



ARLINGTON COUNTY, VIRGINIA

**County Board Agenda Item
Meeting of February 21, 2009**

DATE: February 1, 2009

SUBJECT: Request to advertise a public hearing on proposed amendments to Chapter 27 (Miscellaneous Ordinances) of the Arlington County Code, Section 27-3, to increase the interest rate on delinquent taxes and other debts owed to Arlington County to ten percent per year.

C. M. RECOMMENDATION:

Authorize advertising for a March 26, 2009, public hearing on proposed amendments to Chapter 27 (Miscellaneous Ordinances) of the Arlington County Code, Section 27-3, as shown in attachment I, allowing for an increase in the interest rate on delinquent taxes and charges to ten percent per year.

ISSUES: Should the interest rate charged on delinquent taxes and other charges be raised to ten (10) percent per annum, a level similar to other local jurisdictions?

SUMMARY: The Code of Virginia § 58.1-3916 allows for localities to establish interest rates for delinquent taxes and other charges of up to 10 per percent per year. In addition, that rate must be the same as the interest rate that the locality pays on overpayments due to erroneously assessed taxes. The proposed revision will increase the interest rate on delinquent taxes and other charges to the statutory maximum of 10 percent per year. This revision to Arlington County's ordinance is projected to generate an additional \$1.0 million in revenue on delinquent taxes and other charges.

BACKGROUND: Arlington charges delinquent taxpayers penalty interest at a rate of 1 percent per year for real estate tax and 5 percent for other local taxes. As shown in the table on the following page, the County's rate is lower than that of other area jurisdictions, with the exception of Fairfax County, which has the same interest rate structure as Arlington County. All area jurisdictions also charge a one-time penalty of the greater of \$10 or 10 percent at the time that taxpayers become delinquent. In addition, Arlington charges a 15 percent "superpenalty" on delinquent personal property and business tangible taxes after 60 days.

County Manager: _____

County Attorney: _____

Staff: Patricia Weth, Treasurer's Office

Table I: Penalty interest rates assessed in selected Northern Virginia jurisdictions*

| | Arlington County | City of Alexandria | Fairfax County | Loudoun County | Prince William County |
|--------------------------|-------------------------|--|-----------------------|-----------------------|------------------------------|
| Real Estate Taxes | 1% | 10% per year for first year, 5% thereafter | 1% | 10% | 10% |
| Other taxes | 5% | 10% per year for first year, 5% thereafter | 5% | 10% | 10% |

*All jurisdictions charge a one-time \$10/10% penalty at the time of delinquency. In addition, Arlington applies a 15% "superpenalty" on delinquent personal property and business tangible taxes after 60 days.

DISCUSSION: Since 2000, when the rates were lowered to their current levels, the County has received about five times as much in penalty interest income as it has paid out in interest on erroneous assessments. The majority of this revenue is generated from delinquent personal property taxes. The tables below show the penalty interest revenue received between fiscal year 2000 and 2008 and the amount of interest paid out by the County over the same period.

Table II: Penalty interest revenue, FY 2000 - 2008

| Fiscal Year | Real Estate Tax | Personal Property | Business Professional Occupational License (BPOL) | Total* |
|--------------------|------------------------|--------------------------|--|--------------------|
| 2000 | \$21,302 | \$771,179 | \$120,757 | \$913,237 |
| 2001 | 16,642 | 921,709 | 71,961 | 1,010,312 |
| 2002 | 32,201 | 954,574 | 149,897 | 1,136,672 |
| 2003 | 30,832 | 1,046,566 | 144,519 | 1,221,917 |
| 2004 | 38,186 | 1,015,400 | 117,386 | 1,170,973 |
| 2005 | 57,865 | 932,655 | 117,411 | 1,107,931 |
| 2006 | 58,602 | 913,483 | 86,331 | 1,058,416 |
| 2007 | 58,658 | 618,297 | 118,510 | 795,465 |
| 2008 | 58,028 | 769,583 | 107,239 | 934,850 |
| Overall | \$372,316 | \$7,943,447 | \$1,034,011 | \$9,349,774 |

* Does not include other taxes, including meals tax and transient occupancy tax.

