| § 165-48. Application of state tax law. | 31 |
| Amendments Chapter 165-Article VII. | 31 |
| Article VIII General Retail Sales Tax ⁵¹ | 32 |
| § 165-49. Statutory authority; tax rate. | 32 |
| § 165-50. Administration and collection. | 32 |
| Article IX Wills and Grants of Administration Tax ⁵² | 33 |
| § 165-51. Tax on wills and grants of administration; fee in lieu of probate tax ⁵³ | 33 |
| Amendments Chapter 165 Article IX | 33 |

| | |
|---|----|
| Article X Recordation Tax ⁵⁴ | 34 |
| § 165-52. Statutory authority; tax rate..... | 34 |
| Article XI Use Tax ⁵⁵ | 35 |
| § 165-53. Statutory authority; tax rate..... | 35 |
| Article XII Consumer Utility Tax ⁵⁶ | 36 |
| § 165-54. Definitions..... | 36 |
| § 165-55. Imposition and computation of taxes collected monthly. | 36 |
| § 165-56. Computation and maximum amounts of tax collected other than on monthly basis. | 38 |
| § 165-57. Duty of seller to collect and remit; reports to Commissioner of the Revenue. ... | 39 |
| § 165-58. Records; inspection. | 39 |
| § 165-59. Exemption for governmental agencies..... | 39 |
| § 165-60. Exemption for local calls using coin-operated telephones. | 39 |
| Amendments Chapter 165-Article XII | 40 |
| Article XIII Exemption for Rehabilitated Historic Real Estate | 41 |
| § 165-61. Partial exemption granted..... | 41 |
| § 165-62. Amount of partial exemption. | 41 |
| § 165-63. Limitations on nature of renovation..... | 41 |
| § 165-64. Eligibility..... | 41 |
| § 165-65. Fee ⁵⁷ | 42 |
| Article XIV Motor Vehicle License Tax Exemption ⁵⁹ | 43 |
| § 165-66. Exemption granted to active volunteer rescue squad or Fire Dept. members.... | 43 |
| § 165-67. Eligibility..... | 43 |
| § 165-68. Application deadline. | 43 |
| Article XV Courthouse Maintenance Fee ⁶⁰ | 44 |
| § 165-69. Amount of fee; purpose. | 44 |
| § 165-70. Additional nature of fee..... | 44 |
| Article XVI Enhanced 911 Telephone Service Tax ⁶¹ | 45 |
| § 165-71. Definitions..... | 45 |
| § 165-72. Amount of tax; purpose..... | 45 |
| § 165-73. Exemptions. | 46 |
| § 165-74. Collection and remittance by seller..... | 46 |
| § 165-75. Records of seller. | 46 |

| | |
|---|----|
| Amendments Chapter 165-Article XVI..... | 46 |
| Article XVII Transient Occupancy Tax ⁶² | 48 |
| § 165-76. Tax levied; amount of tax. | 48 |
| § 165-77.Exceptions..... | 48 |
| § 165-78. Collection and remittance. | 48 |
| § 165-79. Commission..... | 49 |
| § 165-80. Collections held in trust..... | 49 |
| Amendments Chapter 165-Article XVII..... | 49 |
| Article XVIII Assessment of Court Costs for Courthouse Security | 50 |
| § 165-81. Fee imposed; collection; use. | 50 |
| Amendments Chapter 165-Article XVIII..... | 50 |
| Article XIX Assessment of Jail Processing Fee..... | 51 |
| § 165-82. Fee imposed; collection; use. | 51 |
| Amendments Chapter 165-Article XIX..... | 51 |
| Article XX Assessment of court costs to support the implementation and maintenance of an Electronic Summons System..... | 52 |
| § 165-83. Fee imposed; collection; use. | 52 |
| Amendments Chapter 165-Article XX..... | 52 |
| Article XXI Cigarette Tax..... | 53 |
| § 165-84. Definitions..... | 53 |
| § 165-85. Tax levied; amount of tax | 54 |
| § 165-86. Method of collection | 54 |
| § 165-87. Method of payment..... | 55 |
| § 165-88. Preparation and sale of stamps | 55 |
| § 165-89. General duties of dealers and sellers with respect to stamps | 55 |
| § 165-90. Visibility of stamps or meter markings | 56 |
| § 165-91. Altering design of stamps | 56 |
| § 165-92. Refund for unused stamps or meter imprints | 56 |
| § 165-93. Seizure and sale of unstamped cigarettes..... | 57 |
| § 165-94 Seizure and sale of coin-operated vending machines and counterfeit stamp or impression devices..... | 58 |
| § 165-95. Dealers' and sellers' records..... | 58 |

| | |
|---|----|
| § 165-96. Rules and regulations for enforcement and administration of article; examination of books, records, etc. | 58 |
| § 165-97. Violations of article—Generally..... | 59 |
| § 165-98. Same—Prohibited acts enumerated | 59 |
| § 165-99. Same—Presumption of violation by seller | 59 |
| Amendments Chapter 165-Article XXI | 60 |
| Article XXII Food and Beverage Tax | 61 |
| § 165-100. Definitions..... | 61 |
| § 165-101. Tax levied; amount of tax | 62 |
| § 165-102. Payment and collection of tax | 62 |
| § 165-103. Collections in Trust for County | 62 |
| § 165-104. Reports and remittances | 62 |
| § 165-105. Penalty and interest for failure to pay tax when due..... | 62 |
| § 165-106. Failure to collect or remit tax | 63 |
| § 165-107. Preservation of Records..... | 63 |
| § 165-108. Duty of person going out of business | 63 |
| § 165-109. Advertising payment or absorption of tax unlawful | 64 |
| § 165-110. Tips and service charges | 64 |
| § 165-111. Exemptions | 64 |
| § 165-112. Enforcement | 65 |
| § 165-113. Violations | 65 |
| § 165-114. Commissioner of Revenue | 66 |
| § 165-115. Commission for Collection..... | 66 |
| Amendments Chapter 165-Article XXII | 66 |
| References | 67 |

Chapter 165 Taxation

[HISTORY: Adopted by the Board of Supervisors of Clarke County as indicated in article histories. Amendments noted where applicable.]

General References

Chapter 57 Special Events

Chapter 61 Animals § 61-19. License required; exemptions; tags.

Chapter 175 Vehicles And Traffic

Code Of Virginia References

§ 58.1-1800 et seq. - Enforcement, collection, refund, remedies and review of state taxes

§ 58.1-3900 et seq. - Enforcement, collection, refunds, remedies and review of local taxes

Article I Business Licenses

[Adopted 04-20-2022]

§ 165-1. Intent.

The purpose of this article is to require a license be obtained for all persons or entities engaged in business or professional services conducted in the unincorporated areas of the County, to impose a license fee thereon, provide for the collection thereof, and to impose penalties for failure to comply with the provisions hereof.

§ 165-2. Definitions

For the purposes of this Article, unless otherwise required by the context, the following definitions shall apply:

| | |
|-----------------------------------|--|
| Business | A course of dealing which requires the time, attention, and labor of the person or is engaged in for the purpose of earning a livelihood or profit. It 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 shall create a rebuttable presumption that a person is engaged in a business: (i) advertising or otherwise holding oneself out to the public as being engaged in a particular business or (ii) filing tax returns, schedules, and documents that are required only of persons engaged in a trade or business. |
| Definite place of business | An office or a location at which occurs a regular and continuous course of dealing for thirty 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 and 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 is not subject to licensure as a peddler or itinerant merchant. |
| Entity | 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 Commonwealth or another state. |
| Itinerant Merchant | Any person who engages in, does, or transacts any temporary or transient business in any locality and who, for the purpose of carrying on such business, occupies any location for a period of less than one year. |

License Year The calendar year for which a license for the privilege of engaging in business is issued.

| | |
|------------------------------|---|
| Peddler | Any person who shall carry from place to place any goods, wares or merchandise and offer to sell or barter the same, or actually sell or barter the same. The definition of peddler shall not include a peddler at wholesale or to those who sell or offer for sale in person or by their employees ice, wood, charcoal, meats, milk, butter, eggs, poultry, game, vegetables, fruits, or other family supplies of a perishable nature or farm products grown or produced by them and not purchased by them for sale. |
| Professional Services | 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 Department of Taxation may list in the BPOL guidelines promulgated pursuant to Code of Virginia (1950) § 58.1-3701, as amended. The Department shall identify and list each occupation or vocation in which a professed knowledge of some department of science or learning, gained by a prolonged course of specialized instruction and study, is used in its practical application to the affairs of others, either advising, guiding, or teaching them, and in serving their interests or welfare in the practice of an art or science founded on it. The word "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. |
| Wholesale Merchant | Any person who sells to others for resale or sells at wholesale to institutional, commercial, or industrial users. |

§ 165-3. License requirements.

- A. Every person or entity engaging in a business or profession within the county shall apply annually for a license therefor, if
 - 1. the person or entity 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; or
 - 3. there is no definite place of business in the county but the person or entity operates amusement machines or is classified as an itinerant merchant, peddler,

carnival, circus, contractor subject to Code of Virginia (1950) §58.1-3715, as amended, or public service corporation.

- B. A separate license shall be required for each definite place of business and for each business.

§ 165-4. Due dates and penalties.

- A. Each person or entity subject to a license shall apply for said license prior to beginning business or no later than March 1 of the license year, if a license had been issued for the preceding year. The application shall be on forms provided by the Commissioner of the Revenue.
- B. Under the authority of Code of Virginia (1950) §15.2-1429, as amended, the county hereby imposes the penalty of a class 3 misdemeanor and a fine of not more than \$500.00 for operating a business without a business license within the county.
- C. A penalty of ten percent of the fee may be imposed upon the failure to file an application or the failure to pay the fee by the appropriate date.
- D. If the failure to file or pay was not the fault of the license holder, the penalty shall not be imposed, or if imposed, shall be abated by the Commissioner of the Revenue. In order to demonstrate lack of fault, the license holder must show that he acted responsibly and that the failure was due to events beyond his control.

"Acted responsibly" means that: (i) the license holder exercised the level of reasonable care that a prudent person would exercise under the circumstances in determining the filing obligations for the business; and (ii) the license holder undertook significant steps to avoid or mitigate the failure, such as 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.

"Events beyond the license holder's control" include, but are 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 fee compliance; or the license holder's reasonable reliance in good faith upon erroneous written information from the commissioner of the revenue who was aware of the relevant facts relating to the license holder's business when he provided the erroneous information.

- E. Any person assessed with a local license tax as a result of an audit may apply within 90 days from the date of such assessment to the assessor for a correction of the assessment. The application must be filed in good faith and sufficiently identify the taxpayer, audit period, remedy sought, each alleged error in assessment, the grounds

upon which the taxpayer relies, and any other facts relevant to the taxpayer's contention. The assessor may hold a conference with the taxpayer if requested by the taxpayer, or require submission of additional information and documents, a 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 assessor shall undertake a full review of the taxpayer's claims and issue a determination to the taxpayer setting forth its position. Every assessment pursuant to an audit shall be accompanied by a written explanation of the taxpayer's right to seek correction and the specific procedure to be followed in the jurisdiction (e.g., the name and address to which an application should be directed.)

- F. Any person assessed with a local license tax as a result of an audit may apply within 90 days of the determination by the assessing official or an application to the tax commissioner for a correction of such assessment. The tax commissioner shall issue a determination to the taxpayer within 90 days of receipt of taxpayer's application. The application shall be treated as an application pursuant to Code of Virginia (1950) §58.1-1821, as amended, and the tax commissioner may issue an order correcting such assessment pursuant to Code of Virginia §58.1-1822, as amended. Following such as order, either the taxpayer or the assessing official may apply to the appropriate circuit court pursuant to Code of Virginia, § 58.1-3984.

§ 165-5. Rate of License Fee

- A. The fee for the issuance of a business license shall be \$30.00 each year.
- B. No business license under this article shall be issued until the applicant has produced satisfactory evidence that all delinquent business license fees, personal property, meals, and transient occupancy taxes owed by the business to the county have been paid.

§ 165-6. Exemptions.

