



ARLINGTON COUNTY, VIRGINIA

**County Board Agenda Item
Meeting of October 24, 2009**

DATE: October 1, 2009

SUBJECT: Adoption of proposed amendments to Chapter 27 (Miscellaneous Ordinances) of the Arlington County Code, Section 27-3, to charge the interest rate on delinquent taxes and other debts owed to Arlington County beginning from the date of delinquency, and on proposed amendments to Chapter 20 (Real Estate Assessments) and Chapter 65 (Meals, Food and Beverage Taxation) of the Arlington County Code to remove inconsistencies regarding the interest rate of Arlington County Code Section 27-3.

C. M. RECOMMENDATION:

1. Adopt the proposed amendments to Chapter 27 (Miscellaneous Ordinances) of the Arlington County Code, Section 27-3, as shown in Attachment I, allowing penalty interest to be charged on delinquent taxes and other debts to begin on the due date.
2. Adopt the proposed amendments to Chapter 20 (Real Estate Assessments) of the Arlington County Code, § 20-8, as shown in Attachment II, and Chapter 65 (Meals, Food and Beverage Taxation) of the Arlington County Code, § 65-8, as shown in Attachment III, to remove internal inconsistencies regarding the interest rate provisions of § 27-3.

ISSUES: Should the County apply 10% annual interest on delinquent taxes from the time the tax or debt was due and to remove internal inconsistencies? No issues have been identified.

SUMMARY: The proposed revision will allow the interest rate of 10 percent per annum to be charged on delinquent taxes and other charges beginning on the due date. In addition, some chapters of the Arlington County Code have internal inconsistencies regarding Arlington County Code § 27-3. The proposed revisions to the Arlington County Code contained herein reflect issues that staff has identified over the past year.

BACKGROUND: § 65-8 and § 20-8 contain references to Arlington County Code § 27-3, which has been revised. The changes to these code sections are to merely delete the erroneous information.

In April 2009, the County Board increased the penalty interest rate from 1 percent for delinquent real estate taxes and 5 percent for other taxes and debts to 10 percent across the board effective

County Manager: RC/SMJ

County Attorney: SM

Staff: Frank O'Leary, Arlington County Treasurer

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July 1, 2009. The proposed change to Arlington County Code § 27-3 would allow interest of 10 percent per annum to begin to accrue from the due date of the delinquent tax or other debt.

DISCUSSION: The changes to § 65-8 and § 20-8 would ensure consistency within the Arlington County Code and will eliminate inconsistencies. The change to § 27-3 will allow interest of 10 percent per annum to begin to accrue from the due date of the delinquent tax or other debt.

FISCAL IMPACT: The proposed change to how penalty interest rates are applied, which would generate an additional \$300,000 to \$400,000 in FY 2010, would reduce the County's FY 2010 net tax support.

ATTACHMENT I

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 and refunds of erroneously assessed taxes.

Except as otherwise provided, interest shall be charged on all past due taxes. Beginning on October 24, 2009, interest shall accrue on all past due County taxes at a rate of ten (10) percent per annum.

Interest on any tax 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.

Any person who 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. is aggrieved by an assessment of the Commissioner of the Revenue or Director of Real Estate Assessment may apply to the assessing officer for 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. Should the assessing officer determine that such tax was erroneously assessed, the assessing officer 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. No refund shall be made, in any case, if the application for correction of an assessment is made after the last day of the tax year for which such taxes were assessed plus the number of years allowed by Virginia the Code of Virginia for application to the Circuit Court for correction of erroneous assessments.