Table III: Interest paid out due to overpayments on erroneous assessments, FY 2000 - 2008

| Fiscal Year | Real Estate Tax | Personal Property | BPOL | Total* |
|--------------------|------------------------|--------------------------|--------------------|--------------------|
| 2000 | \$2,193 | \$63,075 | \$125,250 | \$190,518 |
| 2001 | 2,193 | 63,075 | 125,250 | 190,518 |
| 2002 | 2,193 | 63,075 | 125,250 | 190,518 |
| 2003 | 2,184 | 61,235 | 121,125 | 184,544 |
| 2004 | 14,957 | 252,730 | 144,135 | 411,822 |
| 2005 | 5,099 | 63,480 | 149,819 | 218,398 |
| 2006 | 418 | 45,767 | 65,273 | 111,458 |
| 2007 | 365 | 36,217 | 121,674 | 158,256 |
| 2008 | 4,384 | 38,671 | 38,671 | \$185,855 |
| Overall | \$33,985 | \$687,326 | \$1,163,632 | \$1,884,943 |

* Does not include other taxes, including meals tax and transient occupancy tax.

Assuming the County had assessed penalty interest at the rate of 10 percent, the County would have realized an additional \$10.2 million between fiscal year 2000 – 2008, as shown in the table below. These calculations are net of the additional interest liability that the County would have incurred had the County paid out interest on erroneous assessments at this higher rate.

Table IV: Additional revenue, net of additional liability, the County would have realized if the penalty interest rate had been 10 percent, FY 2000 - 2008

| Fiscal Year | Real Estate Tax | Personal Property | BPOL | Total* |
|--------------------|------------------------|--------------------------|--------------------|---------------------|
| 2000 | \$171,978 | \$708,103 | (\$4,493) | \$875,588 |
| 2001 | 130,046 | 858,634 | (53,290) | 935,390 |
| 2002 | 270,071 | 891,499 | 24,647 | 1,186,217 |
| 2003 | 257,839 | 985,330 | 23,394 | 1,266,563 |
| 2004 | 209,060 | 762,670 | (26,749) | 944,982 |
| 2005 | 474,897 | 869,175 | (32,408) | 1,311,664 |
| 2006 | 523,657 | 867,716 | 21,058 | 1,412,430 |
| 2007 | 524,637 | 582,080 | (3,164) | 1,103,554 |
| 2008 | 482,792 | 730,912 | (78,616) | 1,135,088 |
| Overall | \$3,044,976 | \$7,256,121 | (\$129,621) | \$10,171,476 |

* Does not include other taxes, including meals tax and transient occupancy tax.

FISCAL IMPACT: The proposed penalty interest rate increases, which would generate an additional \$1.0 million in FY 2010, are included in the County Manager’s FY 2010 Proposed Budget.

AN ORDINANCE TO AMEND CHAPTER 27 (MISCELLANEOUS ORDINANCES) OF THE ARLINGTON COUNTY CODE RELATING TO THE INTEREST RATE CHARGED ON DELINQUENT TAXES

BE IT ORDAINED By the County Board of Arlington, Virginia, that Chapter 27, Section 27-3 of the Arlington County Code is amended, reenacted and recodified to read in pertinent part as follows:

§ 27-3. Refund of local levies and interest on delinquent taxes.

Any person assessed by the commissioner of the revenue with local taxes aggrieved by any such assessment which has previously been paid to the Treasurer of Arlington County may apply to the commissioner of the revenue for a correction of such assessment.

If the commissioner of the revenue is satisfied that he has erroneously assessed such tax, he shall certify to the treasurer the amount erroneously assessed and the treasurer shall refund the amount erroneously paid together with any penalties and interest paid thereon.