No license fee shall be imposed:

- A. On any public service corporation, or any motor carrier, common carrier, or other carrier of passengers or property formerly certified by the Interstate Commerce Commission or presently registered for insurance purposes with the Surface Transportation Board of the United States Department of Transportation, Federal Highway Administration, except as provided in Code of Virginia (1950) § 58.1-1-3731, as amended, or as permitted by other provisions of law;
- B. For selling farm or domestic products or nursery products, ornamental or otherwise, or for the planting of nursery products, as an incident to the sale thereof, outside the

regular market houses and sheds of the county, provided such products are grown or produced by the person offering such products for sale;

- C. Upon the privilege or right of printing or publishing any newspaper, magazine, newsletter or other publication issued daily or regularly at average intervals not exceeding three months; provided the publication's subscription sales are exempt from state sales tax, or for the privilege or right of operating or conducting any radio or television broadcasting station or service;
- D. On a manufacturer for the privilege of manufacturing and selling goods, wares and merchandise at wholesale at the place of manufacturer. For purposes of this subdivision, this shall include a manufacturer that is also a defense production business selling manufacturing, rebuilding, repair, and maintenance services at the place of manufacture (i) to the United States or (ii) for which consent of the United States is required;
- E. On a person engaged in the business of severing minerals from the earth for the privilege of selling the severed mineral at wholesale at the place of severance, except as provided in Code of Virginia (1950) §58.1-3712 and §58.1-3713, as amended;
- F. Upon a wholesaler for the privilege of selling goods, wares and merchandise to other persons for resale unless such wholesaler has a definite place of business or store in the county This subdivision shall not be construed as prohibiting the county from imposing a local license fee on a peddler at wholesale pursuant to Code of Virginia (1950) §58.1-3718, as amended;
- G. Upon any person, firm or corporation for engaging in the business of renting, as the owner of such property, real property other than hotels, motels, motor lodges, auto courts, tourist courts, travel trailer parks, campgrounds, bed and breakfast establishments, lodging houses, rooming houses and boarding houses;
- H. On or measured by receipts for management, accounting or administrative services provided on a group basis under nonprofit cost-sharing agreement by a corporation which is an agricultural cooperative association under the provisions of Code of Virginia (1950), Title 13.1, Chapter 3, Article 2 (§ 13.1-312 et seq.), as amended, or a member or subsidiary or affiliated association thereof, to other members of the same group. This exemption shall not exempt any such corporation from such license fee or other tax to be measured by receipts from outside the group;
- I. On or measured by receipts or purchases by an entity which is a member of an affiliated group of entities from other members of the same affiliated group. This exclusion shall not exempt affiliated entities from such license or other tax measured by receipts or

purchases from outside the affiliated group. This exclusion shall not preclude the county from levying a wholesale merchant's license on an affiliated entity on those sales by the affiliated entity to a nonaffiliated entity, notwithstanding the fact that the wholesale merchant's license tax would be based upon purchases from an affiliated entity. Such tax shall be based on the purchase price of the goods sold to the nonaffiliated entity. As used in this subdivision, the term "sales by the affiliated entity to a nonaffiliated entity" means sales by the affiliated entity to a nonaffiliated entity where goods sold by the affiliated entity or its agent are manufactured or stored in the Commonwealth prior to their delivery to the nonaffiliated entity;

- J. Any insurance company subject to taxation under Code of Virginia (1950), Title 58.1, Chapter 25 (§ 58.1-2500 et seq.), as amended, or on any agent of such company;
- K. Any bank or trust company subject to taxation in Code of Virginia (1950), Title 58.1, Chapter 12 (§ 68.1-1200 et seq.), as amended;
- L. Any taxicab driver, if the county has imposed a license fee upon the taxicab company for which the taxicab driver operates;
- M. Any blind person operating a vending stand or other business enterprise under the jurisdiction of the Department for the Blind and Vision Impaired, or a nominee of the Department, as set forth in Code of Virginia (1950), §51.5-98, as amended;
- N. On an accredited religious practitioner in the practice of the religious tenets of any church or religious denomination. "Accredited religious practitioner" shall be defined as one who is engaged solely in praying for others upon accreditation by such church or religious denomination;
- O. On or measured by receipts of a nonprofit organization described in Internal Revenue Code §501(c)(3) or 501(c)(19), except to the extent the organization has receipts from an unrelated trade or business the income of which is taxable under Internal Revenue Code §511 et seq. For the purposes of this subdivision, "nonprofit organization" means an organization that is described in Internal Revenue Code §501(c)(3) or 501(c)(19), and to which contributions are deductible by the contributor under Internal Revenue Code §170, except that educational institutions exempt from federal income tax under Internal Revenue Code §501(c)(3) shall be limited to schools, colleges, and similar institutions of learning;
- P. On or measured by gifts, contributions, and membership dues of a nonprofit organization. For the purpose of this subdivision, "nonprofit organization" means an organization exempt from federal income tax under the Internal Revenue Code §501 other than the nonprofit organizations described in the previous subdivision;

- Q. On any venture capital fund or other investment fund, except commissions and fees of such funds. Gross receipts from the sale and rental of real estate and buildings remain taxable by the locality in which the real estate is located, provided the locality is otherwise authorized to tax such business and rental of real estate;
- R. On total assessments paid by condominium unit owners for common expenses. “Common expenses” and “unit owner” have the same meanings as in Code of Virginia (1950) §55.1-1900, as amended;
- S. On or measured by receipts of a qualifying transportation facility, directly or indirectly owned or title to which is held by the Commonwealth or any political subdivision thereof, or by the United States as described in Code of Virginia (1950) §58.1-3606.1, as amended, and developed and/or operated pursuant to a concession under the Public-Private Transportation Act of 1995 (Code of Virginia (1950) §33.2-1800 et seq.), as amended, or similar federal law.

§ 165-7 to § 165-14 Reserved for future use.

Amendments Chapter 165-Article I

2022-04-11

Various updates based on the Code of Virginia; places a new requirement that applicants for a business license must prove all delinquent business license fees, personal property, meals, and transient occupancy taxes have been paid.

Article II Public Utilities License Tax ⁴²

[Adopted 01-19-1988 as Secs. 6-31 through 6-33 of the 1987 Code]

§ 165-15. Imposition.

This article hereby exercises the rights of the Board of Supervisors to impose a local license tax as provided by:

- § 58.1-2690. No state or local tax on intangible personal property or money; local levies and license taxes;
- § 58.1-3703. Counties, cities and towns may impose local license taxes and fees; limitation of authority; and
- § 58.1-3731. Certain public service corporations; rate limitation of the Code of Virginia.

§ 165-16. Amount.

The county shall impose a license tax for the privilege of doing business within the county of 1/2 of 1% of the gross receipts of business accruing to the following corporations from certain business in the county, to wit: Any person engaged in the sale of telegraph, telephone, natural gas and/or electric power service.

§ 165-17. Payment.

The public utilities license tax imposed by this article shall be due and payable on the first day of March of the year following the year for which such tax is assessed, imposed or levied.

Article III Vehicle License Tax ⁴³

[Adopted 01-19-1988 as Secs. 8-31 through 8-37 of the 1987 Code]

§165-18. Violations and penalties.

Amended 1993-01-19; 1993-04-20; 1997-05-20; 2018-03-20

The owner or operator of any motor vehicle, trailer or semitrailer who fails to obtain and display any required local license or who displays upon a motor vehicle, trailer or semitrailer any license of the county after its expiration date shall, upon conviction, be punished by a fine not to exceed that of a Class 4 misdemeanor, provided that a violation of this section may not be discharged by payment of a fine except upon presentation of satisfactory evidence that the required license has been obtained.

Amended 01-19-1993; 04-20-1993; 05-20-1997; 03-20-2018: Provide for penalties for failure to obtain and display the required local license.

§ 165-19. Persons and vehicles subject to tax; presentation of Virginia vehicle registration cards.

[Amended 2018-03-20]

- A. All motor vehicles, trailers, semitrailers and other vehicles normally garaged, stored or parked in the county shall be subject to the provisions of this article. When such normal location of a vehicle cannot be determined and the domicile of its owner is in this county, the vehicle shall also be subject to the provisions of this article.
- B. Subsection A shall not apply to any vehicle exempted by the Code of Virginia, § 46.2-755. Limitations on imposition of motor vehicle license taxes and fees, or other law. ⁴⁴
- C. All persons subject to the provisions of this article who have been issued state vehicle licenses shall present their state registration cards to the Commissioner of the Revenue for issuance of a county vehicle license.

§ 165-20. Annual tax imposed; when and to whom tax payable.

[Amended 1993-04-20; 2018-03-20]

There is hereby levied, assessed and charged an annual vehicle license tax on motor vehicles, trailers and semitrailers owned by residents of the county, payable to the Treasurer annually during the period January 1 through February 15, as fixed from time to time by resolution of the Board.

§ 165-21. Proration of tax.

[Amended 1993-04-20; 2018-03-20]

With respect to any motor vehicle, trailer or semitrailer first garaged, stored or parked within the county after July 1, the county vehicle license tax shall be 1/2 of the annual tax.

§ 165-22. Specifications for licenses; issuance and attachment to vehicles; procurement by county for issuance to vehicle owners.

[Amended 2007-07-17; 2018-03-20]

- A. One permanent vehicle decal or other sticker with a number, the words "Clarke County" inscribed thereon shall be issued for each vehicle licensed and shall be attached to such vehicle in this manner: The permanent decal or other sticker shall be securely attached to such vehicle in such a manner that it will be clearly visible from the rear thereof, except on any vehicle with a windshield, in which case the decal or other sticker shall be placed on the windshield to the right of and adjacent to the state inspection sticker, no higher than three inches from the bottom of the windshield of such vehicle.
- B. The Treasurer shall procure the decals or other stickers and forms for the administration of this article, payment thereof to be appropriated from the general county fund.

§ 165-23. Payment of personal property tax required.

[Amended 2018-03-20]

No vehicle shall be licensed by the county unless and until the applicant for such license shall have produced satisfactory evidence that all property taxes have been paid which have been properly assessed or are assessable against the applicant by the county.

§ 165-24. Fee for transfer or reissuance.

[Amended 2018-03-20]

A fee shall be charged for the transfer or reissue of any county vehicle license.

§ 165-25. License period of validity.

[Added 2007-07-17; Amended 2018-03-20]

The license tax year under the terms of this Article shall commence on the first day of January and shall expire on the thirty-first [31] of December of the calendar year. The permanent license shall be valid as long as:

- (1) the vehicle is normally garaged, stored, or parked in the county and owned by the licensee, and
- (2) all license taxes assessed against the vehicle owner pursuant to this article have been paid. Display of an invalid license on a motor vehicle shall be deemed a

violation of this Article and subject to the penalties set forth in section 165- 18 above.

Amendments Chapter 165-Article III

2007-07-17

165-22 Amend and 165-25 The Clarke County Board of Supervisors proposes this ordinance be adopted amending Chapter 165 Article III Vehicle License Tax changing § 165-22. Specifications for licenses; issuance and attachment to vehicles; procurement by county for issuance to vehicle owners to state permanent decal and adding § 165-25. License period of validity setting forth the requirements for validity to become effective January 1, 2008.

2018-03-20

Chapter 165 Article III Vehicle License Tax complete rewrite removing decal requirement.

Article IV Tangible Personal Property ⁴⁵

[Adopted 01-19-1988 as Secs. 11-1 through 11-4 of the 1987 Code]

§ 165-27. Exemption of household goods and personal effects.

Household goods and personal effects, as defined by the Code of Virginia, § 58.1-3504. Classification of certain household goods and personal effects for taxation; governing body may exempt, are hereby exempt in whole from taxation.

§ 165-28. Exemption of farm animals.

[2007-07-19]

Farm animals, including horses, mules and other kindred animals, cattle, sheep, goats, hogs and poultry, are exempt in whole from personal property taxation.

§ 165-26. Penalty and interest on delinquent taxes.