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, 2009, interest shall accrue as follows:

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- ~~(1) Interest on past due payments of real property taxes shall accrue at the rate of ten (10) percent per annum;~~
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- ~~(2) Interest on past due payments of personal property taxes on vehicles under section 27-11.1 shall accrue at the rate of ten (10) per annum;~~
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- ~~(3) Interest on past due payments of all other personal property taxes shall accrue at the rate of ten (10) percent per annum;~~
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- ~~(4) Interest on past due payments of license taxes shall accrue at the rate of ten (10) percent per annum;~~
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- ~~(5) Interest on past due payments of all other county taxes shall accrue at the rate of 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, 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, 2009. Refunds of erroneously assessed taxes prior to July 1, 2009, 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 rate specified by the Arlington County Code at the time the tax was due and unpaid.~~

~~Except as otherwise provided, beginning on and after July 1, 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 taxes erroneously assessed ~~an erroneously assessed tax~~ shall begin to accrue on the later of (i) July 1, 2009, (ii) the date on which the tax being refunded was required to be paid, ~~or and (iii)~~ (ii) the date on which the tax being refunded was paid. Refunds of personal property vehicular taxes made assessed in accordance with 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.~~

ATTACHMENT II

AN ORDINANCE TO AMEND CHAPTER 20 (REAL ESTATE ASSESSMENTS) OF THE ARLINGTON COUNTY CODE RELATING TO THE INTEREST ON INSTALLMENT PAYMENTS

BE IT ORDAINED By the County Board of Arlington, Virginia, that Chapter 20, Section 20-8 of the Arlington County Code is amended, reenacted and recodified to read in pertinent part as follows:

§ 20-8. Installment Payments.

Taxes on the assessed valuation of all taxable real estate located in Arlington County for ~~the year 1978 and for each tax year thereafter~~ shall be paid in the following installments: of the total levy, one-half (1/2) shall be paid on or before June 15 and one-half (1/2) shall be paid on or before October 5. Any person assessed who fails to pay the tax installments on or before the respective payment date shall incur a penalty thereon of ten (10) percent or ten dollars (\$10.00), whichever shall be greater, but not to exceed the amount of the tax, which shall be added to the amount of taxes due from such person assessed. Interest shall accrue at the rate prescribed in section 27-3, ~~from the first day of the month following the month in which the taxes are due shall accrue or be paid upon the taxes assessed on or after July 1, 1999, remaining unpaid. For unpaid taxes assessed prior to July 1, 1999, interest accrued through June 30, 1999, at ten (10) percent during the first year of delinquency and thereafter at the rate of interest established in Section 6621 of the Internal Revenue Code of 1984, as amended, shall accrue and be collected at the rate prescribed in section 27-3 after July 1, 1999, for any such taxes remaining unpaid.~~

ATTACHMENT III

AN ORDINANCE TO AMEND CHAPTER 65 (MEALS, FOOD AND BEVERAGE TAXATION) OF THE ARLINGTON COUNTY CODE RELATING TO THE INTEREST ON MEALS, FOOD AND BEVERAGE TAXES

BE IT ORDAINED By the County Board of Arlington, Virginia, that Chapter 65, Section 65-8 of the Arlington County Code is amended, reenacted and recodified to read in pertinent part as follows:

§ 65-8. Penalties, interest, and collection fees.

(a) If a seller required to collect taxes pursuant to this chapter fails or refuses to file the tax returns or to remit the taxes collected or due within the time and in the amount specified by this chapter, there shall be added to such tax due a penalty of ten (10) percent of the tax due.

(b) Interest shall accrue ~~as prescribed in section 27-3, on taxes due and delinquent prior to June 30, 1999, at the rate of ten (10) percent for the first year. For the second and subsequent years, interest shall be paid on the delinquent tax and penalty at the rate of interest established pursuant to Section 6621 of the Internal Revenue Code of 1984, as amended, but never at a rate of less than ten (10) percent per annum. Interest on taxes due and payable after July 1, 1999, shall accrue interest as prescribed in § 27-3. Interest shall begin to accrue on the first day of the month following the month in which the taxes were due to the county.~~

(c) The assessment or payment of penalties or interest pursuant to this section shall not be deemed a defense to any criminal prosecution for failure to comply with any of the requirements of this chapter.