~~Any refund of erroneously assessed tangible personal property or local license tax shall be repaid with interest if (1) the taxes were assessed after the date when those taxes were due and on or after July 1, 1993, (2) the amount of interest due amounts to one hundred dollars (\$100.00) or more, and (3) the county has held the taxes to be refunded for a period of thirty (30) days or more. Such interest to be paid with the refund shall be calculated from the date such erroneously assessed taxes were paid or the date due, whichever is later, to the date of the refund and shall be calculated at the rate earned on the county's pooled investment portfolio during the period of calculation.~~

The authority of this section shall also be vested in the director of the real estate assessments and the treasurer as to those taxes assessed upon real estate. No refund shall be made in any case when application therefor was made more than the number of years after the last day of the tax year for which such taxes were assessed, allowed by state law for application to the circuit court for correction of erroneous assessments.

Except as otherwise provided, interest shall be charged on any tax payment that is past due. Beginning on or after July 1, ~~1999~~ 2009, interest shall accrue as follows:

(1) Interest on past due payments of real property taxes shall accrue at the rate of ~~one (1)~~ ten (10) percent per annum;

(2) Interest on past due payments of personal property taxes on vehicles under section 27-11.1. shall accrue at the rate of ~~five (5)~~ ten (10) per annum;

(3) Interest on past due payments of all other personal property taxes shall accrue at the rate of ~~five (5)~~ ten (10) percent per annum;

(4) Interest on past due payments of license taxes shall accrue at the rate of ~~five (5)~~ ten (10) percent per annum;

(5) Interest on past due payments of all other county taxes shall accrue at the rate of ~~five (5)~~ ten (10) percent per annum.

Interest on any tax payment that is past due shall begin to accrue on the day after the tax is due, and such interest shall continue to accrue until the date on which payment is made, and such interest shall be calculated bimonthly or on a daily basis at the Treasurer's discretion.

Any tax payment that is delinquent and past due prior to June 30, ~~1999-2009~~, shall also accrue interest until paid. The interest to be charged on any such delinquent tax payment shall be at the rate specified by the Arlington County Code at the time the tax was due and unpaid, and the interest on any such delinquent tax payment shall accrue at that specified rate beginning from the date on which the tax was due and extending until the date on which the tax was paid or June 30, ~~1999-2009~~.

Except as otherwise provided, beginning on and after July 1, ~~1999~~ 2009 refunds of erroneously assessed taxes, together with any penalty and interest paid thereon, shall be repaid to the person who paid to the county the erroneously assessed tax with interest at the applicable rate specified above. Interest payable on any such refund of an erroneously assessed tax shall begin to accrue on the later of (i) July 1, ~~1999~~ 2009, (ii) the date on which the tax being refunded was required to be paid, or (iii) the date on which the tax being refunded was paid. ~~Except as otherwise specifically provided in this section or section 11-18, interest on refunds of erroneously assessed taxes shall not accrue for any period of time prior to July 1, 1999.~~ Refunds of personal property taxes made in accordance with ~~Virginia~~ the Code of Virginia § 58.1-3516 shall be made without interest, as any such overpayment of taxes did not result from erroneously assessed taxes. Pursuant to Virginia Code § 58.1-3916, no interest shall be paid on any refund in the amount of ten (10) dollars or less.

~~Refunds of tangible personal property taxes assessed between July 1, 1993, and June 30, 1999, or of local license taxes which were assessed prior to January 1, 1997, shall be repaid with interest if (1) the taxes were assessed after the date when those taxes were due and on or after July 1, 1993, (2) the amount of interest due amounts to one hundred dollars (\$100.00) or more, and (3) the county has held the taxes to be refunded for a period of thirty (30) days or more. Such interest to be paid with the refund shall be calculated from the date such erroneously assessed taxes were paid or the date due, whichever is later, to the date of the refund and shall be calculated at the rate earned on the county's pooled investment portfolio during the period of calculation. Interest at ten (10) percent per year shall be paid on refunds of local license taxes assessed and paid between January 1, 1997, and June 30, 1999, such interest accruing from the date on which those taxes were paid until June 30, 1999. Beginning on and after July 1, 1999, any interest on any such refund of an erroneously assessed license tax shall accrue at the rate prescribed above.~~

(10-11-58; 3-1-61; 9-10-77; Ord. No. 92-31, 7-11-92; Ord. No. 92-32, 1-1-93