[Amended 1991-03-19; 1991-06-27; 1993-04-20; 1994-09-20; 2007-07-19; 2014-06-17]

- A. Tax payments for real estate, tangible personal property, machinery and tools and merchants' capital shall be due and payable to the Treasurer of the county during the year for which the same are assessed in two approximately equal installments: 1/2 on or before June 5 and the remainder on or before December 5 of each tax year, provided that the personal property tax levied on motor vehicles, trailers and boats which shall have acquired a situs within the county after the tax day shall be due 30 days from the date of the tax bill. Such tax shall be prorated on a monthly basis, a period of more than 1/2 month counted as a full month and a period of less than 1/2 month shall not be counted, and shall be collected in the same manner as herein prescribed.
- B. A penalty of 10% of the taxes past due shall be assessed on the day after the payment of taxes is due. Interest on said delinquent taxes and penalty at the rate of 10% per annum shall commence on the first day of the month following the month in which such taxes are due, and said interest shall be added to any late tax payment and paid. For the second and subsequent years of delinquency, such interest shall be at the rate established pursuant to Section 6621 of the Internal Revenue Code of 1954, as amended, or 10% annually, whichever is greater.
- C. In the event an attorney (including, but not limited to, the County Attorney) or collection agency is employed by the Treasurer for the collection of delinquent taxes, penalties and interest, an additional fee equal to 20% of the taxes and other charges due and owing shall be imposed and added to cover administrative costs and reasonable attorney's or collection agency's fees actually contracted for.45F46

§ 165-29. Returns of tangible personal property.

[2007-07-19]

- A. This section is enacted pursuant to authority granted in § 58.1-3916. Counties, cities and towns may provide dates for filing returns, set penalties, interest, etc.; § 58.1-3516. Proration of personal property tax; and § 58.1-3518.1. Alternative method of filing returns for motor vehicles, trailers and boats of the Code of Virginia. 46F47
- B. The annual returns of taxable tangible personal and business/farm property, and machinery and tools, for the county shall be filed with the Commissioner of the Revenue in the following manner:
 - (1) Tangible business/farm property and machinery and tools; on or before the 15th of February of each year;
 - (2) Motor vehicles, trailers or boats which have acquired situs within the county and have been previously reported to the Commissioner of the Revenue, and have had no change in situs or status, and there has been no change in the address of the owner, will be exempt from the requirement of the annual report by the owner;
 - (3) In the case of motor vehicles, trailers or boats which shall have acquired a situs within the county, the owner shall file a report or return with the Commissioner of the Revenue within 30 days of the date of acquisition or establishment of situs.
- C. A penalty for failure to file such return on or before the 15th of February of each year for returns for business/farm property or machinery and tools or, on motor vehicles, trailers and boats which shall have acquired a situs within the county before 30 days have elapsed, shall be charged at the rate of 10% of the tax assessable or due on such property or the sum of \$10, whichever shall be the greater.

§ 165-30. Payment of administrative costs.

[Added 1993-08-17; 2007-07-19]

In addition to all penalties and interest, delinquent taxpayers shall pay a fee to cover the administrative costs associated with the collection of delinquent taxes. Such fee shall be \$20 for taxes collected subsequent to the filing of a warrant or other appropriate legal document but

§ 165-31. Relief from prorated tax and refunds.

[2007-07-19]

- A. When any motor vehicle, trailer or boat loses its situs within the county, the owner thereof shall be relieved from personal property taxation and receive a refund for personal property tax already paid, prorated on a monthly basis for that portion of the

tax period remaining, except as otherwise provided herein. Any motor vehicle, trailer or boat legally assessed a personal property tax for any tax year or portion thereof by another jurisdiction in the commonwealth, which tax has been paid, shall be exempt from personal property taxation by the county for such tax year or portion thereof.

- B. No refund shall be made if the motor vehicle, trailer or boat acquires a situs within the commonwealth in a non-prorating locality.
- C. When any person sells or otherwise transfers title to a motor vehicle, trailer or boat with a situs in the county after tax day or the day on which it acquires a situs in 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, at the option of the taxpayer, against the tax due on any motor vehicle, trailer or boat owned by the taxpayer during the same tax year. Such refund shall be made within 30 days of the date such tax is relieved.
- D. No refund of less than \$5 shall be issued to a taxpayer unless specifically requested by the taxpayer.
- E. Any person who moves from a non-prorating locality to the county in a single tax year shall be entitled to a property tax credit in the county if the person was liable for personal property taxes on a motor vehicle, trailer or boat and has paid those taxes to a non-prorating locality and the owner replaces for any reason the original vehicle upon which taxes are due to the non-prorating locality for the same tax year. The county shall provide a credit against the total tax due on the replacement motor vehicle, trailer or boat in an amount equal to the tax paid to the non-prorating 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 non-prorating locality for the original motor vehicle, trailer or boat.
- F. All taxpayers entitled to a refund or credit shall make application therefor to the Commissioner of the Revenue, provided that application is made within three years from the last day of the tax year during which the motor vehicle, trailer or boat lost situs, was sold or had its title transferred.

§ 165-31.1. Other Classifications of Tangible Personal Property
[Adopted 1997-09-16; 2007-07-19]

Adopted 1997-09-16 Add section for separate classification of motor vehicles owned by active members of volunteer fire and/or rescue companies.

The property set forth below is declared to be a separate class of property and shall constitute a classification for local taxation separate from other classifications of tangible personal property provided in this chapter.

- A. One motor vehicle which is owned by each volunteer rescue squad member or volunteer fire department member, or leased by each volunteer rescue squad member or volunteer fire department member if the member is obligated by the terms of the lease to pay tangible personal property tax on the motor vehicle, is separately classified under this section, provided the volunteer rescue squad member or volunteer fire department member regularly responds to emergency calls or regularly performs other duties for the rescue squad or fire department. The volunteer shall furnish the commissioner of revenue with a certification by the chief or head of the volunteer organization, that the volunteer is a member of the volunteer rescue squad or fire department who regularly responds to calls or regularly performs other duties for the rescue squad or fire department, and the motor vehicle owned or leased by the volunteer rescue squad member or volunteer fire department member shall be identified. The minimum eligibility and participation requirements and the form of the certificate required by this ordinance shall be approved by the Board of Supervisors and shall be the same for all volunteer rescue squads or volunteer fire departments within the county. The certification shall be submitted by January 31 of each year to the commissioner of revenue: however, the commissioner of revenue shall be authorized, in his discretion, and for good cause shown and without fault on the part of the member, to accept a certification after the January 31 deadline. A replacement vehicle may be certified and classified pursuant to this section when the vehicle certified as of the immediately prior January date is transferred during the tax year.
- B. One motor vehicle which is owned by each auxiliary volunteer rescue squad or auxiliary volunteer fire department member, or leased by each auxiliary volunteer rescue squad member or auxiliary volunteer fire department member if the auxiliary member is obligated by the terms of the lease to pay tangible personal property tax on the motor vehicle is separately classified under this section, provided the auxiliary volunteer rescue squad member or auxiliary volunteer fire department member regularly performs duties for the rescue squad or fire department and uses the vehicle for that purpose. The volunteer shall furnish the commissioner of revenue with a certification by the chief or head of the volunteer organization, that the volunteer is an auxiliary member of the volunteer rescue squad or volunteer fire department who regularly performs duties for the rescue squad or fire department, and the motor vehicle owned or leased by the volunteer rescue squad auxiliary member or volunteer fire department auxiliary member and regularly used for such purpose shall be identified. The minimum eligibility and participation requirements and the form of the certificate required by this ordinance shall be approved by the Board of Supervisors and shall be the same for all volunteer rescue squads or volunteer fire departments within the county. The certification shall be submitted by January 31 of each year to the commissioner of revenue: however, the commissioner of revenue shall be authorized, in his discretion, and for good cause shown and without fault on the part of the auxiliary member, to accept a certification after the January 31 deadline. A replacement vehicle may be certified and classified pursuant to this section when the vehicle certified as of the immediately prior January date is transferred during the tax year.

- C. If a volunteer rescue squad member or volunteer fire department member and auxiliary volunteer rescue squad member or auxiliary volunteer fire department member are members of the same household, that household shall be allowed only one special classification under this ordinance.

§165-32 Personal Property Tax Relief Act of 1998

[Adopted 2005-12-20; Amended 2007-07-19; 2008-04-15]

The Personal Property Tax Relief Act of 1998, Va. Code §§ 58.1-3523 et seq. (“PPTRA”), has been substantially modified by the enactment of Chapter 1 of the Acts of Assembly, 2004 Special Session I (Senate Bill 5005), and the provisions of Item 503 of Chapter 951 of the 2005 Acts of Assembly (the 2005 revisions to the 2004-06 Appropriation Act, hereinafter cited as the “2005 Appropriations Act”).

These legislative enactments require the County of Clarke to take affirmative steps to implement these changes, and to provide for the computation and allocation of relief provided pursuant to the PPTRA as revised.

These legislative enactments provide for the appropriation to the County of Clarke, commencing in 2006, of a fixed sum to be used exclusively for the provision of tax relief to owners of qualifying personal use vehicles that are subject to the personal property tax (“PPT”) on such vehicles, and provide the opportunity for the County of Clarke to fashion a program of tax relief that serves the interests of its citizenry.

§ 1. Purpose: Definitions; Relation to other Ordinances.

- a) The purpose of this Ordinance is to provide for the implementation of the changes to PPTRA effected by legislation adopted during the 2004 Special Session I and the 2005 Regular Session of the General Assembly of Virginia.
- b) Terms used in this Ordinance that have defined meanings set forth in PPTRA shall have the same meanings as set forth in Va. Code § 58.1-3523, as amended.
- c) To the extent that the provisions of this Ordinance conflict with any prior Ordinance or provision of the Code of Clarke County, this Ordinance shall control.

§ 2. Method of Computing and Reflecting Tax Relief.

- a) For tax years commencing in 2006, the County of Clarke adopts the provisions of Item 503.E of the 2005 Appropriations Act, providing for the computation of tax relief as a specific dollar amount to be offset against the total taxes that would otherwise be due but for PPTRA and the reporting of such specific dollar relief on the tax bill.
- b) The Board of Supervisors shall annually, by resolution, set the rate of tax relief at such a level that is anticipated to fully exhaust PPTRA relief funds provided to the County of

Clarke by the Commonwealth in the year for which the tax relief rate is being set.
[Amended 2008-04-15 CC-08-02]

- c) Personal property tax bills shall set forth on their face the specific dollar amount of relief credited with respect to each qualifying vehicle, together with an explanation of the general manner in which relief is allocated.

§ 3. Allocation of Relief among Taxpayers.

- a) Allocation of PPTRA relief shall be provided in accordance with the general provisions of this section, as implemented by the specific provisions of the County's annual budget relating to PPTRA relief.
- b) Relief shall be allocated in such a manner as to eliminate personal property taxation of each qualifying vehicle with an assessed value of \$1,000 or less.
- c) Relief with respect to qualifying vehicles with assessed values of more than \$1,000 shall be provided at a rate, annually fixed in the County budget and applied to the first \$20,000 in value of each such qualifying vehicle, that is estimated fully to use all available state PPTRA relief. The rate shall be established annually as a part of the adopted budget for the County.

§ 4. Transitional Provisions.

- a) Pursuant to authority conferred in Item 503.D of the 2005 Appropriations Act, the County Treasurer is authorized to issue a supplemental personal property tax bill, in the amount of 100 percent of tax due without regard to any former entitlement to state PPTRA relief, plus applicable penalties and interest, to any taxpayer whose taxes with respect to a qualifying vehicle for tax year 2005 or any prior tax year remain unpaid on September 1, 2006, or such date as state funds for reimbursement of the state share of such bill have become unavailable, whichever earlier occurs.
- b) Penalty and interest with respect to bills issued pursuant to subsection (a) of this section shall be computed on the entire amount of tax owed. Interest shall be computed at the rate provided in § 165-25 of the Code of Clarke County from the original due date of the tax.

