

CHAPTER 3: TAXATION

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3.02.010 Definitions

As used in this article, the following terms shall have the meanings indicated:

"Affiliated Group" shall have the meaning ascribed to it in § 58.1-3700.01, Virginia Code, except, for all purposes of this article, the word "entity" shall be substituted for the word "corporation" whenever it is used in that section.

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

"Consumer" means every person who, individually or through agents, employees, officers, representatives or permittees, makes a taxable purchase of utility service in this jurisdiction.

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

"Gross Charges" means subject to the exclusions of this section, the amount charged or paid for the taxable purchase of local telecommunication services. However, gross charges shall not include the following:

- (a) Charges or amounts paid that vary based on the distance and/or elapsed transmission time of the communication that are separately stated on the consumer's bill or invoice.
- (b) Charges or amounts paid for customer equipment, including such equipment that is leased or rented by the customer from any source, if such charges or amounts paid are separately identifiable from other amounts charged or paid for the provision of local telecommunication services on the service provider's books and records.
- (c) Charges or amounts paid for administrative services, including, without limitation, service connection and reconnection, late payments, and roamer daily surcharges. Charges or amounts paid for special features that are not subject to taxation under § 4251 of the Internal Revenue Code of 1986, as amended.

(d) Charges or amounts paid that are the tax imposed by § 4251 of the Internal Revenue Code of 1986, as amended or any other tax or surcharge imposed by statute, ordinance or regulatory authority.

(e) Bad debts.

"Kilowatt hours delivered" means 1,000 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 cogenerators) 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.

"Local telephone service" means subject to the exclusions stated in this section, includes any service subject to federal taxation as local telephone service as that term is defined in § 4252 of the Internal Revenue Code of 1986, as amended, or any successor statute.

"Person" means any individual, corporation, company or other entity.

"Residential consumer" means the owner or tenant of property used primarily for residential purposes, including but not limited to, apartment houses and other multiple-family dwellings.

"Service provider" means the person who delivers electricity, local telephone service and/or gas service to a consumer.

"Used Primarily" means relates to larger portion of use for which electric utility service is furnished.

3.02.020 Electric Utility Consumer Tax

(a) In accordance with Virginia Code § 58.1-3814, effective January 1, 2001, there is hereby imposed and levied a monthly tax on each purchase of electricity delivered to consumers by a service provider, classified as determined by such provider, as follows:

- (1) Residential consumers: Such tax shall be \$1.40 plus the rate of \$0.015094 on each kwh delivered monthly to residential consumers by a service provider, not to exceed \$3 monthly.
- (2) Nonresidential consumers: Such tax on nonresidential consumers shall be at the rates per month for the classes of nonresidential consumers as set forth below:
 - a. Commercial consumers: Such tax shall be \$2.29 plus the rate of \$0.014597 on each kwh delivered monthly to commercial consumers, not to exceed \$10 monthly.
 - b. Industrial consumers: Such tax shall be \$2.29 plus the rate of \$0.014597 on each kwh delivered monthly to industrial consumers, not to exceed \$10 monthly.
- (3) The conversion of tax pursuant to this article to monthly kwh delivered shall not be effective before the first meter reading after December 31, 2000, prior to which time the tax previously imposed by this jurisdiction shall be in effect.

3.02.030 Communications Sales and Use Tax

Pursuant to Code of Virginia § 58.1-648, as amended, there is levied and imposed, in addition to all other taxes and fees of every kind imposed by law, a sales or use tax on the customers of communications services in the amount of five (5) percent of the sales price of each communications service. Such amounts are billed and collected by the Commonwealth.

3.02.40 Exemptions

- (a) The following consumers are exempt from the consumer utility tax imposed by this article:
 - (1) Any public safety agency as defined in Virginia Code § 58.1-3813.
 - (2) Any church or religious body entitled to exemption pursuant to Article 4 of Chapter 36 of Title 58.1 of the Code of Virginia (§ 58.1-3650 et seq.).
 - (3) The United States of America, the commonwealth and the political subdivisions thereof, including this jurisdiction.
- (b) The following consumers are exempt from sales and use tax imposed by this article:
 - (1) information services;
 - (2) installation or maintenance of wiring or equipment on a customer's premises;
 - (3) the sale or rental of tangible personal property;
 - (4) the sale of advertising, including but not limited to, directory advertising;
 - (5) bad check charges;
 - (6) billing and collection services;
 - (7) Internet access service, electronic mail service, electronic bulletin board service, or similar services that are incidental to Internet access, such as voice-capable e-mail or instant messaging;
 - (8) digital products delivered electronically, such as software, downloaded music, ring tones, and reading materials; and (
 - (9) over-the-air radio and television service broadcast without charge by an entity licensed for such purposes by the Federal Communications Commission; and
 - (10) those listed in (a)(1)-(3) above.

State Code Reference—For consumer utility tax: 58.1-3815, 58.1-3816.2, 58.1-648(C)

3.02.050 Billing, Collection And Remittance Of Tax

- (a) The service provider shall bill the utility consumer tax to all users who are subject to the tax and to whom it delivers the service and shall remit the same to this jurisdiction on a monthly basis. Such taxes shall be paid by the service provider to this jurisdiction in accordance with Virginia Code § 58.1-3814, Subdivisions F and G, and Virginia Code § 58.1-2901. If any consumer receives and pays for utility service but refuses to pay the tax imposed by this section, the service provider shall notify this jurisdiction of the name and address of such consumer. If any consumer fails to pay a bill issued by a service provider, including the tax imposed by this section, the service provider must follow its normal collection procedures and, upon collection of the bill or any part thereof, must apportion the net amount collected between the charge for service and the tax and remit the tax portion to this jurisdiction.
- (b) Any tax paid by the consumer to the service provider shall be deemed to be held in trust by such provider until remitted to this jurisdiction.

3.02.060 Computation Of Electricity Bills Not On Monthly Basis

- (a) Bills shall be considered as monthly bills for the purposes of this article if submitted 12 times per year or approximately one each month.
- (b) Accordingly, the tax for a bi-monthly bill (approximately 60 days) shall be determined as follows:
 - (1) The kwh will be divided by two;
 - (2) A monthly tax will be calculated using the rates set forth above;
 - (3) The tax determined by subsection (b)(2) above shall be multiplied by two;
 - (4) The tax in subsection (b)(3) above may not exceed twice the monthly maximum tax.

3.02.070 Penalties

Any consumer of utility service failing, refusing or neglecting to pay the tax imposed and levied under this article, and any officer, agent or employee of any service provider violating the provisions of this article shall, upon conviction thereof, be punished by a fine of not more than \$100. Each such failure, refusal, neglect or violation shall constitute a separate offense. Such conviction shall not relieve any person from the payment, collection and remittance of the tax as provided in this article.

Article 3.04 Real Estate Tax

3.04.010 Imposition Of Tax

3.04.020 Determination Of Amount

3.04.030 Payment

3.04.040 Proration; Refund

3.04.050 Failure To Pay ; Penalty And Interest

3.04.060 Treasurer To Send Bills

3.04.070 Lien For Delinquent Taxes

3.04.080 List Of Delinquent Taxes

3.04.090 Refund For Erroneous Assessment

3.04.100 Partial Exemption From Taxation For Certain Persons

3.04.110 Eligibility And Requirements

3.04.010 Imposition Of Tax

There is hereby imposed on all real estate (and mobile homes) subject to local taxation pursuant to Chapter 32 of Title 58.1, Code of Virginia, located within the Town of Bowling Green, Virginia, an annual tax in an amount to be established annually by the Town Council of the Town of Bowling Green.

HISTORY

Amended by Ord. 2012-004 on 6/7/2012

3.04.020 Determination Of Amount

The tax imposed hereby shall be determined by multiplying the real estate tax rate adopted by the Town Council annually times the assessed value of the real property as established by the last general reassessment for Caroline County made prior to such year, subject to lawful changes.

3.04.030 Payment

The tax imposed hereby shall be paid to the Treasurer of the Town of Bowling Green on or before December 5 of each year by the person or persons in whose name(s) such real property is assessed as of January 1 of the same year by the Commissioner of the Revenue of Caroline County, Virginia.

3.04.040 Proration; Refund

Any taxpayer whose land, or any portion thereof, is, in any year, acquired or taken in any manner by the United States, the Commonwealth of Virginia, a political subdivision or a church or religious body, which is exempt from taxation by Article X, § 6, of the Constitution of Virginia, shall be relieved from the payment of taxes and levies on such land from the date of divestment thereof for that portion of the year in which the property was taken or acquired. Any taxpayer whose lands are so taken and who has paid his taxes and levies for the whole year shall be entitled to recover such portion of the taxes as he would be relieved from paying by this section.

3.04.050 Failure To Pay.; Penalty And Interest

- (a) If any taxpayer fails to pay the tax imposed hereby on or before December 5 of the year in which the tax is assessed, the taxpayer shall pay a penalty equal to 10% of the of the tax past due.
- (b) In addition to the penalty imposed by this section, such taxpayer shall also pay interest on such delinquent tax and penalty in the amount of 10% per annum from December 6 in the year in which the tax is assessed until paid.
- (c) No penalty or interest for failure to pay any tax shall be imposed for any assessment made later than two weeks prior to the day on which the tax is due if the assessment is made thereafter through the fault of an official of the Town of Bowling Green or the County of Caroline, and if such assessment is paid within two weeks after notice thereof is mailed.
- (d) In the event that a transfer of real property occurs after January 1 of the tax year and a real estate tax bill has been mailed by the Treasurer to the taxpayer of record as of January 1 of that year or to some other person entitled to receive such notice, upon ascertaining that a property transfer has occurred the Treasurer shall invalidate the prior bill and reissue the bill in the name of the new owner. No penalty or interest for failure to pay such tax shall be imposed if the tax is paid within two weeks after the notice of the tax is mailed.
- (e) Penalty and interest for failure to pay the tax imposed hereby shall not be assessed if such failure was not the fault of the taxpayer. Determination of fault shall be made by the Treasurer.

State Law Reference— 58.1-3916

3.04.060 Treasurer To Send Bills

The Treasurer shall, as soon as reasonably possible in each year, but not later than 14 days prior to the due date of the taxes, send by United States Mail to each taxpayer assessed with taxes and levies for that year as shown on the land book of Caroline County for that year, a bill or bills for such taxes and levies. The Treasurer shall be deemed in compliance with this section if, upon written request of the obligor upon any note or other instrument of indebtedness secured by a mortgage or deed of trust on such real estate or upon certification by the obligee that an agreement has been made with the obligor in writing within the mortgage or deed of trust instrument that such arrangements be made, the Treasurer mails the bill for such taxes to said obligee. Upon nonpayment of taxes by either the obligee or obligor, a past-due tax bill will be sent to the taxpayer.

State Law Reference—58.1-3912

3.04.070 Lien For Delinquent Taxes

There shall be a lien on real estate for the payment of taxes and levies, including penalty and interest, assessed thereon, which lien shall be prior to any other lien or encumbrance. The lien shall continue to be such a prior lien until actual full payment thereof shall have been made to the Treasurer of the Town of Bowling Green.

State Law Reference—581-3340

3.04.080 List Of Delinquent Taxes

On July 1 of the year following the date payment of real estate taxes was due, a list of delinquent real estate taxes shall be returned by the Treasurer of the Town of Bowling Green to the Treasurer of Caroline County for entry in a delinquent tax book provided by the Town and maintained by the Treasurer of Caroline County.

State Law Reference—58.-1-3921, 58.1-3924, 58.1-3922

3.04.090 Refund For Erroneous Assessment

In the event that the Commissioner of the Revenue of Caroline County certifies to the Treasurer of the Town that an erroneous assessment has been made on any real estate for which a tax has been paid to the Treasurer, the Treasurer shall refund the amount of the erroneous tax, together with any penalty and interest paid thereon, to the taxpayer upon application by the taxpayer. No refund shall be made of any tax, penalty or interest when application therefore was made more than three years after the last day of the tax year for which such tax was assessed.

3.04.100 Partial Exemption From Taxation For Certain Persons

- (a) Notwithstanding any other provision of Article 3.04, to the contrary, real estate and manufactured homes owned by and occupied as the principal residence of persons who, on the first day of the tax year, are not less than 65 years of age or who are determined to be totally and permanently disabled are exempted in part from Town real estate taxes, subject to the following restrictions and conditions:
 - (1) That the total combined income during the calendar year immediately preceding the year to which such exemption is to apply, from all sources of the owners of the dwelling living therein and of the owners' relatives who live in the dwelling, shall not exceed \$18,000, provided that the first \$4,000 of income of each relative, other than the spouse, of the owner who is living in the dwelling shall not be included in such total, and provided, further, that if a person who has previously qualified for an exemption can prove by clear and convincing evidence that, after so qualifying, the person's physical or mental health has deteriorated to the point that the only alternative to permanently residing in a hospital, nursing home, convalescent home or other facility for physical or mental care is to have a relative move in and provide care for that person, and, if a relative does then move in for that purpose, then none of the relative's income shall be counted towards the income limit.
 - (2) That the net combined financial worth, including the present value of all equitable interests, as of the 31st day of December of the immediately preceding calendar year, of the owners and of the spouse of any owner, excluding the value of the dwelling and the land, not exceeding one acre upon which it is situated, does not exceed \$60,000.
- (b) Those persons who reside within the Town who are eligible for the partial exemption shall make application by filing with the Commissioner of the Revenue of Caroline County the form prescribed by the Commissioner for application for partial exemption from county real estate taxes. A determination that a resident of the Town is eligible for partial exemption from county real estate taxes on his or her residence shall constitute a finding that such person qualifies for partial exemption from Town real estate and mobile home taxes on his or her residence.
- (c) The amount of the exemption shall be a percentage of the total tax based on a combination of annual household income after exclusions and the net combined financial worth of the owners and owners' spouses, if any, excluding the value of the dwelling and one acre of land. The percentage of exemption to which qualifying persons shall be entitled shall be as follows:

Combined Net Worth Excluding Value of Residence and One Acre of Land					
Annual Household Income (after exclusions)		Income (after exclusions)		\$0 to \$30,000	\$30,001 to \$60,000
\$0 to \$8,000				75%	60%
\$8,001 to \$12,000				55%	40%

\$12,001 to \$16,000	35%	20%
\$16,001 to \$18,000	10%	5%

- (d) Annually, after the first of January but not later than the first day of April, a person claiming an exemption under this section shall file with the Commissioner of the Revenue of Caroline County, on forms provided by the county for certification as to county real estate taxes, an affidavit setting forth names of all related persons occupying the real estate for which the exemption is claimed, their combined income from all sources during the immediately preceding year and the total combined net worth of the owners of the property living therein and their spouses. A determination by the Commissioner of the Revenue that a person is or is not eligible for continued partial exemption from county real estate taxes shall constitute a determination of eligibility or noneligibility for partial exemption from Town real estate and mobile home taxes under this section.
- (e) Changes in respect to income, financial worth, ownership of property or other factors occurring during the taxable year for which an affidavit is filed under this section and having the effect of exceeding or violating the limitations and conditions provided in this section shall nullify any exemption for the then-current taxable year and the taxable year immediately following; provided, however, that a change in ownership to a spouse less than 65 years of age which resulted solely from the death of his or her qualified spouse shall result in a prorated exemption for the then-current taxable year. Such prorated portion shall be determined by multiplying the amount of the exemption by a fraction wherein the number of complete months of the year such property was properly eligible for such exemption is the numerator and the number 12 is the denominator.

3.04.110 Eligibility And Requirements

- (a) Properties located within the Town of Bowling Green which are zoned Agricultural A-1 and which are assessed by the Commissioner of Revenue for Caroline County for use-value purposes shall be entitled to use-value assessment and taxation in the Town of Bowling Green.
- (b) Land may be eligible for special valuation and assessment when it meets the following criteria:
 - (1) AGRICULTURE: When devoted to the bona fide production for sale of plants and animals useful to man under uniform standards prescribed by the Commissioner of Agriculture and Consumer Service, or when devoted to and meeting the requirements and qualifications for payments or other compensation pursuant to a soil conservation program under an agreement with an agency of the federal government. A minimum of 5 acres in agriculture use is required.
 - (2) HORTICULTURE: When devoted to the bona fide production for sale of fruits of all kinds, including grapes, nuts and berries; vegetables; nursery and floral products under uniform standards prescribed by the Commissioner of Agriculture and Consumer Services, or when devoted to and meeting the requirements and qualifications for payments or other compensation pursuant to soil conservation program under an agreement with an agency of the federal government. A minimum of 5 acres in horticulture is required.
 - (3) FOREST: When devoted to tree growth in such quantity and so spaced and maintained as to constitute a forest area under standards prescribed by the State Forester. A minimum of 20 acres in forest use is required.
 - (4) OPEN SPACE: When so used as to be provided or preserved for park or recreational purposes, conservation of land or other natural resources, floodways, historic or scenic purposes, or assisting in the shaping of the character, direction, and timing of community development or the public interest and consistent with the local-use plan under uniform standards prescribed by the Director of the Department of Conservation and Recreation. A minimum of 5 acres in Open Space use is required unless otherwise specified by ordinance.

- (c) Property owners must submit an application on the basis of a use assessment to the Commissioner of Revenue for Caroline County at least sixty-days preceding the tax year for which such taxation is sought.
- (d) The applicant must furnish, upon request to the Commissioner of Revenue for Caroline County, proof of all prerequisites to use valuation and assessment, such as proof of ownership, description, areas, uses, and production.
- (e) Whenever land which has qualified for the assessment and taxation according to use has been converted to a non-qualifying use or rezoned to a more intensive use at the request of the owner or his agent, that land is subject to the roll-back tax as provided in the Code of Virginia § 58.1- 3237(D), as amended.
- (f) In the event of a change in use, acreage, or zoning, the property owner must report such change to the Commissioner of Revenue for Caroline County within six days of said change.