Amendments Chapter 165-Article IV

1997-09-16

165-30.1. Other Classifications of Tangible Personal Property Adopted 97-09-16 Add section for separate classification of motor vehicles owned by active members of volunteer fire and/or rescue companies

2005-12-20

165-31 Personal Property Tax Relief Act of 1998 Article IV Tangible Personal Property To Provide For The Implementation Of The 2004-2005 Changes To The Personal Property Tax Relief Act Of 1998 CC-05-05

2008-04-15

165-32 Personal Property Tax Relief Act of 1998 Amended 165-32.2-b to read The Board of Supervisors shall annually, by resolution, set the rate of tax relief at such a level that is anticipated to fully exhaust PPTRA relief funds provided to the County of Clarke by the Commonwealth in the year for which the tax relief rate is being set.

2014-06-17

Chapter 165 Article IV Tangible Personal Property §165-26 Penalty and interest on delinquent taxes add Item C as follows *In the event an attorney (including, but not limited to, the County Attorney) or collection agency is employed by the Treasurer for the collection of delinquent taxes, penalties and interest, an additional fee equal to 20% of the taxes and other charges due and owing shall be imposed and added to cover administrative costs and reasonable attorney's or collection agency's fees actually contracted for.* CC-2014-01

Article V Assessment of New Buildings ⁴⁸
[Adopted 01-19-1988 as § 11-21 of the 1987 Code]

§ 165-32. Assessment of new buildings substantially completed.

[2007-07-19]

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 of such county shall enter in the books the fair market value of such building. No partial assessment as provided herein shall become effective until information as to the date and amount of such assessment is recorded in the office of the official authorized to collect taxes on real property and made available for public inspection. The total tax on any such new building for that year shall be the sum of:

- A. The tax upon the assessment of the completed building, computed according to the ratio which the portion of the year such building is substantially completed or fit for use and occupancy bears to the entire year; and
- B. The tax upon the assessment of such new building as it existed on January 1 of that assessment year, computed according to the ratio which the portion of the year such building was not substantially complete or fit for use and occupancy bears to the entire year.

§ 165-34. Extension of time for payment.

[2007-07-19]

With respect to any assessment made under this article after September 1 of any year, the penalty for nonpayment by December 5 shall be extended to February 5 of the succeeding year.

Article VI Exemption for Elderly and Disabled Persons ⁴⁹

[Adopted 01-19-1988 as § 11-22 of the 1987 Code]

§ 165-35. *Definitions.*

[2007-07-19]

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

| | |
|------------------------------|---|
| NET COMBINED FINANCIAL WORTH | All assets of the owners of the dwelling and of the spouse of any owner who resides therein, including equitable interests, excluding the value of the dwelling and the land in an amount not to exceed one acre upon which it is situated. |
| QUALIFYING TAXPAYER | A permanently and totally disabled person or any person who reaches the age of 65 years or older on or before December 31 of the year immediately preceding the taxable year. |
| TAXABLE YEAR | The calendar year, from January 1 through December 31, for which exemption is claimed. |

§ 165-36. *Eligibility.*

[2007-07-19]

[Amended 02-21-1989; 10-17-1995; 04-18-2006]

A qualifying taxpayer who owns or partially owns and occupies a dwelling house as his sole dwelling shall be eligible and may apply for an exemption or partial exemption of real estate taxes on such dwelling and the land on which it is situated in an amount not to exceed one acre, provided that:

- A. The net combined financial worth as of December 31 of the immediately preceding calendar year does not exceed \$250,000; and
- B. The total combined income from all sources during the immediately preceding calendar year of the owners of the dwelling living therein and of the owner's relatives living in the dwelling does not exceed \$55,000, subject to the following schedule, with the exception that the first \$8,000 of a relative not a spouse living with the owner(s) may be exempted from the qualifying amount.

| Schedule | |
|---------------------|--------|
| Income | Relief |
| Less Than 20,000 | 100% |
| 20,001 to 25,000 | 80% |
| 25,001 to 30,000 | 60% |
| 30,001 to 35,000 | 50% |
| 35,001 to 55,000 | 10% |

§ 165-37. Application for exemption; affidavit.

[2007-07-19]

Application for exemption shall be made not later than May 1 of each taxable year for which exemption is sought to the Commissioner of the Revenue on forms to be provided by that office.

Such application shall be accompanied annually by an affidavit setting forth the names of related persons occupying such real estate and stating the net combined financial worth and the total combined income from all sources as specified in § 165-35.

The Commissioner of the Revenue may require an applicant to answer questions under oath as to his requirements under this article and/or to produce for inspection certified federal income tax returns for the preceding three years to establish the total combined income or net combined financial worth as hereinbefore defined.

§ 165-38. Changes in ownership, income or financial worth.

[2007-07-19]

Any change in respect to total combined income, net combined financial worth, ownership of the dwelling exempted or other factors which occur during the taxable year for which the

affidavit is filed and which have the effect of exceeding or violating the limitations and conditions of this article shall nullify any exemption for the then-current taxable year and the taxable year immediately following.

§ 165-39. Amount of exemptions.

[2007-07-19]

Real estate described in § 165-35. Eligibility shall be exempt from taxation for any taxable year as provided from time to time by resolution of the Board of Supervisors.

§ 165-40. Certification to Treasurer.

[2007-07-19]

The Commissioner of the Revenue shall certify to the Treasurer of the county annually those persons who qualify under this article for an exemption and the amount thereof.

The Treasurer shall deduct the amount of the exemption from the applicant's real estate tax bill for that year.

§ 165-41. Violations and penalties.

[2007-07-19]

Any false statement made in connection with the filing of this application shall constitute a Class 3 misdemeanor.

Amendments Chapter 165-Article VI

2002-10-15

§ 165-34. Eligibility. Amend from \$65,000 to \$75,000 and \$22,000 to \$28,000

2006-04-18

§ 165-34. Eligibility. Amend A. from \$75,000 to \$250,000 and B. from \$28,000 to \$55,000, subject to the following schedule and \$6,500 to \$8,000 and add schedule

Article VII Special Assessment for Land Preservation ⁵⁰

[Adopted 01-19-1988 as § 11-23 of the 1987 Code]

§ 165-42. Findings; tax imposed.

[2007-07-19]

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 adopted a land use plan, hereby taxes such real estate in accordance with the provisions of 58.1 Taxation, Chapter 32 Real Property, Article 4 Special Assessment for Land Preservation of the Code of Virginia and of this article.

§ 165-43. Filing of application; fee.

[2007-07-19]

- A. The owner of any real estate meeting the criteria set forth in § 58.1-3230 Special classifications of real estate established and defined and § 58.1-3233(2) Determinations to be made by local officers before assessment of real estate under ordinance of the Code of Virginia may, on or before November 1 of each year, apply to the Commissioner of the Revenue for the classification, assessment and taxation of such property for the next succeeding tax year on the basis of its use, under the procedures set forth in § 58.1-3236. Valuation of real estate under ordinance of the Code of Virginia. Such application shall be on forms provided by the State Department of Taxation and supplied by the Commissioner of the Revenue and shall include such additional schedules, photographs and drawings as may be required by the Commissioner of the Revenue.
- B. The owner of any real estate meeting the criteria set forth in § 58.1-3230. Special classifications of real estate established and defined in § 58.1-3233. Determinations to be made by local officers before assessment of real estate under ordinance (2) of the Code of Virginia may, between November 2 and December 31 of each year, apply to the Commissioner of the Revenue for the classification, assessment and taxation of such property for the next succeeding tax year on the basis of its use, under the procedures set forth in § 58.1-3236. Valuation of real estate under ordinance of the Code of Virginia provided a late filing fee of \$100 per parcel is paid in addition to any application fees otherwise imposed. Such application shall be on forms provided by the State Department of Taxation and supplied by the Commissioner of the Revenue and shall include such additional schedules, photographs and drawings as may be required by the Commissioner of the Revenue.
- C. Applications received by the Commissioner of the Revenue after November 1 of each year without the required late filing fee and all applications received by the Commissioner of the Revenue after December 31 of each year shall not be accepted.

- D. A separate application shall be filed for each use for which qualification is sought.
- E. A fee payable to the Treasurer of the county shall be charged and collected for each application filed hereunder.
- F. The owner of qualifying property shall file an annual proof of qualification form with the Commissioner of the Revenue.

§ 165-44. Qualification of property.

[2007-07-19]

- A. Promptly upon receipt of any application, the Commissioner of the Revenue shall determine whether the subject property meets the criteria for taxation hereunder. If the Commissioner of the Revenue shall determine 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.
- B. In determining whether the subject property meets such criteria, the Commissioner of the Revenue may request an opinion from the Director of the State Department of Conservation and Historic Resources or the State Commissioner of Agriculture and Consumer Services. Upon the refusal of such State Director or Commissioner to issue an opinion or in the event of an unfavorable opinion which does not comport with standards set forth by him, the Commissioner of the Revenue may seek relief from any court of record wherein the real estate in question is located. If the court finds in his favor, it may issue an order which shall serve in lieu of an opinion for the purposes of this section.

§ 165-45. Use value and fair market value.

[2007-07-19]

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

§ 165-46. Rollback tax.

[2007-07-19]

- A. There is hereby imposed a rollback tax in such amount as may be determined under Code of Virginia, § 58.1-3237. Change in use or zoning of real estate assessed under ordinance; roll-back taxes, upon any property as to which the use changes to a non-qualifying use.
- B. The owner of any real estate liable for rollback taxes shall report to the Treasurer, on forms to be prescribed, any change in the use of such property to a non-qualifying use

and shall pay the rollback tax then due. On failure so to report and pay within 60 days following such change in use, such owner shall be liable for an additional penalty equal to 10% of the amount of the rollback tax, which penalty shall be collected as a part of the tax. In addition to such penalty, there is hereby imposed interest of 1/2% of the amount of the rollback tax for each month or fraction thereof during which the failure continues.

§ 165-47. Penalty for misstatement of fact.

[2007-07-19]

Any person making a material misstatement of fact in any application filed pursuant hereto shall be liable for all such taxes in such amounts and at such times as if such property had been assessed on the basis of fair market value as applied to other real estate in the taxing jurisdiction, together with interest and penalties thereon. If such material misstatement was made with the intent to defraud the county, he shall be further assessed with an additional penalty of 100% of such unpaid taxes.

§ 165-48. Application of state tax law.

[2007-07-19]

The provisions of Title 58.1 Taxation of the Code of Virginia applicable to local levies and real estate assessment and taxation shall be applicable to assessments and taxation hereunder mutatis mutandis, including, without limitation, provisions relating to tax liens, boards of equalization and the correction of erroneous assessments, and for such purposes the rollback taxes shall be considered to be deferred real estate taxes.

Amendments Chapter 165-Article VII

2000-10-17

§ 165-41. Filing of application; fee. Add new B, C providing for filing of land use taxation applications for a 30-day period after 11/01 deadline upon payment of a late filing fee and renumber D,E,F

2010-03-16

§ 165-43. Filing of application; fee. so to extend the late filing date for land use taxation from between November 2 and December 1 to between November 2 and December 31 as allowed by State Code 58.1-3234.

Article VIII General Retail Sales Tax ⁵¹
[Adopted 01-19-1988 as § 11-41 of the 1987 Code]

§ 165-49. Statutory authority; tax rate.

[2007-07-19]

Pursuant to authority contained in § 58.1-605 To what extent and under what conditions cities and counties may levy local sales taxes; collection thereof by Commonwealth and return of revenue to each city or county entitled thereto of the Code of Virginia, a county general retail sales tax at the rate of 1%, to provide revenue for the general fund of the county, is hereby levied. Such tax shall be added to the rate of the state sales tax imposed by Code of Virginia, § 58.1-603. Imposition of sales tax and § 58.1-604 Imposition of use tax. It shall be subject to all the provisions of Title 58.1 Taxation, Chapter 6 Retail Sales and Use Tax, of the Code of Virginia, and the rules and regulations published with respect thereto.

§ 165-50. Administration and collection.

[2007-07-19]

Pursuant to the provisions of § 58.1-605 of the Code of Virginia, the county general retail sales tax levied by § 165-49. Statutory authority; tax rate. of this article will 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 § 58.1-628.2 Adjustment to the rate of tax imposed under this chapter.