Article 3.06 Personal Property Tax

3.06.010 Imposition Of Tax

3.06.020 Determination Of Amount

3.06.030 Purpose; Definitions; Relation To Other Provisions

3.06.040 Method Of Computing And Reflecting Tax Relief

3.06.050 Allocation Of Relief Among Taxpayers

3.06.060 Exemptions

3.06.070 Applicability .

3.06.080 Payment

3.06.090 Failure To Pay ; Penalty And Interest

3.06.100 Treasurer To Send Bills

3.06.110 Partial Exemption For Manufactured Homes Of Certain Persons

3.06.010 Imposition Of Tax

There is hereby imposed on all tangible personal property, subject to local taxation pursuant to Chapter 23 of Title 58.1, Code of Virginia, including machinery and tools, having a situs in the Town of Bowling Green, Virginia, an annual tax in an amount to be established annually by the Town Council of the Town of Bowling Green.

HISTORY

Amended by Ord. 2012-004 on 6/7/2012

3.06.020 Determination Of Amount

The tax imposed hereby shall be determined by multiplying the tangible personal property tax rate adopted by the Town Council annually times the fair market value of such property as reported to the Town by the Commissioner of Revenue of Caroline County, Virginia.

3.06.030 Purpose; Definitions; Relation To Other Provisions

- (a) The purpose of this Article is to provide for the implementation of the changes to the Personal Property Tax Relief Act of 1998, Code of Virginia § 58.1-3523 et seq., ("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 these sections that have defined meanings set forth in PPTRA shall have the same meanings as set forth in Virginia Code § 58.1-3523, as amended.
- (c) To the extent that the provisions of Article 3.06 conflict with any other provision of the Code of the Town of Bowling Green, Article 3.06 shall control.

3.06.040 Method Of Computing And Reflecting Tax Relief

- (a) For tax years commencing in 2006, the Town of Bowling Green adopts the provisions of Items 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 for PPTRA and the reporting of such specific dollar relief on the tax bill.
- (b) The Town Council of the Town of Bowling Green shall as part of the annual budget adopted pursuant to Chapter 25 of Title 15.2 of the Code of Virginia the rate of tax relief at such a level that is anticipated fully to exhaust PPTRA relief funds provided to Bowling Green by the Commonwealth.
- (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.

3.06.050 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 Town of Bowling Green's annual budget relating to PPTRA relief.
- (b) Relief with respect to qualifying vehicles shall be provided at a rate, annually fixed by Council 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 by the Town Council annually as part of the annual budget adopted by the Town of Bowling Green.

3.06.060 Exemptions

The tax imposed hereby shall not apply to household goods and personal effects as defined in § 58.1- 3504 of the Code of Virginia, as amended.

State Law Reference—58.1-3504

3.06.070 Applicability

Except as otherwise provided by law, the tax imposed hereby shall apply to all tangible personal property, including machinery and tools, unless specifically exempted herein, located in the Town of Bowling Green on January 1 of the tax year or, in the case of motor vehicles, travel trailers, boats and airplanes, normally garaged, docked or parked in the Town of Bowling Green.

3.06.080 Payment

The tax imposed hereby shall be paid to the Treasurer of the Town of Bowling Green on or before December 5 of each year by the owner of such property as of January 1 of that year or, in the case of such property subject to taxation leased from any agency or political subdivision of the federal or state or local governments for use in a business for profit, the lessee thereof.

3.06.090 Failure To Pay ; Penalty And Interest

- (a) If any taxpayer fails to pay the tax imposed hereby on or before December 5 of the year in which the tax is assessed, the taxpayer shall pay a penalty equal to 10% of the assessed tax or \$10, whichever is greater, provided that if the tax is less than \$10, the penalty will equal the amount of the tax.
- (b) In addition to the penalty imposed by this section, such taxpayer shall also pay interest on such delinquent tax and penalty in the amount of 10% per annum from December 6 in the year in which the tax is assessed, until paid. No penalty or interest for failure to pay any tax shall be imposed for any assessment made later than two weeks prior to the day on which the tax is due if the assessment is made thereafter through the

fault of an official of the Town of Bowling Green or the County of Caroline and if such assessment is paid within two weeks after notice thereof is mailed.

- (c) Penalty and interest for failure to pay the tax imposed hereby shall not be assessed if such failure was not the fault of the taxpayer. Determination of fault shall be made by the Treasurer.

3.06.100 Treasurer To Send Bills

The Treasurer shall, as soon as reasonably possible in each year, but not later than 14 days prior to the due date of the taxes, send by United States Mail to each taxpayer assessed with taxes and levies for that year, as shown by the Town's records, a bill or bills for such taxes and levies.

3.06.110 Partial Exemption For Manufactured Homes Of Certain Persons

Notwithstanding any other provisions to the contrary, manufactured homes which are the principal residence of persons who qualify for partial exemption for taxation of this Code shall be partially exempt from the tax imposed by this article to the same extent and in the same manner as real estate is exempted by Section 3.04.100. Anyone who would qualify for a partial real estate tax exemption pursuant to Section 3.04.100 but for the fact that such person lives in a manufactured home shall be eligible for an exemption from personal property taxes on the manufactured home to the same extent and in the same manner as provided for in Section 3.04.100 for real estate. Loss of qualification for such real estate exemption shall mean loss of qualification for partial exemption from taxes on such person's manufactured home.

State law reference—58.1-3210 (may be able to consolidate with other section)

Article 3.08 Meals Tax

3.08.010 Imposition Of Tax; Amount

3.08.020 Definitions

3.08.030 Collection

3.08.040 Records, Reporting And Payment

3.08.050 Inspection Of Records; Assessment Of Tax And Penalties

3.08.060 Violations And Penalties

3.08.070 Exclusions And Exceptions

3.08.080 Gratuities And Service Charges

3.08.090 Deduction From Tax Due

3.08.010 Imposition Of Tax; Amount

There is hereby imposed and levied by the Town on each person a tax for meals purchased from any food establishment, whether prepared in such food establishment or not, and whether consumed on the premises or not. Said tax shall be in addition to any sales and use taxes imposed by the Commonwealth of Virginia or the County of Caroline, but shall apply in lieu of the tax on prepared food and beverages or any similar tax imposed by the County of Caroline. The tax rate shall be set annually and adopted as part of the annual budget resolution.

HISTORY

Amended by Ord. O-2017-002 on 6/1/2017

State Law Reference—Code of Virginia, Section 581.-3840

3.08.020 Definitions

For the purposes of this article, the following terms shall have the meanings indicated:

"Cater" means the furnishing of food, beverages, or both, on the premises of another for compensation.

"Delicatessen" means an establishment, or portion of an establishment, such as a grocery store or supermarket, that sells prepared sandwiches or salads as well as ingredients for sandwiches or salads.

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

"Food Establishment" means any place in or from which food or food products are prepared, packaged, sold or distributed in the Town, including, but not limited to, any restaurant, dining room, grill, coffee shop, cafeteria, cafe, snack bar, lunch counter, convenience store, movie theater, delicatessen, confectionery, bakery, eating house, eatery, drugstore, ice cream/yogurt shops, 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 continuous to a building or structure operated as a food establishment at which food or food products are sold for immediate consumption.

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

"Retail Sale" means sale other than for the purpose of resale.

"Town" means the Town of Bowling Green.

"Treasurer" means the Treasurer of the Town of Bowling Green and any duly designated deputies, assistants, inspector or other employees.

3.08.030 Collection

Every person receiving any payment for food with respect to which a tax is levied hereafter shall collect and remit the tax imposed under this article from the purchasers of meals at the time payment for such meal is made, whether in cash, on credit or by credit card; provided, however, that no blind person operating a vending stand or other business enterprise under the jurisdiction of the Department for the Visually Handicapped and located on property acquired and used by the United States for any military or naval purpose shall be required to collect or remit such taxes. The tax shall be added to the cost of the meals by the seller. Taxes collected by the seller shall be held in trust for the Town until paid.

The purchase of meals is taxable under this Article when the sale of the meal occurred in the Town at a place of business in the Town, without regard to the county, city or town of delivery or to the possible use by the purchaser.

State Law Reference—Code of Virginia, Sections 58.1-3840(B), 58.1-3841

3.08.040 Records, Reporting And Payment

- (a) Every seller of meals shall maintain accurate records of the amount paid to the seller monthly for meals and the tax collected thereon.
- (b) Every seller of meals shall file a monthly report with the Treasurer setting forth the amount collected by the

seller for meals and the amount of tax collected thereon during the previous month. The tax collected shall be submitted to the Treasurer of the Town with the report. Reports and the tax proceeds shall be submitted to the Treasurer not later than the 20th day of the month next following the month of collection.

- (c) Records shall be maintained by every seller of meals for a period of five years.

3.08.050 Inspection Of Records; Assessment Of Tax And Penalties

The Treasurer shall have the power to examine records relating to the sale of meals and the taxes thereon and the purchase of ingredients for meals at reasonable times and without unreasonable interference with the businesses of sellers of meals for the purpose of administering and enforcing the provisions of this article.

- (a) In the event that no report or tax is remitted as required herein or if the Treasurer has reason to believe that an incorrect report or incorrect amount of taxes has been submitted, the Treasurer may proceed in such manner as he or she may deem best to gather information on which to estimate the correct amount of the tax due. Based on such information, the Treasurer shall assess against the seller of meals such tax and penalties provided for in this article, and shall notify such seller of meals, by certified or registered mail sent to the seller's last-known address, of such tax and penalties. The total amount thereof shall be payable to the Treasurer within 10 days from the date of mailing of the notice.

3.08.060 Violations And Penalties

- (a) If any seller of meals whose duty it is to do so shall fail to file any report required by this article or remit to the Treasurer any tax imposed hereby within the time and in the amount specified herein, there shall be added to the tax due a penalty of 10% of the amount in default for unpaid taxes and 10% of the taxes collected as shown on any overdue report. An additional penalty of five percent for each month thereafter, for every additional month such report or tax is overdue, until a maximum penalty of 25% is imposed; provided, however, that the penalty shall in no case exceed the amount of the tax assessable. Such interest shall be computed upon the taxes and penalty from the first day following the day such taxes are due and payable and shall continue until all such taxes, penalties and interest are paid.
- (b) The wrongful and fraudulent use of such collections other than remittance of the same as provided by law shall constitute embezzlement pursuant to Section [18.2-111](#) of the Code of Virginia, as amended. Any person willfully failing or refusing to file a return as required under this Article shall, upon conviction, be guilty of a Class 1 misdemeanor, except that any person failing to file such a return shall be guilty of a Class 3 misdemeanor if the amount of tax lawfully assessed in connection with the return is one thousand dollars (\$1,000.00) or less. Any person violating or failing to comply with any other provision of this Article shall be guilty of a Class 1 misdemeanor.
- (c) Except as provided in this section, any corporate or partnership officer, as defined in section 58.1-3906, Code of Virginia, 1950, as amended, or any other person required to collect, account for, or pay over the tax imposed under this Article, who willfully fails to collect or truthfully account for or pay over such tax, or who willfully evades or attempts to evade such tax or payment, shall, in addition to any other penalties imposed by law, be guilty of a Class 1 misdemeanor. Each violation of or failure to comply with this Article shall constitute a separate offense. Conviction of any such violation shall not relieve any person from the payment, collection or remittance of the tax as provided in this Article. Except as provided in subsection (c) above, any corporate or partnership officer, as defined in Virginia Code § 58.1-3906, or any other person required to collect, account for or pay the meals tax imposed under this article, who willfully fails to collect or truthfully account for or pay such tax or who willfully evades or attempts to evade such tax or payment thereof shall, in addition to any other penalties imposed by law, be guilty of a Class 1 misdemeanor.
- (d) Each violation of or failure to comply with this article shall constitute a separate offense. Conviction of any such violation shall not relieve any person from payment, collection or remittance of the tax as provided in this article.

3.08.070 Exclusions And Exceptions

- (a) The tax imposed under this article shall be not be levied on the following items when served exclusively for off-premises consumption:
- (1) Factory-prepackaged candy, gum, nuts and other items of essentially the same nature.
 - (2) Factory-prepackaged donuts, ice cream, crackers, nabs, chips, cookies and factory- prepackaged items of essentially the same nature.
 - (3) Food sold in bulk. For the purposes of this provision, a bulk sale shall mean the sale of any item that would exceed the normal, customary and usual portion sold for on- premises consumption (e.g., a whole cake, a gallon of ice cream); a bulk sale shall not include any food or beverage that is catered or delivered by a food establishment for off- premises consumption.
 - (4) Alcoholic and nonalcoholic beverages sold in factory sealed containers.
 - (5) Any food or food product purchased with food coupons issued by the United States Department of Agriculture under the Food Stamp Program or drafts issued through the Virginia Special Supplemental Food Program for Women, Infants and Children.
 - (6) Any food or food product purchased for home consumption as defined in the federal Food Stamp Act of 1977, 7 U.S.C § 2012, as amended, except hot food or hot food products ready for immediate consumption. For the purposes of administering the tax levied hereunder, the following items, whether or not purchased for immediate consumption, are excluded from said definition of food in the federal Food Stamp Act: sandwiches, salad bar items sold from a salad bar, prepackaged single-serving salads consisting primarily of an assortment of vegetables and nonfactory sealed beverages. This subsection shall not affect provisions set forth in subsection (c)(3), (4) and (5) herein below.
- (b) A grocery store, supermarket or convenience store shall not be subject to the tax except for any portion or section therein designated as a delicatessen or designated for the sale of prepared food and beverages.
- (c) The tax imposed hereunder shall not be levied on the following purchases of food and beverages:
- (1) Food and beverages furnished by food establishments to employees as part of their compensation when no charge is made to the employee.
 - (2) Food and beverages sold by day-care centers, public or private elementary or secondary schools or food sold by any college or university to its students or employees.
 - (3) Food and beverages for use or consumption and which are paid for directly by the commonwealth, any political subdivision of the commonwealth or the United States.
 - (4) Food and beverages furnished by a hospital, medical clinic, convalescent home, nursing home, home for the aged, infirm, handicapped, battered women, narcotic addicts or alcoholics or other extended care facility to patients or residents thereof.
 - (5) Food and beverages furnished by a public or private nonprofit charitable organization or establishment or a private establishment that contracts with the appropriate agency of the commonwealth to offer meals at concession prices to elderly, infirm, blind, handicapped or needy persons in their homes or at central locations.
 - (6) Food and beverages sold on an occasional basis (not exceeding six times per calendar year) by a nonprofit educational, charitable or benevolent organization, church or religious body as a fundraising activity, the gross proceeds of which are to be used by such organization exclusively for nonprofit educational, charitable, benevolent or religious purposes.
 - (7) Food and beverages sold through vending machines.

3.08.080 Gratuities And Service Charges

- (a) Where a purchaser provides a gratuity for an employee of a seller and the amount of the gratuity is wholly in the discretion of the purchaser, the gratuity is not subject to the tax imposed by this article, whether paid in cash to the employee or added to the bill and charged to the purchaser's account, provided that in the latter case, the full amount of the gratuity is turned over to the employee by the seller.
- (b) An amount or percent, whether designated as a gratuity, tip or service charge that is added to the price of the food and beverages by the seller and required to be paid by the purchaser shall be exempt from the tax imposed by this article to the extent that the mandatory tip, gratuity, or service charge is less than twenty (20) percent of the sales price. Any portion of the mandatory tip, gratuity or service charge that exceeds twenty (20) percent of the sales price is part of the selling price of the food and beverage is subject to the tax imposed by this article.

3.08.090 Deduction From Tax Due

For the purpose of compensating sellers of meals for the collection of the tax imposed by this article, every seller of meals shall be allowed 3% of the amount of the tax due and accounted for in the form of a deduction from such seller's monthly tax payment, provided that the tax is not delinquent at the time of payment.

3.08.100 Duty of Person Going Out of Business

Whenever any person required to collect and pay to the Town a tax under this Article shall cease to operate and shall otherwise dispose of his business, any tax payable under this Article to the Town shall become immediately due and payable and such person shall immediately make a report and pay the tax due

Article 3.10 Bank Franchise Tax

3.10.010 Definitions

3.10.020 Franchise Tax Assessment

3.10.030 Rate Of Taxation

3.10.040 Date Of Payment

3.10.010 Definitions

As used in this article, the following terms shall have the meanings indicated:

"Bank" means any incorporated bank, banking association or trust company organized by or under the authority of the laws of the commonwealth and any bank or banking association organized by or under the authority of the laws of the United States, doing business or having an office in the Commonwealth or having a charter which designates any place within the commonwealth as the place of its principal office, and any bank which establishes and maintains a branch in the Commonwealth under Article 5.1 (§ 6.1-44.1 et seq.) of Title 6.1 or Article 5.2 (§ 6.1-44.15 et seq.) of Title 6.1, whether such bank or banking association is authorized to transact business as a trust company or not, and any joint-stock land bank or any other bank organized by or under the authority of the laws of the United States upon which the commonwealth is authorized to impose a tax. The term shall exclude all corporations organized under the laws of other states and doing business in the commonwealth, corporations organized not as banks under the laws of the commonwealth and all natural persons and partnerships.

"Bank Holding Companies" means any corporation that is organized under the laws of Virginia, is doing business in the commonwealth and is a bank holding company under the provisions of the Federal Bank Holding Company Act of 1956.

“Net Capital” means a bank's net capital computed pursuant to section 58.1-1205 of the Code of Virginia.

State Law Reference—Code of Virginia Section 58.1-1201

3.10.020 Franchise Tax Assessment

Every bank or trust company with an office in the Town of Bowling Green shall pay an annual franchise tax measured by its net capital, as defined in the Code of Virginia.

3.10.030 Rate Of Taxation

1. Pursuant to the provisions, of chapter 12 of title 58.1 of the Code of Virginia, there is hereby imposed upon each bank located within the boundaries of this town a tax on net capital equaling eighty (80) percent of the state rate of franchise tax set forth in section 58.1-1204 of the Code of Virginia.
2. If such bank also has offices located outside the corporate limits of Bowling Green, the tax shall be apportioned as provided by section 58.1-1211 of the Code of Virginia.