Article IX Wills and Grants of Administration Tax ⁵²
[Adopted 01-19-1988 as § 11-42 of the 1987 Code]

§ 165-51. Tax on wills and grants of administration; fee in lieu of probate tax ⁵³

[2007-07-19]

- A. There is hereby imposed a county tax on the probate of every will or grant of administration not exempt by law, including real, personal and mixed property, equal to 1/3 of the tax imposed for state purposes by § 58.1-1712. Levy; rate of tax of the Code of Virginia, provided that the tax imposed by this section shall not apply to estates of decedents of \$15,000 or less in value.
- B. There is hereby charged a \$25 county fee on the recordation of a list of heirs pursuant to Virginia Code § 64.1-134 or an affidavit pursuant to Virginia Code § 64.1-135 unless a will has been probated for the decedent or there has been a grant of administration on the decedent's estate.

Amendments Chapter 165 Article IX

2010-08-17

Chapter 165 Article IX – Wills and Grants of Administration Tax: The Clarke County Board of Supervisors will consider amending §165-51 to reflect a 2010 change in the Code of Virginia §§58.1-1717.1, 58.1-1718, and 58.1-3805 allowing counties to charge a \$25 fee for the filing of a list of heirs or affidavit when a will has not been probated and there has been no grant of administration and to reflect the current minimum estate value CC-10-05.

Article X Recordation Tax ⁵⁴

[Adopted 09-1988 as § 11-43 of the 1987 Code]

§ 165-52. Statutory authority; tax rate.

[2007-07-19]

Pursuant to the authority of § 58.1-3800. et seq. Levy of the Code of Virginia, there is hereby imposed a recordation tax on each taxable instrument recorded in the county in the amount of 1/3 of the amount of the state recordation tax collectible for the state on the first recordation of each taxable instrument in the county, excepting such instruments as are exempted by § 58.1-3800 et seq. of the Code of Virginia. This tax will be collected by the Clerk of the Circuit Court for the county and paid monthly to the Treasurer of the county, pursuant to law.

Article XI Use Tax⁵⁵

[Adopted 01-19-1988 as § 11-44 of the 1987 Code]

§ 165-53. Statutory authority; tax rate.

[2007-07-19]

Pursuant to § 58.1-606. To what extent and under what conditions cities and counties may levy local use tax; collection thereof by Commonwealth and return of revenues to the cities and counties, of the Code of Virginia, there is hereby imposed a county use tax at the rate of 1% to provide revenue for the general fund of the county. Such county use tax shall be added to the rate of the state use tax imposed by Title 58.1 Taxation, Chapter 6 Retail Sales and Use Tax, of the Code of Virginia and shall be subject to all the provisions of that chapter and the rules and regulations published with respect thereto.

Article XII Consumer Utility Tax ⁵⁶
[Adopted 01-19-1988 as § 11-45 of the 1987 Code]

§ 165-54. Definitions.

[Amended 1990-07-11; 1993-04-20; 2000-10-17; 2007-07-19]

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

| | |
|--------------------------------|--|
| COMMERCIAL OR INDUSTRIAL USER | The owner or tenant of property used for commercial, industrial and all other purposes who pays for utility service for such property. |
| CCF | The volume of gas at standard pressure and temperature in units of 100 cubic feet. |
| KILOWATT HOURS [KWH] DELIVERED | One thousand watts of electricity delivered in a one-hour period by an electric provider to an actual consumer, except that in the case of eligible customer-generators (sometimes called "co-generators"), as defined in Virginia Code § 56-594, it means KWH supplied from the electric grid to such customer-generators, minus the KWH generated and fed back to the electric grid by such customer-generators. |
| PURCHASER | Every person who purchases a utility service. |
| RESIDENTIAL USER | The owner or tenant of private residential property who pays for utility service in or for such property. |
| SELLER | Every person who sells or furnishes a utility service. |
| UTILITY SERVICES | Local exchange telephone service and electrical and natural gas service furnished within the county. |

§ 165-55. Imposition and computation of taxes collected monthly.

[2000-10-17; 2007-07-19]

1. Electric utility consumer tax.

- A. Effective with the first bill for electric energy rendered for meter readings on or after January 1, 2001, the rate of tax on the electric energy delivered to an ultimate consumer shall be as follows:
- Residential customer: \$0.01500 per kilowatt hour [kwh] plus a minimum tax of \$1.40 per month with a maximum tax of \$3.00 per month.
 - Commercial and Industrial customers: \$0.014167 per kilowatt hour [kwh] on the first 5,300 kilowatt hours [kwh] delivered then \$0.00283 on the balance plus a minimum tax of \$2.29 per month.
- B. In the case of any apartment house or other multiple-family dwelling using electric service through a master meter, the tax shall be the sum of \$3 multiplied by the number of dwelling units served.
- G. Bills shall be considered monthly bills if submitted 12 times per year for periods of approximately one month each.
1. Natural gas utility consumer tax.
- A. Effective with the first bill for natural gas rendered for meter readings on or after January 1, 2001, the rate of tax on the volume of natural gas delivered to an ultimate consumer shall be as follows:
- Residential customer: a minimum tax of \$1.50 per month plus \$0.169 per CCF up to a maximum tax to \$3.00 per month.
 - Commercial and Industrial customers: a minimum tax of \$2.00 per month plus \$0.161 per CCF on the first 80 CCF delivered, and \$0.032 on all CCF delivered in excess of 80 CCF.
- B. In the case of any apartment house or other multiple-family dwelling using gas service through a master meter, the tax shall be the sum of \$3 multiplied by the number of dwelling units served.
- C. Bills shall be considered monthly bills if submitted 12 times per year for periods of approximately one month each.
3. Telephone service utility consumer tax.
- a) There is hereby imposed and levied upon each purchaser of a telephone utility service a tax in the amount of 20% of the charge (exclusive of any federal tax thereon) made by the seller against the purchaser with respect to each telephone utility service, which tax in every case shall be collected by the seller from the purchaser and shall be paid by the purchaser to the seller for the use of the county at the time the purchase price or such charge shall become due and payable under

the agreement between the purchaser and the seller, provided that in case any monthly bill submitted by any seller for residential service shall exceed \$15 for a residential user, there shall be no tax computed on so much of such bill as shall exceed \$15.

- b) In case any monthly bill submitted by any seller for commercial or industrial service shall exceed \$75, the tax computed on so much of such bill as shall exceed \$75 shall be 4%.
- c) Bills shall be considered monthly bills if submitted 12 times per year for periods of approximately one month each.

§ 165-56. Computation and maximum amounts of tax collected other than on monthly basis.

[Amended 1990-07-17; 1993-04-20; 2000-10-17; 2007-07-19]

A. Electric utility consumer tax

In all cases where the seller collects the price for utility services other than on a monthly basis, the tax imposed and levied by this article may be computed as follows for a bimonthly bill (approximately 60 days):

1. The KWH will be divided by 2;
2. A monthly tax will be calculated using the rates set forth in § 165-54 1.A.;
3. The tax determined by No. 2 above shall be multiplied by 2;
4. The tax in No. 3 above may not exceed twice the monthly maximum tax.

B. Natural gas utility consumer tax

In all cases where the seller collects the price for utility services other than on a monthly basis, the tax imposed and levied by this article may be computed as follows for a bimonthly bill (approximately 60 days):

1. The CCF will be divided by 2;
2. A monthly tax will be calculated using the rates set forth in § 165-54 2.A.;
3. The tax determined by No. 2 above shall be multiplied by 2;
4. The tax in No. 3 above may not exceed twice the monthly maximum tax.

C. Telephone Service

In all cases where the seller collects the price for utility services other than on a monthly basis, the tax imposed and levied by this article may be computed on the aggregate amount of purchases during the period billed for, provided that the amount of tax to be collected shall be the nearest whole cent to the amount computed and that such tax shall not exceed the sum of \$3 for each residential user of telephone service or \$15 plus 4% of the amount billed in excess of \$75 for commercial and industrial users, multiplied by the number of months or portions of months covered by the bill.

§ 165-57. Duty of seller to collect and remit; reports to Commissioner of the Revenue.

[2007-07-19]

It shall be the duty of every seller, in acting as the tax collecting medium or agency for the county, to collect from the purchaser for the use of the county the tax hereby imposed and levied at the time of collecting the purchase price charged.

The taxes collected during each calendar month shall be reported by each seller to the Commissioner of the Revenue, and each seller shall remit the amount of tax shown by such report to have been collected to the county Treasurer on or before the last day of the first calendar month thereafter, together with the name and address of any purchaser who has refused to pay his tax.

The required reports shall be in the form prescribed by the Commissioner of the Revenue.

§ 165-58. Records; inspection.

[2007-07-19]

Each seller shall keep complete records showing all purchases in the county, which reports shall show the price charged against each purchaser with respect to each purchase, the date of billing and the date of payment of such bill and the amount of tax imposed under this article.

Such records shall be kept open for inspection by the duly authorized agents of the county at reasonable times, and the duly authorized agents of the county shall have the right, power and authority to make transcripts thereof.

§ 165-59. Exemption for governmental agencies.

[2007-07-19]

The United States of America, the state and the political subdivisions, boards, commissions and authorities of the state are hereby exempted from the payment of the tax imposed and levied by this section with respect to the purchase of utility services used by such governmental agencies.

§ 165-60. Exemption for local calls using coin-operated telephones.

[2007-07-19]

The tax imposed and levied by this section on purchases with respect to local exchange telephone service shall apply to all charges made for local exchange telephone service, except local messages, which are paid for by inserting coins in coin-operated telephones.

Amendments Chapter 165-Article XII

2000-10-17

Chapter 165 Article XII - Amend the Consumer Utility Tax Ordinance to change the basis upon which the tax on natural gas service is calculated from a dollar amount to a cubic foot to comply with the provisions of Sec. 58.1- 3814 of the Code of Virginia, providing that all such taxes are to be based on volume measured in CCF including customer charges and amend the Consumer Utility Tax Ordinance to change the basis upon which the tax on electrical service is calculated from a dollar amount to a kilowatt hour basis to comply with the provisions of Sec. 58.1- 3814 of the Code of Virginia, providing that all such taxes are to be based on kilowatt hours delivered including customer charges.

Article XIII Exemption for Rehabilitated Historic Real Estate
[Adopted 07-17-1990]

§ 165-61. Partial exemption granted.

[Amended 1994-08-16; 2007-07-19]

A partial exemption from taxation shall be provided for real estate on which there exists a structure not less than 50 years of age that has been rehabilitated so as to increase its assessed value by at least 40%.

Such real estate shall be a registered Virginia landmark or determined by the Department of Historic Resources to contribute to the significance of a registered historic district and be located in an historic overlay district established in accord with § 15.2-2306, Preservation of historical sites and architectural areas, of the Code of Virginia.

§ 165-62. Amount of partial exemption.

[2007-07-19]

The partial exemption shall not exceed an amount equal to the increase in assessed value resulting from the rehabilitation or renovation of the structure as determined by the county Assessor.

The amount of the partial exemption shall not exceed \$250,000 for rehabilitations for residential uses or \$500,000 for rehabilitations for commercial or industrial uses.

The exemption shall commence on January 1 of the year following completion of the rehabilitation and shall run with the real estate for a period of 10 years.

§ 165-63. Limitations on nature of renovation.

[2007-07-19]

Rehabilitations for residential uses cannot replace the original structure and cannot increase the square footage of the original structure by more than 15%.

Rehabilitations for commercial or industrial uses cannot replace the original structure but may increase the square footage of the original structure without limit.

§ 165-64. Eligibility.

[Amended 1994-08-16; 2007-07-19]

No property shall be eligible for such exemption unless the appropriate certificates of appropriateness and building permits have been acquired and the county Assessor has verified that the rehabilitation indicated on the application has been completed.

Such rehabilitation shall be completed within two years of issuance of the building permit for the work.

The Commissioner of the Revenue may extend the deadline for completion of the rehabilitation for up to two additional years if he/she determines reasonable progress has been made towards completion of the project.

*§ 165-65. Fee*⁵⁷

[2007-07-19]

[Amended 8-16-199457F58]

A fee as provided by the Board of Supervisors from time to time shall be assessed for processing an application requesting the exemption.

Article XIV Motor Vehicle License Tax Exemption ⁵⁹

[Adopted 09-18-1990]

§ 165-66. Exemption granted to active volunteer rescue squad or Fire Dept. members.