State Law Reference—Code of Virginia Sections 58.1-1209, 58.1-1211

3.10.040 Date Of Payment

On or after the first day of January of each year, but not later than March first of any such year, all banks whose principal offices are located within this Town shall prepare and file with the Town Treasurer a return as provided by section 58.1-1207 of the Code of Virginia in duplicate which shall set forth the tax on net capital computed pursuant to chapter 12 of title 58.1 of the Code of Virginia. The treasurer shall certify a copy of the bank's return and schedule and shall forthwith transmit such certified copy to the state department of taxation.

Every bank subject to the tax imposed by this article shall pay the tax to the Treasurer of the Town on or before June 1 of each year.

State Law Reference—Code of Virginia Section 58.1-1207

Article 3.12 Transient Occupancy Tax

3.12.010 Definitions

3.12.020 Imposition; Exemptions

3.12.030 Collection Procedure

3.12.040 Reports And Remittance Of Tax Collected

3.12.050 Interest And Penalties Upon Failure Or Refusal To Remit Tax

3.12.060 Failure Or Refusal To Collect And Report Tax

3.12.070 Records To Be Kept By Person Liable For Collection And Payment Of Tax

3.12.080 Tax Immediately Due And Payable Upon Cessation Of Business

3.12.090 Violations And Penalties

3.12.010 Definitions

For the purpose of this article, the following words shall have the meanings indicated:

"Consumer" means every person who shall pay to any hotel, motel, boardinghouse, campground or other facility offering guest rooms a charge for the occupancy of any room or space.

"Hotel" means any public or private hotel, inn, hostelry, tourist home or house, motel, rooming house or other

lodging place within the Town offering lodging, as defined herein, for compensation, to any transient as defined herein.

"Lodging" means space or room furnished any transient, including the cost of all meals, food and other services when furnished with space or room for a unit price. (expand definitions like airb&b, etc.)

"Person" means an individual, firm, partnership or corporation and combinations of individuals or any other legal entity by whatever term customarily known.

"Seller" means every person who operates a hotel, motel, boardinghouse, campground or other facility within the Town providing rooms or spaces to any consumer for occupancy for a charge.

"Transient" means any person who, for a period of not more than 30 consecutive days, either at his own expense or at the expense of another, obtains lodging at any hotel as defined herein.

3.12.020 Imposition; Exemptions

(a) Imposition. There is hereby imposed and levied upon the consumer of services provided by hotels, motels, boarding houses, campgrounds and other facilities offering guest rooms for rent for fewer than 30 days within the Town a transient occupancy tax for general Town purposes equal to 5% of the amount of charge to the consumer for the occupancy of any room or space.

(b) Exemptions.

- (1) The tax shall not apply to charges for meals, telephone services or any services other than the charge for occupancy of the room or space, unless such services are included in a unit price for the room or space.
- (2) The tax shall not apply to rooms or spaces rented and continuously occupied by the same individual or group for 30 or more days.
- (3) No tax shall be payable under this article on charges for lodging paid to any hospital, medical clinic, convalescent home or home for the aged.

State Law Reference—Code of Virginia Sections 58.1-3819, 15.2-1104

3.12.030 Collection Procedure

Every person receiving any payment for lodging with respect to which a tax is levied under this article shall collect the amount of such tax so imposed from the transient on whom such tax is levied or from the person paying for such lodging at the time payment for such lodging is made. The taxes required to be collected under this section shall be deemed to be held in trust by the person required to collect such taxes until remitted as required in this article.

State Law Reference—Code of Virginia Sections 58.1-3819, 15.2-1104

3.12.040 Reports And Remittance Of Tax Collected

(a) It shall be the duty of every seller in acting as the tax collection medium or agency for the Town to collect from the consumer, for the use of the Town, the tax hereby imposed and levied at the time of collecting the purchase price charged for the lodging, and the tax collected during each calendar month shall be reported to the Treasurer and remitted by each seller to the Treasurer on or before the 20th day of the following calendar month. The taxes collected by the seller shall be deemed to be held in trust by the seller until they have been remitted to the Treasurer. The required report shall be in such form as may be prescribed by the Treasurer.

(b) Any seller collecting the tax on transactions exempt or not taxable under Article 3.12 shall transmit to the

Treasurer such erroneously collected tax unless and until he can affirmatively show that the tax has been refunded to the consumer or credited to his account.

3.12.050 Interest And Penalties Upon Failure Or Refusal To Remit Tax

If any person shall fail or refuse to remit to the Treasurer the tax required to be collected and paid under Article 3.12. within the time and in the amount specified in this article, there shall be added to such tax by the Treasurer a penalty in the amount of 10% thereof or the sum of \$10, whichever is greater; provided, however, that the penalty shall in no case exceed the amount of tax due. In addition, interest thereon, at the rate 10% per annum, shall be collected. Such interest shall be computed upon the taxes and penalty from the first day following the day such taxes are due and payable.

State Law Reference—Code of Virginia Section 58.1-3916

3.12.060 Failure Or Refusal To Collect And Report Tax

If any person shall fail or refuse to collect the tax imposed under Article 3.12 and to make, within the time provided in this article, the reports and remittances required in this article, the Treasurer shall proceed in such manner as he may deem best to obtain facts and information on which to base his estimate of the tax due. As soon as the Treasurer shall procure such facts and information as he is able to obtain upon which to base the assessment of any tax payable by any person who failed or refused to collect such tax, and to make such report and remittance, he shall proceed to determine and assess against such person the tax, penalty and interest as provided for in this article and shall notify such person by registered mail sent to his last known address of the amount of such tax, interest and penalty, and the total amount thereof shall be payable within 10 days from the date of the mailing of such notice.

3.12.070 Records To Be Kept By Person Liable For Collection And Payment Of Tax

It shall be the duty of every person liable for the collection and payment to the Town of any tax imposed by Article 3.12 to keep and to preserve for a period of three years suitable records as may be necessary to determine and show accurately the amount of such tax as he may have been responsible for collecting and paying to the Town. The Treasurer may inspect such records at all reasonable times.

3.12.080 Tax Immediately Due And Payable Upon Cessation Of Business

Whenever any person required to collect and remit the tax imposed and levied by Article 3.12 shall go out of business, dispose of his business or otherwise cease to operate, all of such taxes collected and any tax payable under this article shall thereupon be reported and remitted to the Treasurer of the Town.

3.12.090 Violations And Penalties

- (a) Any person willfully failing or refusing to file a return as required under this Article shall, upon conviction, be guilty of a Class 1 misdemeanor, except that any person failing to file such a return shall be guilty of a Class 3 misdemeanor if the amount of tax lawfully assessed in connection with the return is one thousand dollars (\$1,000.00) or less. Any person violating or failing to comply with any other provision of this Article shall be guilty of a Class 1 misdemeanor.
- (b) Except as provided in this section, any corporate or partnership officer, as defined in section 58.1-3906, Code of Virginia, 1950, as amended, or any other person required to collect, account for, or pay over the tax imposed under this Article, who willfully fails to collect or truthfully account for or pay over such tax, or who willfully evades or attempts to evade such tax or payment, shall, in addition to any other penalties imposed by law, be guilty of a Class 1 misdemeanor. Each violation of or failure to comply with this Article shall constitute a separate offense. Conviction of any such violation shall not relieve any person from the payment, collection or remittance of the tax as provided in this Article.

State Law Reference—Code of Virginia Section 58.1-3916.1

Article 3.14 Licensing, Business, Professional Occupational

3.14.010 Applicability Of Provisions; Conflicting Legislation

3.14.020 Definitions

3.14.030 Compliance Required; Display Of License

3.14.040 License Requirements

3.14.050 Situs Of Gross Receipts

3.14.060 Limitations And Extensions

3.14.070 Appeals And Rulings

3.14.080 Recordkeeping And Audits

3.14.090 Exclusions And Deductions From Gross Receipts

3.14.100 License Fee And Tax

3.14.110 Proration Of Tax

3.14.120 Exemptions

3.14.130 Violations And Penalties

3.14.010 Applicability Of Provisions; Conflicting Legislation

This Article is enacted under the authority of Sections 58.1-3700 et seq. of the Code of Virginia, as amended.

Except as may be otherwise provided by the laws of the Commonwealth of Virginia, and notwithstanding any other current ordinances or resolutions enacted by the Town of Bowling Green, whether or not compiled in the Code of this jurisdiction, to the extent of any conflict, the following provisions shall be applicable to the levy, assessment and collection of licenses required and taxes imposed on businesses, trades, professions, occupations and callings and upon the persons engaged therein within the Town.

3.14.020 Definitions

For the purposes of Article 3.14, unless otherwise required by the context, the following terms shall have the meanings indicated:

"Affiliated Group" means:

- (a) One or more chains of includable corporations connected through stock ownership with a common parent corporation which is an includable corporation if stock possessing at least 80% of the voting power of all classes of stock and at least 80% of each class of the nonvoting stock of each of the includable corporations, except the common parent corporation, is owned directly by one or more of the other includable corporations; and the common parent corporation directly owns stock possessing at least 80% of the voting power of all classes of stock and at least 80% of each class of the nonvoting stock of at least one of the other includable corporations. As used in this section, the term "stock" does not include nonvoting stock which is limited and preferred as to dividends. The term "includable corporation" means any corporation within the affiliated group irrespective of the state or country of its incorporation; and the term "receipts" includes gross receipts and gross income.
- (b) Two or more corporations if five or fewer persons who are individuals, estates or trusts own stock possessing at least 80% of the total combined voting power of all classes of stock entitled to vote or at least 80% of the total value of shares of all classes of the stock of each corporation; and more than 50% of the total combined voting power of all classes of stock entitled to vote or more than 50% of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each such person only to the extent such stock ownership is identical with respect to each such corporation. When one or more of the includable corporations, including the common parent corporation, is a nonstock corporation, the term "stock," as used in this subsection, shall refer to the nonstock corporation membership or membership voting rights, as is appropriate to the context.

"Assessment" means a determination as to the proper rate of tax, the measure to which the tax rate is applied and, ultimately, the amount of tax, including additional or omitted tax, that is due. An assessment shall include a written assessment made pursuant to notice by the assessing official or a self-assessment made by a taxpayer upon the filing of a return or otherwise not pursuant to notice. Assessments shall be deemed made by an assessing official when a written notice of assessment is delivered to the taxpayer by the assessing official or an employee of the assessing official or mailed to the taxpayer at his last known address. Self-assessments shall be deemed made when a return is filed or, if no return is required, when the tax is paid. A return filed or tax paid before the last day prescribed by ordinance for the filing or payment thereof shall be deemed to be filed or paid on the last day specified for the filing of a return or the payment of tax, as the case may be.

"Assessor" or "Assessing Official" means the Treasurer of the Town of Bowling Green.

"Base Year" means the calendar year preceding the license year, except for contractors subject to the provisions of § 58.1-3715, Code of Virginia.

"Broker" means an agent of a buyer or a seller who buys or sells stocks, bonds, commodities or services, usually on a commission basis.

"Business" means a course of dealing which requires the time, attention and labor of the person so engaged for the purpose of earning a livelihood or profit. 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: advertising or otherwise holding oneself out to the public as being engaged in a particular business; or filing tax returns, schedules and documents that are required only of persons engaged in a trade or business.

"Commodity" means staples such as wool, cotton etc., which are traded on a commodity exchange and on which there is trading in futures.

"Contractor" has the meaning prescribed in § 58.1-3714B, Code of Virginia, as amended, whether such work is done or offered to be done by day labor, general contractor subcontract.

"Dealer" means any person engaged in the business of buying and selling securities for his own account, but does not include a bank, or any person insofar as he buys or sells securities for his own account, either individually or in some fiduciary capacity, but not as part of a regular business.

"Definite Place of Business" means an office or a location at which occurs a regular and continuous course of dealing for 30 consecutive days or more. A definite place of business for a person engaged in business may include a location leased or otherwise obtained from another person on a temporary or seasonal basis; 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 licensable as a peddler or itinerant merchant.

"Financial Services" means:

(a) the buying, selling, handling, managing, investing and providing of advice regarding money, credit, securities and other investments, and includes the service for compensation by a credit agency, an investment company, a broker or dealer in securities and commodities or a security or commodity exchange, unless such service is otherwise provided for in this Article.

(b) Those engaged in rendering financial services include, but without limitation, the following:

- (1) Buying installment receivables,
- (2) Chattel mortgage financing,
- (3) Consumer financing,
- (4) Credit card services,

- (5) Credit unions,
- (6) Factors,
- (7) Financing accounts receivable,
- (8) Industrial loan companies,
- (9) Installment financing,
- (10) Inventory financing,
- (11) Loan or mortgage brokers,
- (12) Loan or mortgage companies,
- (13) Safety deposit box companies,
- (14) Security and commodity brokers and services,
- (15) Stockbroker,
- (16) Working capital financing.

"Gross Receipts" means the whole, entire, total receipts attributable to the licensed privilege, without deduction, except as may be limited by the provisions of Chapter 37, Title 58.1, Code of Virginia.

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

"Person" means an individual, corporation, partnership, firm, limited liability company, organization, association or other entity.

"Personal Services" means rendering for compensation any repair, personal, business or other services not specifically classified as "financial, estate or professional service" under this article, or rendered in any other business or occupation not specifically classified in this ordinance unless exempted from local license tax by Title 58.1 of the Code of Virginia.

"Professional Services" means services performed by architects, attorneys at law, certified public accountants, dentists, engineers, land surveyors, surgeons, veterinarians and practitioners of the healing arts (the arts and sciences dealing with the prevention, diagnosis, treatment and cure or alleviation of human physical or mental ailments, conditions, diseases, pain or infirmities) and such occupations, and no others, as the Virginia Department of Taxation may list in the BPOL guidelines promulgated pursuant to § 58.1-3701, Code of Virginia. 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 by 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.

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

"Real Estate Services" means rendering a service for compensation as lessor, buyer, seller, agent or broker and providing a real estate service, unless the service is otherwise specifically provided for in Article 3.14, and such services include, but are not limited to, the following:

- (a) Appraisers of real estate.

- (b) Escrow agents, real estate.
- (c) Fiduciaries, real estate.
- (d) Lessors of real property.
- (e) Real estate agents, brokers and managers.
- (f) Real estate selling agents.
- (g) Rental agents for real estate.

"Retailer or Retail Merchant" means any person or merchant who sells goods, wares and merchandise for use or consumption by the purchaser or for any purpose other than resale by the purchaser, but does not include sales at wholesale to institutional, commercial and industrial users.

"Security" has the same meaning as in the Securities Act (§ 13.1-501 et seq.) of the Code of Virginia or in similar laws of the United States regulating the sale of securities.

"Services" means things purchased by a customer which do not have physical characteristics or which are not goods, wares or merchandise.

"Wholesaler" or "Wholesale Merchant" means any person or merchant who sells wares and merchandise for resale by the purchaser, including sales when the goods, wares and merchandise will be incorporated into goods and services for sale, and also includes sales to institutional, commercial, government and industrial users which, because of the quantity, price or other terms, indicate that they are consistent with sales at wholesale.

3.14.030 Compliance Required; Display Of License

It shall be unlawful for any person to engage in or to hold himself out as being engaged in any business, profession, trade, calling, occupation or activity for which a Town license is required or upon which a Town license tax is imposed without having a currently valid Town license therefore or without having paid the required license tax or fee. Each license shall be displayed at the licensee's regular place of business. Each licensee having or maintaining no regular place of business within the Town shall carry on his person or in his vehicle such license at all times while engaged in his business, trade, profession, occupation or calling. Every licensee shall promptly display his license to any police officer of the Town at any and all reasonable times upon request of such officer.

3.14.040 License Requirements

- (a) Every person engaging in any business, trade, profession, occupation or calling (collectively hereinafter "a business") in the Town of Bowling Green, as defined in Article 3.14, unless otherwise exempted by law, shall obtain a license for each such business if such person maintains a definite place of business in this jurisdiction, such person does not maintain a definite office anywhere but does maintain an abode in this jurisdiction, which abode for the purposes of this article shall be deemed a definite place of business, or there is no definite place of business but such person operates amusement machines, is engaged as a peddler or itinerant merchant, carnival or circus as specified in § 58.1-3717, § 58.1-3718 or §58.1-3728, respectively, Code of Virginia, or is a contractor subject to § 58.1-3715, Code of Virginia, or is a public service corporation subject to § 58.1-3731, Code of Virginia. A separate license shall be required for each definite place of business. A person engaged in two or more businesses or professions carried on at the same place of business may elect to obtain one license for all such businesses and professions if all of the following criteria are satisfied: each business or profession is licensable at the location and has satisfied any requirements imposed by state law or other provisions of the ordinances of this jurisdiction; all of the businesses or professions are subject to the same tax rate or, if subject to different tax rates, the licensee agrees to be taxed on all businesses and professions at the highest rate; and the taxpayer agrees to supply such information as the Assessor may require concerning the nature of the several businesses and their gross receipts. Every person who changes the location of his business, trade, profession, occupation or calling shall notify the assessing official of his new location and the license shall be amended to the new location.