[2007-07-19]

The county Treasurer shall issue a license without charging a tax for one motor vehicle that is regularly used by each active volunteer rescue squad member or active volunteer fire department member to respond to calls or to perform other duties for the rescue squad or fire department, provided that all other requirements of the article are met and that such active volunteer shall furnish to the Treasurer a certification by the chief or head of the volunteer organization that said active volunteer is an active member of the volunteer rescue squad or volunteer Fire Department who regularly responds to calls or regularly performs other duties for the rescue squad or Fire Department, and the motor vehicle is identified as regularly used for such purposes.

§ 165-67. Eligibility.

[2007-07-19]

Such volunteer organization must be one which receives annual financial support from the County of Clarke. For purposes of this article, an "active volunteer member" shall be defined as one meeting specific eligibility standards for such designation as approved by the Clarke County Board of Supervisors.

§ 165-68. Application deadline.

[Amended 1993-10-19; 2007-07-19]

Application by an active volunteer for such tax-exempt license shall be made between January 1 and February 15 or within 30 days of registration with the Commonwealth of Virginia.

The Treasurer shall not issue such tax-exempt licenses to applicants who fail to apply within this prescribed period.

Article XV Courthouse Maintenance Fee ⁶⁰
[Adopted 07-21-1992]

§ 165-69. Amount of fee; purpose.

[2007-07-19]

The Clerk of the Circuit Court, Clerk of the General District Court and Clerk of the Juvenile and Domestic Relations Court shall assess a fee in the amount of \$2 in each civil, criminal or traffic case in a district or circuit court to be remitted to the Treasurer of Clarke County.

Said fee is to be held by said Treasurer subject to disbursements by the governing body 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.

§ 165-70. Additional nature of fee.

[2007-07-19]

The assessment provided for herein shall be in addition to any other fees prescribed by law.

Article XVI Enhanced 911 Telephone Service Tax⁶¹

§ 165-71. Definitions.

[2007-07-19]

The following terms, whenever used in this article, shall have the following meanings:

| | |
|---------------------------------|--|
| E-911 SYSTEM | 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. |
| LOCAL EXCHANGE TELEPHONE SYSTEM | As it applies to an E-911 system, "local telephone service" shall mean switched local exchange access service. |
| PUBLIC SAFETY ANSWERING POINT | A communications facility operated on a twenty-four-hour basis which first receives E-911 calls from persons in an E-911 service area and which may, as appropriate, directly dispatch safety services or extend, transfer or relay E-911 calls to appropriate public safety agencies. |
| PURCHASER | Every person who purchases a local exchange telephone service within the county. |
| SELLER | Every person who sells or furnishes local exchange telephone service within the county. |
| UTILITY SERVICE | Local exchange telephone service furnished within the corporate limits of the county. |

§ 165-72. Amount of tax; purpose.

[2007-07-19]

Pursuant to the authority set forth in § 58.1-3813.1. Local tax for enhanced 911 service; definitions of the Code of Virginia there is hereby imposed and levied by the county upon each purchaser of local exchange telephone service a tax in the amount of \$3 per telephone line per month. This tax shall be paid by the purchaser to the seller of local exchange telephone service for the use by the county to pay the initial capital, installation and maintenance costs and recurring maintenance costs of its E-911 system.

§ 165-73. Exemptions.

[2007-07-19]

The following persons shall be exempt from the payment of the tax provided for herein:

- A. The United States of America, the commonwealth and all political subdivisions, boards, agencies, commissions and authorities of the state.
- B. Purchasers or lessees of local exchange telephone service who utilize coin-operated telephones.

§ 165-74. Collection and remittance by seller.

[2007-07-19]

It shall be the duty of every seller in acting as the tax collection agency for the county to collect from the purchaser for the use of the county the tax hereby imposed and levied at the time of collecting the purchase price charged, and the taxes imposed, levied and collected during each calendar month shall be reported and paid by each seller to the Treasurer on or before the 15th day of the second calendar month thereafter, together with the name and address of any purchaser who has refused to pay the tax. The required report shall be in a form prescribed by the County Administrator.

§ 165-75. Records of seller.

[2007-07-19]

Each seller shall keep complete records showing all purchases in the county, which shall show the price charged against each purchaser with respect to each purchase, the date thereof, the date of payment thereof and the amount of tax imposed hereunder. Such records shall be kept open for inspection by the county, and the county shall have the right to make transcripts thereof during such time as it may desire.

Amendments Chapter 165-Article XVI

1995-05-20

§ 165-70. Amount of tax; purpose. Increase tax from \$1 to \$2 per line.

2004-04-04

§ 165-70. Amount of tax; purpose. Increase tax from \$2 to \$3 per line

Article XVII Transient Occupancy Tax⁶²

[Adopted 04-16-1996]

§ 165-76. Tax levied; amount of tax.

[2007-07-19]

Amended 04-19-2022 to increase the amount of tax collected from 3.5% to 5% effective January 1, 2023.

Amended 04-06-2021 to increase the amount of tax collected from 2% to 3.5% effective July 1, 2021.

Pursuant to authority contained in § 58.1-3819 Transient occupancy tax of the Code of Virginia a transient occupancy tax is hereby levied on:

- Hotels,
- Motels,
- Boardinghouses,
- Travel campgrounds and
- Other facilities offering guest rooms rented out for continuous occupancy for fewer than 30 consecutive days.

Such tax shall be 5% of the amount of charge for the occupancy of any room or space occupied.

§ 165-77. Exceptions.

[2007-07-19]

The tax imposed hereunder shall not apply to rooms or spaces rented and continuously occupied by the same individual or same group of individuals for 30 or more days in hotels, motels, boardinghouses, travel campgrounds and other facilities offering guest rooms.

§ 165-78. Collection and remittance.

[2007-07-19]

Each such hotel, motel, boardinghouse, travel campground and other facilities offering guest rooms rented out for continuous occupancy for fewer than 30 consecutive days:

- Shall collect the tax levied herein, and;

- Shall by the 20th day of each month account for and remit to the Treasurer all such taxes collected the previous month;
- Provided, however, that in any month in which the total of all taxes previously collected but not remitted is less than \$25, there shall be no report or remitting of collections required.

§ 165-79. Commission.

[2007-07-19]

Each such hotel, motel, boardinghouse, travel campground or other facility collecting and remitting the tax by the due date shall:

- Be entitled to a commission of 3% of the tax collected and remitted by the due date.
- No commission shall be allowed if the amount due is delinquent.

§ 165-80. Collections held in trust.

[2007-07-19]

All transient occupancy tax collections shall be deemed to be held in trust for the county.

Amendments Chapter 165-Article XVII

2021-04-06

§ 165-76. Amount of tax; increase the transient occupancy tax from 2% to 3.5% effective July 1, 2021.

2022-04-19

§ 165-76. Amount of tax; increase the transient occupancy tax from 3.5% to 5% effective January 1, 2023.

Article XVIII Assessment of Court Costs for Courthouse Security

§ 165-81. Fee imposed; collection; use.

[Added 2002-06-18, Amended 2007-07-17, 2020-07-21]

Pursuant to § 53.1-120. Sheriff to provide for courthouse and courtroom security; designation of deputies for such purpose; assessment (D) of the Code of Virginia there is hereby assessed a fee of \$20 as part of the costs in each criminal or traffic case which is tried in either one of the district courts of the County of Clarke or in the Circuit Court of the County of Clarke and which results in conviction of any statute or ordinance.

This fee shall be collected by the Clerk of the Court in which the case is heard, remitted to the Treasurer of Clarke County, and held by the Treasurer subject to appropriation by the Board of Supervisors to the Sheriff of Clarke County for the funding of courthouse security personnel.

Amendments Chapter 165-Article XVIII

2002-06-18

Add Article XVIII Assessment of Court Costs for Courthouse Security § 165-79. Fee imposed; collection; use.

2007-07-17

Chapter 165 Article XVIII Assessment of Court Costs for Courthouse Security § 165-79. Fee imposed; collection; use - in accordance with action taken by the General Assembly amending Section 53.1-120 of the Code of Virginia to allow for the increase of court security fee for persons convicted in Clarke County District or Circuit Court from \$5 to \$10 effective upon passage.

2020-07-21

Chapter 165 Article XVIII Assessment of Court Costs for Courthouse Security § 165-79. Fee imposed; collection; use - in accordance with action taken by the General Assembly amending Section 53.1-120 of the Code of Virginia to allow for the increase of court security fee for persons convicted in Clarke County District or Circuit Court from \$10 to 20 effective upon pass CC 2020-01.

Article XIX Assessment of Jail Processing Fee

§ 165-82. Fee imposed; collection; use.

[2007-07-19]

Pursuant to § 15.2-1613.1. Processing fee may be imposed on certain individuals, of the Code of Virginia there is hereby imposed a processing fee of \$25 on any individual admitted by either one of the district courts of the County of Clarke or the Circuit Court of the County of Clarke to any county, city, or regional jail following conviction of any offense.

The fee shall be ordered by the court as a part of the individual's costs of court, and it shall be collected by the Clerk, deposited into the account of the county Treasurer, and shall be used by the Sheriff of Clarke County to defray the costs of processing arrested persons into any of said jails.

Amendments Chapter 165-Article XIX

2002-06-18

Add Article XIX Assessment of Jail Processing Fee § 165-79. Fee imposed; collection; use.

Article XX Assessment of court costs to support the implementation and maintenance of an Electronic Summons System

§ 165-83. Fee imposed; collection; use.

- a. As authorized by section 17.1-279.1. Code of Virginia (1950), as amended: A local fee of five dollars (\$5.00) to support the implementation and maintenance of an electronic summons system is hereby imposed in every case in which costs are assessable pursuant to section(s) 17.1-275.1, 17.1-275.2, 17.1-275.3, 17.1-275.4, 17.1-275.7, 17.1-275.8, 17.1-275.9, 17.1-275.10, 17.1-275.11, 17.1-275.11:1, or 17.1-275.12, Code of Virginia (1950), as amended.

The clerks of the district and circuit courts shall charge and collect this assessment as a part of the fees taxed as costs.

- b. After collection by the clerk of the court in which the case is heard, the assessment shall be remitted to the County Treasurer and held in an interest bearing account subject to appropriation by the Board of Supervisors.

The Electronic Summons System assessment and interest derived shall be held in a separate account outside of the general fund and shall not revert to the general fund at the end of the fiscal year.

- c. The retained assessment and any interest shall be administered by the Office of the Sheriff and shall be used solely to fund software, hardware, and associated equipment costs necessary for the implementation and maintenance of an Electronic Summons System as selected by the Office of the Sheriff in accordance with the record keeping and reporting requirements formulated by the Supreme Court of the Commonwealth of Virginia.
- d. The assessments imposed by this section shall be in addition to all other costs prescribed by law, but shall not apply to any action in which the state or any political subdivision therefore or the federal government is a party and in which the costs are assessed against the state, a political subdivision thereof or the federal government.

Amendments Chapter 165-Article XX

2015-09-15

Add Article XX Assessment of court costs to support the implementation and maintenance of an Electronic Summons System.

Article XXI Cigarette Tax

[Adopted 04-06-2021]

Amended 04-19-2022 to increase the amount of tax collected from \$0.20 to \$0.40 per package containing 25 or fewer cigarettes effective January 1, 2023.

§ 165-84. 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:

| | |
|-----------|--|
| CIGARETTE | 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. |
| DEALER | Every manufacturer, manufacturer's representative, self-wholesaler, wholesaler, retailer, vending machine operator, public warehouseman or other person who shall sell, receive, store, possess, distribute or transport cigarettes within or into the County, excluding those located or delivering within, the corporate boundaries of the Town of Berryville. |
| PACKAGE | 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. |
| PURCHASER | Every person to whom title to any cigarettes is transferred by a seller within the County, excluding those located within the corporate boundaries of the Town of Berryville. |
| SALE | Every act or transaction, irrespective of the method or means employed, including the use of vending machines and other mechanical devices, whereby title to any |

cigarettes shall be transferred from the seller to any other person within the County, excluding those within the corporate boundaries of the Town of Berryville.