- (b) Each person subject to a license tax shall apply for a license prior to beginning business, if he was not subject to licensing in this jurisdiction on or before January 1 of the license year, or no later than March 1 of the current license year if he had been issued a license for the preceding license year. The application shall be on forms prescribed by the assessing official.
- (c) The tax shall be paid with the application in the case of any license not based on gross receipts. If the tax is measured by the gross receipts of the business, the tax shall be paid on or before March 1.
- (d) The assessing official may grant an extension of time, not to exceed 90 days, in which to file an application for a license, for reasonable cause. The extension shall be conditioned upon the timely payment of a reasonable estimate of the appropriate tax, subject to adjustment to the correct tax at the end of the extension together with interest from the due date until the date paid and, if the estimate submitted with the extension is found to be unreasonable under the circumstances, a penalty of 10% of the portion paid after the due date.
- (e) A penalty of 10% of the tax may be imposed upon the failure to file an application or the failure to pay the tax by the appropriate due date. Only the late filing penalty shall be imposed by the assessing official if both the application and payment are late; however, both penalties may be assessed if the assessing official determines that the taxpayer has a history of noncompliance. In the case of an assessment of additional tax made by the assessing official, if the application and, if applicable, the return were made in good faith and the understatement of the tax was not due to any fraud, reckless or intentional disregard of the law by the taxpayer, there shall be no late payment penalty assessed with the additional tax. If any assessment of tax by the assessing official is not paid within 30 days, the Treasurer may impose a ten-percent late payment penalty. The penalties shall not be imposed or, if imposed, shall be abated by the official who assessed them if the failure to file or pay was not the fault of the taxpayer. In order to demonstrate lack of fault, the taxpayer must show that he acted responsibly and that the failure was due to events beyond his control. "Acted responsibly" means that the taxpayer exercised the level of reasonable care that a prudent person would exercise under the circumstances in determining the filing obligations for the business and the taxpayer undertook significant steps to avoid or mitigate the failure, such as requesting appropriate extensions (where applicable), attempting to prevent a foreseeable impediment, acting to remove an impediment once it occurred and promptly rectifying a failure once the impediment was removed or the failure discovered. "Events beyond the taxpayer'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 tax compliance; or the taxpayer's reasonable reliance in good faith upon erroneous written information from the assessing official, who was aware of the relevant facts relating to the taxpayer's business when he provided the erroneous information.
- (f) Interest, at the rate of 10% annually, shall be charged on the late payment of the tax from the due date until the date paid without regard to fault or other reason for the late payment. Whenever an assessment of additional or omitted tax by the assessing official is found to be erroneous, all interest and penalty charged and collected on the amount of the assessment found to be erroneous shall be refunded together with interest on the refund from the date of payment or the due date, whichever is later. Interest shall be paid on the refund of any tax paid under this article from the date of payment or due date, whichever is later, whether attributable to an amended return or other reason. Interest on any refund shall be paid at the same rate charged under § 58.1-3916. No interest shall accrue on an adjustment of estimated tax liability to actual liability at the conclusion of a base year. No interest shall be paid on a refund or charged on a late payment, in event of such adjustment, provided that the refund or the late payment is made not more than 30 days from the date of the payment that created the refund or the due date of the tax, whichever is later.

3.14.050 Situs Of Gross Receipts

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

places of business or offices as follows:

- (1) The gross receipts of a contractor shall be attributed to the definite place of business at which his services are performed or, if his services are not performed at any definite place of business, then the definite place of business from which his services are directed or controlled, unless the contractor is subject to the provisions of § 58.1-3715, Code of Virginia.
 - (2) The gross receipts of a retailer or wholesaler shall be attributed to the definite place of business at which sales solicitation activities occur or, if sales solicitation activities do not occur at any definite place of business, then the definite place of business from which sales solicitation activities are directed or controlled; however, a wholesaler or distribution house subject to a license tax measured by purchases shall determine the situs of its purchases by the definite place of business at which or from which deliveries of the purchased goods, wares and merchandise are made to customers. Any wholesaler who is subject to license tax in two or more localities and who is subject to multiple taxation because the localities use different measures, may apply to the Department of Taxation for a determination as to the proper measure of purchases and gross receipts subject to license tax in each locality.
 - (3) The gross receipts of a business renting tangible personal property shall be attributed to the definite place of business from which the tangible personal property is rented or, if the property is not rented from any definite place of business, then the definite place of business at which the rental of such property is managed.
- (b) The gross receipts from the performance of services shall be attributed to the definite place of business at which the services are performed or, if not performed at any definite place of business, then the definite place of business from which the services are directed or controlled.
 - (c) Apportionment. If the licensee has more than one definite place of business and it is impractical or impossible to determine to which definite place of business gross receipts should be attributed under the general rule (and the affected jurisdictions are unable to reach an apportionment agreement), except as to circumstances set forth in § 58.1-3709, Code of Virginia, the gross receipts of the business shall be apportioned between the definite places of businesses on the basis of payroll. Gross receipts shall not be apportioned to a definite place of business unless some activities under the applicable general rule occurred at or were controlled from such definite place of business. Gross receipts attributable to a definite place of business in another jurisdiction shall not be attributed to this jurisdiction solely because the other jurisdiction does not impose a tax on the gross receipts attributable to the definite place of business in such other jurisdiction.
 - (d) Agreements. The Assessor may enter into agreements with any other political subdivision of Virginia concerning the manner in which gross receipts shall be apportioned among definite places of business. However, the sum of the gross receipts apportioned by the agreement shall not exceed the total gross receipts attributable to all of the definite places of business affected by the agreement. Upon being notified by a taxpayer that its method of attributing gross receipts is fundamentally inconsistent with the method of one or more political subdivisions in which the taxpayer is licensed to engage in business and that the difference has, or is likely to, result in taxes on more than 100% of its gross receipts from all locations in the affected jurisdictions, the Assessor shall make a good faith effort to reach an apportionment agreement with the other political subdivisions involved.

3.14.060 Limitations And Extensions

- (a) Where, before the expiration of the time prescribed for the assessment of any license tax imposed pursuant to this article, both the assessing official and the taxpayer have consented in writing to its assessment after such time, the tax may be assessed at any time prior to the expiration of the period agreed upon. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.
- (b) Notwithstanding § 58.1-3903, Code of Virginia, the assessing official shall assess the local license tax

omitted because of fraud or failure to apply for a license for the current license year and the six preceding years.

- (c) The period for collecting any local license tax shall not expire prior to the period specified in § 58.1-3940, Code of Virginia, two years after the date of assessment if the period for assessment has been extended pursuant to this section, two years after the final determination of an appeal for which collection has been stayed pursuant to the following Section 3.14.070(b) or (d) of this article, or two years after the final decision in a court application pursuant to § 58.1-3984, Code of Virginia, or similar law for which collection has been stayed, whichever is later.

3.14.070 Appeals And Rulings

Administrative appeals to the assessing official.

- (a) Definitions. For purposes of this section:

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

“Appealable event” means an increase in the assessment of a local license tax payable by a taxpayer, the denial of a refund, or the assessment of a local license tax where none previously was assessed, arising out of the local assessing official's (i) examination of records, financial statements, books of account, or other information for the purpose of determining the correctness of an assessment; (ii) determination regarding the rate or classification applicable to the licensable business; (iii) assessment of a local license tax when no return has been filed by the taxpayer; or (iv) denial of an application for correction of erroneous assessment attendant to the filing of an amended application for license. An appealable event shall include a taxpayer's appeal of the classification applicable to a business, including whether the business properly falls within a business license subclassification established by the locality, regardless of whether the taxpayer's appeal is in conjunction with an assessment, examination, audit, or any other action taken by the locality.

“Frivolous” means a finding, based on specific facts, that the party asserting the appeal is unlikely to prevail upon the merits because the appeal is (i) not well grounded in fact; (ii) not warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law; (iii) interposed for an improper purpose, such as to harass, to cause unnecessary delay in the payment of tax or a refund, or to create needless cost from the litigation; or (iv) otherwise frivolous.

“Jeopardized by delay” means a finding, based upon specific facts, that a taxpayer designs to (i) depart quickly from the locality; (ii) remove his property therefrom; (iii) conceal himself or his property therein; or (iv) do any other act tending to prejudice, or to render wholly or partially ineffectual, proceedings to collect the tax for the period in question.

- (b) Filing and contents of administrative appeal.

Any person assessed with a local license tax as a result of an appealable event as defined in this section may file an administrative appeal of the assessment within one year from the last day of the tax year for which such assessment is made, or within one year from the date of the appealable event, whichever is later, with the local assessing official. The appeal must be filed in good faith and sufficiently identify the taxpayer, the tax periods covered by the challenged assessments, the amount in dispute, the remedy sought, each alleged error in the assessment, the grounds upon which the taxpayer relies, and any other facts relevant to the taxpayer's contention. The assessor may hold a conference with the taxpayer if requested by the taxpayer, or require submission of additional information and documents, an audit or further audit, or other evidence deemed necessary for a proper and equitable determination of the appeal. The assessment placed at issue in the appeal shall be deemed prima facie correct. The assessor shall undertake a full review of the taxpayer's claims and issue a written determination to the taxpayer setting forth the facts and arguments in support of his decision.

The taxpayer may at any time also file an administrative appeal of the classification applicable to the taxpayer's business, including whether the business properly falls within a business license subclassification established by the locality. However, the appeal of the classification of the business shall not apply to any license year for which the Tax Commissioner has previously issued a final determination relating to any license fee or license tax imposed upon the taxpayer's business for the year. In addition, any appeal of the classification of a business shall in no way affect or change any limitations period prescribed by law for appealing an assessment.