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, excluding those located within the corporate boundaries of the Town of Berryville, for any purpose other than resale. The term shall be synonymous with the term Retail Dealer.

STAMP A small heat set of paper or decalomania to be sold by the Treasurer and to be affixed to every package of cigarettes sold.

TREASURER The Treasurer of the County of Clarke, Virginia.

§ 165-85. Tax levied; amount of tax

In addition to all other taxes and fees of any kind now or hereafter imposed by law, and pursuant to authority contained in § 58.1-3830 and § 58.1-3832 of the Code of Virginia, there is hereby imposed and levied a tax equivalent to \$0.40 per each package containing 25 or fewer cigarettes. The tax shall be paid and collected in the manner and at the time hereinafter prescribed; provided that the tax payable for each cigarette or cigarette package sold or used within the County shall be paid but once.

§ 165-86. Method of collection

The tax imposed by this article shall be evidenced by the use of a stamp and shall be paid by each dealer or other person liable for the tax at the time the stamps are purchased from the Treasurer. The Treasurer may require each dealer to register using forms provided by the Treasurer before stamps can be purchased. The stamps shall be affixed in such a manner that their removal will require continued application of water or steam. Each dealer or other person liable for the tax is hereby required, and it shall be his duty, to collect and pay the tax. Nothing in this section shall prohibit the Treasurer from entering into an agreement with a vendor to provide stamps directly to dealers.

The Treasurer is authorized to enter into an agreement with the Virginia Department of Taxation to allow a dealer who is a tobacco wholesaler to use a stamp to evidence the payment of both the County and the state cigarette tax. The Treasurer shall have the authority to determine the procedures by which such an arrangement may be agreed upon by the County and Department of Taxation.

The Treasurer is authorized, following an affirmative vote by the Board of Supervisors approving such agreement, to enter into an agreement pursuant to the provisions of §15.2-1300 for the administrative and enforcement authority of this article.

§ 165-87. Method of payment

The tax imposed by this article shall be paid by affixing or causing to be affixed a stamp or stamps, of the proper denominational or face value, to each and every package of cigarettes sold within the county, excluding those sold within the corporate limits of the Town of Berryville, in the manner and at the time or times provided for in this article. Every dealer and every seller in the county, once registered, shall have the right to buy such stamps from the county treasurer and to affix the same to packages of cigarettes as provided in this article.

The treasurer may permit the payment in advance of the tax levied and imposed by this article by the method of placing imprints of the stamps upon original packages by the use of meter machines, in lieu of the method of paying such tax by the purchase and affixing of gummed stamps, and may prescribe and enforce the necessary regulations setting forth the method to be employed and the condition to be observed in the use of such meter machines.

§ 165-88. Preparation and sale of stamps

For the purpose of making stamps available for use, the treasurer shall sell stamps of such denominations and in such quantities as may be necessary for the payment of the taxes imposed by this article. In the sale of such stamps, the county treasurer shall allow a discount of five (5%) of the denominational or face value of the stamps to cover the costs incurred in affixing the stamps to packages of cigarettes.

§ 165-89. General duties of dealers and sellers with respect to stamps

Every dealer in cigarettes is hereby required and it shall be his duty to purchase such stamps, at the office of the county treasurer, as shall be necessary to pay the tax levied and imposed by this article, and to affix or cause to be affixed a stamp or stamps of the monetary value prescribed by this article to each package of cigarettes prior to delivery or furnishing of such cigarettes to any seller. Nothing herein contained shall preclude any dealer from using a stamp meter machine in lieu of gummed stamps to effectuate the provisions of this article.

Every seller shall 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 or imprinted thereon, as provided by this article. If, upon such examination, unstamped or improperly stamped packages of cigarettes are discovered, the seller, where such cigarettes were obtained from a dealer, shall immediately notify such dealer, and upon such notification, such dealer shall forthwith either affix to or imprint upon such unstamped or

improperly stamped packages the proper amount of stamps, or shall replace such packages with others to which stamps have been properly affixed or imprinted thereon.

Should a seller obtain or acquire possession of, from any person other than a dealer, any unstamped or improperly stamped cigarettes, such seller shall forthwith, before selling or offering or exposing such cigarettes for sale in the county, purchase and affix or cause to be affixed to such packages of cigarettes the proper stamps, or the markings of a meter machine, covering the tax imposed by this article.

In the event any seller elects to purchase and affix stamps or imprints of a meter machine, before offering cigarettes for sale, any dealer delivering and furnishing cigarettes to such seller shall not be required to purchase and affix such stamps or imprints to such cigarettes so sold or furnished; provided that any such dealer shall, on the day after such delivery and furnishing, file with the treasurer a copy of the delivery memorandum showing the name and address of the seller and the quantity and type of cigarettes so delivered and furnished.

§ 165-90. 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.

§ 165-91. Altering design of stamps

The treasurer may, from time to time, and as often as he or she 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.

§ 165-92. Refund for unused stamps or meter imprints

Should any person, after acquiring from the treasurer any stamps provided for in this article, cease to be engaged in a business necessitating the use thereof, or should any such stamps become mutilated and unfit for use, other than by cancellation as provided in this article, such person shall be entitled to a refund of the denominational or face amount of any stamps so acquired and not used by him, less five (5) percent of the denominational or face amount thereof, upon presenting such stamps to the treasurer and furnishing the treasurer with an affidavit showing, to his satisfaction, that such stamps were acquired by such person and have not in any manner been used and the reason for requesting such refund. In the case of any authorized meter machine, should any imprints of such machine theretofore paid for not be used, such person shall, upon furnishing the treasurer with a similar affidavit, be entitled to a refund of the denominational or face amount thereof, less five (5) percent of the denominational or face amount of such imprints of such machine not so used.

All refunds for unused and mutilated stamps and for nonuse of imprints of stamps by meter machines provided for under this section are hereby authorized to be made on vouchers

approved by the treasurer and, when made, the same shall be charged against the sums collected for the sale of such stamps and for the use of such imprints.

§ 165-93. Seizure and sale of unstamped cigarettes

Whenever the treasurer shall discover cigarettes in quantities of more than six (6) cartons within the county which are subject to the tax imposed by this article and upon which the tax has not been paid or upon which stamps have not been affixed or evidence of such tax shown thereon by the printed markings of an authorized meter machine, as this article requires, such cigarettes shall be conclusively presumed for sale or use within the county and the treasurer may forthwith seize and confiscate such cigarettes, if:

- A. They are in transit, and are not accompanied by a bill of lading or other document indicating the true name and address of the cosigner or seller and of the cosigner or purchaser, and the brands and quantity of cigarettes so transported; or are in transit and accompanied by a bill of lading or other document which is false or fraudulent in whole or in part; or
- B. They are in transit and are accompanied by a bill of lading or other documents indicating:
 - (1) 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 tobacco products on which the taxes imposed by such other jurisdiction have not been paid, and unless the tax of the state or district of destination has been paid and the said products bear the tax stamp of that state or district; or
 - (2) A consignee or purchaser in the Commonwealth but outside the county who does not possess a Virginia sales and use tax certificate, a Virginia retail cigarette license and where applicable, both a business license and retail tobacco license issued by the local jurisdiction of destination; or
 - (3) They are not in transit and the tax has not been paid, nor have approved arrangements for payment been made, provided that this subsection shall not apply to cigarettes in the possession of distributors or public warehouses which have filed notice and appropriate proof with the treasurer that those cigarettes are temporarily within the county and will be sent to consignees or purchasers outside the county in the normal course of business.

All cigarettes seized and confiscated according to this section shall thereupon be deemed to be forfeited to the county and may be sold within a reasonable time thereafter, after proper notice of such seizure is given to the known holders of property interests in the cigarettes. Such notice shall be given to known holders of property interests, if any, by certified mail and by written notice posted on the bulletin board of the court house of the county at least seven (7) days before the date of sale. Such notice shall contain the time and place at which the sale is to

occur and procedures for administrative appeal as well as affirmative defenses which may be asserted by such holders. All moneys collected under this section shall be paid to the county treasurer and treated as other taxes collected under this article. No credit from any sale or other disposition shall be allowed toward any tax or penalties owed.

§ 165-94 Seizure and sale of coin-operated vending machines and counterfeit stamp or impression devices.

Any coin-operated vending machine, in which any cigarettes are found, stored or possessed bearing a counterfeit or false tobacco tax stamp or impression or any unstamped cigarettes, or any cigarettes upon which the tax has not been paid, may be declared contraband property and be subject to confiscation and sale as provided in section 165-93. When any such vending machine is found containing such cigarettes, it shall be presumed that such cigarettes were intended for distribution, sale or use therefrom. In lieu of immediate seizure and confiscation of any vending machine used in an illegal evasion of the tax, it may be sealed by appropriate enforcement authorities to prevent continued illegal sale or removal of any cigarettes, and may be left unmoved until other civil and criminal penalties are imposed or waived. Notice requirements shall be the same as if the machine had been seized. Such seal may be removed and the machine declared eligible for operation only by authorized enforcement authorities. Nothing in this section shall prevent seizure and confiscation of a vending machine at any time after it is sealed.

Any counterfeit stamps or counterfeit impression devices found may also be seized and confiscated.

§ 165-95. Dealers' and sellers' records

It shall be the duty of every dealer and seller to maintain and keep, for a period of two (2) years, such records of cigarettes sold and delivered by him as may be required by the treasurer and to make all such records available for examination by such treasurer, upon demand, at any and all reasonable times.

§ 165-96. Rules and regulations for enforcement and administration of article; examination of books, records, etc.

The treasurer may prescribe, adopt, promulgate and enforce rules and regulations relating to the method and means to be used in the cancellation of stamps and to all other matters pertaining to the administration and enforcement of the provisions of this article. It shall be unlawful for any person to fail, neglect or refuse to comply with such rules and regulations.

The treasurer may examine 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 or dealer.

§ 165-97. Violations of article—Generally

Any person violating any of the provisions of this article shall be guilty of a Class 1 misdemeanor. 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 article shall be required to pay a penalty in the amount of fifty (50) percent and interest not to exceed three quarters of one percent per month upon any tax found to be overdue and unpaid. Conviction and payment of a fine for such violation shall not relieve any person from the payment of any tax imposed by this article.

Each violation of, or noncompliance with, any of the provisions of this article shall be and constitute a separate offense and shall subject every person convicted thereof to the penalties prescribed.

§ 165-98. Same—Prohibited acts enumerated

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

To perform any act or fail to perform any act for the purpose of evading the payment of any tax imposed by this article or of any part thereof; or for any dealer or seller, with intent to violate any provision of this article, to fail or refuse to perform any of the duties imposed upon him under the provisions of this article or to fail or refuse to obey any lawful order which the treasurer may issue under this article.

To falsely or fraudulently make, forge, alter or counterfeit any stamp or the printed markings of any meter machine or to procure or cause to be made, forged, altered or counterfeited any such stamp or printed markings of a meter machine or to knowingly and willfully alter, publish, pass or tender as true any false, altered, forged or counterfeited stamp or stamps or printed markings of a meter machine.

To sell any cigarettes upon which the tax imposed by this article has not been paid and upon which evidence of payment thereof is not shown on each package of cigarettes.

To reuse or refill with cigarettes any package from which cigarettes, for which the tax imposed has been theretofore paid, have been removed.

To remove from any package any stamp or the printed markings of a meter machine 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 or printed markings of a meter machine to any person, or to reuse any stamp or printed markings of a meter machine which had theretofore been used for evidence of the payment of any tax prescribed by this article, or, except as to the county treasurer, to sell or offer to sell any stamps or printed markings of a meter machine provided for in this article.

§ 165-99. Same—Presumption of violation by seller

In the event any package of cigarettes is found in the possession of a seller, without the proper stamps being affixed thereto or without authorized printed markings of a meter machine thereon, and the seller shall be unable to submit evidence establishing that he received such package within the immediately preceding forty-eight (48) hours and that he has not offered the same for sale, the presumption shall be that such package is being kept by such seller in violation of the provisions of this article and shall subject him to the penalties provided for such violation.

Any cigarettes placed in any coin-operated vending machine located within the county shall be presumed for sale within the county. Any vending machine located within the county containing cigarettes upon which the stamp has not been affixed or containing cigarettes placed so as not to allow visual inspection of the stamp through the viewing areas as provided for by the vending machine manufacturer shall be presumed to contain untaxed cigarettes in violation of this article.

Any cigarettes, coin-operated vending machines, counterfeit stamps, or other property found in violation of this article shall be declared contraband goods and may be seized by the treasurer. 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.

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

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

Amendments Chapter 165-Article XXI

2022-04-19

§ 165-85 Amount of tax; increase cigarette tax from \$0.20 to \$0.40 per package containing 25 or fewer cigarettes effective January 1, 2023.

Article XXII Food and Beverage Tax

[Adopted 04-06-2021]

Amended 04-19-2022 to increase the amount of tax collected from 2% to 4% effective January 1, 2023

§ 165-100. 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:

| | |
|--------------------|---|
| CATERER | A business or person who furnishes meals on the premises of another. |
| COMMISSIONER | The Commissioner of Revenue of the County of Clarke, Virginia. |
| FOOD | Any food, beverage, 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. Included in the term “food” are prepared foods ready for human consumption sold by grocery stores and convenience stores at a delicatessen, for that portion of the grocery store or convenience store selling such items. |
| FOOD ESTABLISHMENT | Any place in or from which food or food products are prepared, packaged, sold, or distributed in Clarke County, except those establishments located in the Town of Berryville corporate limits, including but not limited to, any restaurant, dining room, grill, coffee shop, cafeteria, café, snack bar, lunch counter, convenience store, movie theater, delicatessen, confectionary, bakery, eating house, eatery, drugstore, ice cream/yogurt shop, lunch wagon or truck, pushcart or other mobile facility from which food is sold, public or private club, resort, bar, lounge, or other similar establishment, public or private, and shall include private property outside of and contiguous to a building or structure operated as a food establishment at which food or food products are sold for immediate consumption. |

| | |
|-----------|--|
| PURCHASER | Any person who purchases a meal. |
| SALE | The final sale to the ultimate customer. |
| SELLER | Any food establishment or caterer selling food, or the person operating such business. |
| TREASURER | The Treasurer of the County of Clarke, Virginia. |

§ 165-101. Tax levied; amount of tax

In addition to all other taxes and fees of any kind now or hereafter imposed by law, and pursuant to authority contained in § 58.1-3833 of the Code of Virginia, there is hereby imposed and levied on purchasers a tax equivalent to 4% of the amount paid for food sold by a seller.

§ 165-102. Payment and collection of tax

In every case the tax shall be collected by the seller and paid by the purchaser at the time of the charge for the food becomes due and payable, whether payment is to be made in cash, check, or on credit by means of a credit card or otherwise. The seller shall add the tax to the amount charged for the meal, and shall pay the taxes collected to the County as provided in this article.

§ 165-103. Collections in Trust for County

All amounts collected as taxes under this article shall be deemed to be held in trust by the seller collecting them, until remitted to the County as provided in this article.

§ 165-104. Reports and remittances

The Commissioner may require all prospective sellers of food licensed to do business in the County to register for collection of tax imposed by this article. Every seller shall make a report for each calendar month, showing the amount of charges collected for meals and the amount of tax required to be collected.

The monthly reports shall be made on forms prescribed by the Commissioner and shall be signed by the seller. They shall be delivered to the Commissioner on or before the 20th day of the calendar month following the month being reported. Each report shall be accompanied by a remittance of the amount of tax due, made payable to the Treasurer. The Commissioner shall promptly transmit all taxes received to the Treasurer.

§ 165-105. Penalty and interest for failure to pay tax when due

There shall be a penalty of 10% added to all food taxes imposed under the provisions of this article that are unpaid on the due dates as provided in this article.

In addition to such penalty, interest at the rate of 10% per annum shall accrue and be added to all due and unpaid taxes and penalties beginning with the first day following the imposition of the penalty; provided, however, that the second and subsequent years of delinquency, such interest shall be at the rate established pursuant to Section 6621 of the United States Internal Revenue Code of 1986, 26 U.S.C. § 6621, as amended, or its successor statute(s), but not less than 10%. Taxes and penalties herein provided shall be assessed and collected in the manner provided by law for the enforcement of the collection of other taxes.

§ 165-106. Failure to collect or remit tax

If any person whose duty it is to do so shall fail or refuse to collect the tax imposed under this article or to make timely report and remittance thereof, or if the Commissioner has reasonable cause to believe that an erroneous statement has been filed, the Commissioner shall proceed in such manner as is practicable to obtain facts and information on which to base an estimate of the tax due the County and, in connection therewith, shall make such investigations and take such testimony and other evidence as may be necessary; provided, however, that notice and opportunity to be heard shall be given any person who may become liable for the amount owing prior to any determination by the Commissioner.

As soon as the Commissioner has procured whatever facts and information may be obtainable upon which to base the assessment of any tax payable by any person who has failed to collect, report or remit such tax, the Commissioner shall proceed to determine and assess against such person the tax, penalty and interest provided in this article and shall notify the person, by certified or registered mail sent to his or her address listed on the registration required in 165-104 or the last known address, of the amount of such tax, penalty and interest. The total amount thereof shall be payable 10 days after the date such notice is given.

§ 165-107. Preservation of Records

It shall be the duty of every person liable for collection and remittance of the taxes imposed by this article to keep and preserve, for a period of two years, records showing all purchases taxable under this article, the amount charged the purchaser for each purchase, the date thereof, the taxes collected thereon and the amount of tax required to be collected by this article. The Commissioner shall have the power to examine such records at reasonable times and without unreasonable interference from the business of such person, for the purpose of administering and enforcing the provisions of this article and to make transcripts or copies of all or any parts thereof.

§ 165-108. Duty of person going out of business

Whenever any person required to collect and remit to the County any tax imposed by this article, shall cease to operate or otherwise dispose of his or her business, the tax shall immediately become due and payable and the person shall immediately make a report and remittance thereof.

§ 165-109. Advertising payment or absorption of tax unlawful

No seller shall advertise or hold out to the public in any manner, directly or indirectly, that all or any part of a tax imposed under this article will be paid or absorbed by the seller or by anyone else or that the seller or anyone else will relieve any purchaser of the payment of all or any part of the tax.

§ 165-110. Tips and service charges

Where a purchaser provides a tip or gratuity for an employee of a seller and the amount of the tip or gratuity is wholly in the discretion of the purchaser, the tip or 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 that, in the latter case, the full amount of the tip or gratuity is turned over to the employee by the seller.

§ 165-111. Exemptions

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

Food and beverage sold through vending machines.

Alcoholic beverages sold in factory sealed containers and purchased for off-premises consumption.

Food purchased for off-premise 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 that 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 non-factory sealed beverages.

Provided by boardinghouses that do not accommodate transients.

Provided by cafeterias operated by industrial plants for employees only.

Provided by restaurants to their employees as part of their compensation when no charge is made to the employee.

Provided by volunteer fire departments and volunteer emergency medical services agencies, nonprofit churches or other religious bodies, or educational, charitable, fraternal, benevolent organizations, or churches that serve meals for their members as a regular part of their religious observances.

Provided by public or private elementary or secondary schools or institutions of higher education to their students or employees.

Provided by hospitals, medical clinics, convalescent homes, nursing homes, or other extended care facilities to patients or residents thereof.

Provided by day care centers.

Provided by homes for the aged, infirm, handicapped, battered woman, narcotic addicts, or alcoholics.

Provided 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.

Provided by sellers at local farmers' markets and roadside stands.

Also, the tax shall not be levied on food when used or consumed and paid by the Commonwealth, any political subdivision of the Commonwealth, or the United States, or 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, or provided by private establishments that contract with the appropriate agency of the Commonwealth 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.

§ 165-112. Enforcement

It shall be the duty of the Commissioner to ascertain the name of every person operating a food establishment in the County liable for the collection of the tax imposed by this article who fails, refuses or neglects to collect such tax or make the reports and remittances required by this article. The Commissioner may have a summons issued for such person, and the summons shall be served upon such person by any County Sheriff or Deputy Sheriff in the manner provided by law. One return of the original summons shall be made returnable to the General District Court for the County.

In the event that the purchaser of any food refuses to pay the tax imposed by this article, the seller may call upon the Sheriff's Office for assistance, and the investigating officer may, when probable cause exists, issue the purchaser a summons returnable to the General District Court as provided by law.

§ 165-113. Violations

Any person violating or failing to comply with any of the provisions of this article shall, upon conviction thereof, be guilty of a Class 3 misdemeanor punishable by a maximum fine of

\$500. Conviction shall not relieve any person from the payment, collection, or remittance of the tax as provided in this article. Each violation or failure shall be a separate offense.

§ 165-114. Commissioner of Revenue

It shall be the duty of the Commissioner to ascertain the name of every person operating a business in the County liable for the collection of the tax levied in this article.

The Commissioner shall have the power to adopt rules and regulations not inconsistent with the provisions of this article for the purpose of carrying out and enforcing the payment, collection, and remittance of the tax herein levied, and a copy of such rules and regulations shall be on file and available for public examination in the Commissioner's office. Failure or refusal to comply with any rules and regulations promulgated under this article shall be deemed a violation of this article.

§ 165-115. Commission for Collection

Every seller who collects, accounts for and remits taxes imposed herein to the County shall receive a commission at the rate of five percent (5%) of the amount of the tax due and accounted for by the seller. Said commission shall be paid in the form of a deduction from the tax so remitted. No commission shall be paid to any operator in the event that the amount due from said seller, or any part thereof, is delinquent under the provisions of this article.

Amendments Chapter 165-Article XXII

2022-04-19

§ 165-101 Amount of tax; increase food and beverage tax from 2% to 4% effective January 1, 2023.

References

- ³⁹ Editor's Note: See ~ 58.1-3700 et seq. of the Code of Virginia, License Taxes.
- ⁴⁰ Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).
- ⁴¹ Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I).
- ⁴² Editor's Note: See ~ 58.1-2600 et seq. of the Code of Virginia, Taxation of Public Service Corporations.
- ⁴³ Editor's Note: See ~ 46.2-752 of the Code of Virginia, authority for assessment of taxes and license fees. See also Art. XIV, Motor Vehicle License Tax Exemption.
- ⁴⁴ Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).
- ⁴⁵ Editor's Note: See ~ 58.1-3500 et seq. of the Code of Virginia, Tangible Personal Property, Machinery and Tools, and Merchants' Capital.
- ⁴⁶ Editor's Note: Pursuant to 58.1-3958
- ⁴⁷ Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).
- ⁴⁸ Editor's Note: See ~ 58.1-3292 of the Code of Virginia, for statutory authority.
- ⁴⁹ Editor's Note: See ~ 58.1-3210 et seq. of the Code of Virginia, Exemptions for Elderly and Handicapped.
- ⁵⁰ Editor's Note: See ~ 58.1-3230 et seq. of the Code of Virginia, Special Assessment for Land Preservation.
- ⁵¹ Editor's Note: See ~ 58.1-600 et seq. of the Code of Virginia, Virginia Retail Sales and Use Tax.
- ⁵² Editor's Note: See ~ 58.1-1718 and 58.1-3805 of the Code of Virginia, Tax on Wills and Administrations.
- ⁵³ Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).
- ⁵⁴ Editor's Note: See ~ 58.1-814 and 58.1-3800 et seq. of the Code of Virginia, Recordation Tax.
- ⁵⁵ Editor's Note: See ~ 58.1-600 of the Code of Virginia, Retail Sales and Use Tax.
- ⁵⁶ Editor's Note: See ~ 58.1-3812 et seq. of the Code of Virginia, Consumer Utility Taxes.
- ⁵⁷ Editor's Note: Fees are on file in the office of the County Administrator.

⁵⁸ Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

⁵⁹ Editor's Note: See §46.2-752 of the Code of Virginia, authority for exemption from tax.

⁶⁰ Editor's Note: See § 14.1-133.

⁶¹ Editor's Note: See § 58.1-3813 of the Code of Virginia, local tax for enhanced telephone service.

⁶² Editor's Note: See § 58.1-3819 of the Code of Virginia, transient occupancy tax.