(c) Notice of right of appeal and procedures. Every assessment made by the assessing official pursuant (Assessor) to an appealable event shall include or be accompanied by a written explanation of the taxpayer's right to file an administrative appeal and the specific procedures to be followed in the jurisdiction, the name and address to which the appeal should be directed, an explanation of the required content of the appeal, and the deadline for filing the appeal.

For purposes of facilitating an administrative appeal of the classification applicable to a taxpayer's business, each locality imposing a tax or fee under this chapter shall maintain on its website the specific procedures to be followed in the jurisdiction with regard to such appeal and the name and address to which the appeal should be directed.

(d) Suspension of collection activity during appeal. Provided a timely and complete administrative appeal is filed, collection activity with respect to the amount in dispute relating to any assessment by the assessing official (Assessor) shall be suspended until a final determination is issued by the assessing official (Assessor), unless the Assessor (i) determines that collection would be jeopardized by delay as defined in this section; (ii) the taxpayer has not responded to a request for relevant information after a reasonable time; or (iii) the appeal is frivolous as defined in this section. Interest shall accrue in accordance with this section, but no further penalty shall be imposed while collection action is suspended.

(e) Procedure in event of nondecision. Any taxpayer whose administrative appeal to the assessing official (Assessor) has been pending for more than one year without the issuance of a final determination may, upon not less than 30 days' written notice to the assessing official (Assessor), elect to treat the appeal as denied and appeal the assessment or classification of the taxpayer's business to the Tax Commissioner in accordance with this section. The Tax Commissioner shall not consider an appeal filed pursuant to the provisions of this subsection if he finds that the absence of a final determination on the part of the other assessing official (Assessor) was caused by the willful failure or refusal of the taxpayer to provide information requested and reasonably needed by the commissioner or other assessing official to make his determination.

Administrative appeal to the Tax Commissioner.

(a) Any person assessed with a local license tax as a result of a determination or that has received a determination with regard to the person's appeal of the license classification or subclassification applicable to the person's business, upon an administrative appeal to the assessing official (Assessor) pursuant to section, that is adverse to the position asserted by the taxpayer in such appeal may appeal such assessment or determination to the Tax Commissioner within 90 days of the date of the determination by the assessing official (Assessor). The appeal shall be in such form as the Tax Commissioner may prescribe and the taxpayer shall serve a copy of the appeal upon the assessing official (Assessor). The Tax Commissioner shall permit the assessing official (Assessor) to participate in the proceedings, and shall issue a determination to the taxpayer within 90 days of receipt of the taxpayer's application, unless the taxpayer and the assessing official (Assessor) are notified that a longer period will be required. The appeal shall proceed in the same manner as an application pursuant to Section 58.1-1821, of the Code of Virginia, as amended, and the Tax Commissioner pursuant to Section 58.1-1822, of the Code of Virginia, as amended, may issue an order correcting such assessment or correcting the license classification or subclassification of the business and the related license tax or fee liability.

(b) Suspension of collection activity during appeal. On receipt of a notice of intent to file an appeal to the Tax Commissioner under this section, collection activity with respect to the amount in dispute relating to any assessment by the assessing official (Assessor) shall be suspended until a final determination is issued by the Tax Commissioner, unless the Assessor (i) determines that collection would be jeopardized by delay as defined in this

section; (ii) is advised by Tax Commissioner, that the taxpayer has not responded to a request for relevant information after a reasonable time; or (iii) the appeal is frivolous as defined in this section. Interest shall accrue in accordance with the provisions of this section, but no further penalty shall be imposed while collection action is suspended. The requirement that collection activity be suspended shall cease unless an appeal pursuant to is filed and served on the necessary parties within 30 days of the service of notice of intent to file such appeal.

(c) Implementation of determination of Tax Commissioner. Promptly upon receipt of the final determination of the Tax Commissioner with respect to an appeal pursuant this section, assessing official (Assessor) shall take those steps necessary to calculate the amount of tax owed by or refund due to the taxpayer consistent with the Tax Commissioner's determination and shall provide that information to the taxpayer and to the Assessor in accordance with the provisions of this subdivision.

- (1) If the determination of the Tax Commissioner sets forth a specific amount of tax due, the assessing official (Assessor) shall certify the amount Assessor shall issue a bill to the taxpayer for such amount due, together with interest accrued and penalty, if any is authorized by this section, within 30 days of the date of the determination of the Tax Commissioner.
- (2) If the determination of the Tax Commissioner sets forth a specific amount of refund due, the assessing official (Assessor) shall certify the amount shall issue a payment to the taxpayer for such amount due, together with interest accrued pursuant to this section, within 30 days of the date of the determination of the Tax Commissioner.
- (3) If the determination of the Tax Commissioner does not set forth a specific amount of tax due, or otherwise requires the assessing official (Assessor) to undertake a new or revised assessment that will result in an obligation to pay a tax that has not previously been paid in full, the assessing official (Assessor) shall promptly commence the steps necessary to undertake such new or revised assessment, and provide the same to the taxpayer within 60 days of the date of the determination of the Tax Commissioner, or within 60 days after receipt from the taxpayer of any additional information requested or reasonably required under the determination of the Tax Commissioner, whichever is later. The assessing official (Assessor) shall certify the new assessment shall issue a bill to the taxpayer for the amount due, together with interest accrued and penalty, if any is authorized by this section, within 30 days of the date of the new assessment.
- (4) If the determination of the Tax Commissioner does not set forth a specific amount of refund due, or otherwise requires the assessing official (Assessor) to undertake a new or revised assessment that will result in an obligation on the part of the Town to make a refund of taxes previously paid, the assessing official (Assessor) shall promptly commence the steps necessary to undertake such new or revised assessment or to determine the amount of refund due in the case of a correction to the license classification or subclassification of the business, and provide the same to the taxpayer within 60 days of the date of the determination of the Tax Commissioner, or within 60 days after receipt from the taxpayer of any additional information requested or reasonably required under the determination of the Tax Commissioner, whichever is later. The assessing official (Assessor) shall certify the new assessment or refund amount and shall issue a refund to the taxpayer for the amount of tax due, together with interest accrued, within 30 days of the date of the new assessment or determination of the amount of the refund.

Judicial review of determination of Tax Commissioner.

(a) Judicial review. Following the issuance of a final determination of the Tax Commissioner pursuant to this section, the taxpayer or assessing official (Assessor) may apply to the Circuit Court for judicial review of the determination, or any part thereof, pursuant to 58.1-3984, of the Code of Virginia, as amended. In any such proceeding for judicial review of a determination of the Tax Commissioner, the burden shall be on the party challenging the determination of the Tax Commissioner, or any part thereof, to show that the ruling of the Tax Commissioner is erroneous with respect to the part challenged. Neither the Tax Commissioner nor the Department

of Taxation shall be made a party to an application to correct an assessment merely because the Tax Commissioner has ruled on it.

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

- (1) On receipt of a notice of intent to file an application for judicial review, pursuant to Section 58.1-3984, of the code of Virginia, as amended, of a determination of the Tax Commissioner pursuant to this section, and upon payment of the amount of the tax relating to any assessment by the assessing official (Assessor) that is not in dispute together with any penalty and interest then due with respect to such undisputed portion of the tax, the Assessor shall further suspend collection activity while the court retains jurisdiction unless the Court, upon appropriate motion after notice and an opportunity to be heard, determines that (i) the taxpayer's application for judicial review is frivolous, as defined in this section; (ii) collection would be jeopardized by delay, as defined in this section; or (iii) suspension of collection would cause substantial economic hardship to the Town. For purposes of determining whether substantial economic hardship to the Town would arise from a suspension of collection activity, the court shall consider the cumulative effect of then-pending appeals filed within the Town by different taxpayers that allege common claims or theories of relief.
- (2) Upon a determination that the appeal is frivolous, that collection may be jeopardized by delay, or that suspension of collection would result in substantial economic hardship to the Town, the Court may require the taxpayer to pay the amount in dispute or a portion thereof, or to provide surety for payment of the amount in dispute in a form acceptable to the Court.
- (3) No suspension of collection activity shall be required if the application for judicial review fails to identify with particularity the amount in dispute or the application does not relate to any assessment by the assessing official (Assessor).
- (4) The requirement that collection activity be suspended shall cease unless an application for judicial review pursuant to Section 58.1-3984 of the Code of Virginia, as amended, is filed and served on the necessary parties within 30 days of the service of the notice of intent to file such application.
- (5) The suspension of collection activity authorized by this subdivision shall not be applicable to any appeal of a local license tax that is initiated by the direct filing of an action pursuant to Section 58.1-3984 of the Code of Virginia, as amended, without prior exhaustion of the appeals provided by this section.

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

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

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

Rulings.

Any taxpayer or authorized representative of a taxpayer may request a written ruling regarding the application of a local license tax to a specific situation from the assessing official (Assessor). Any person requesting such a ruling must provide all facts relevant to the situation placed at issue and may present a rationale for the basis of an interpretation of the law most favorable to the taxpayer. In addition, the taxpayer or authorized representative may request a written ruling with regard to the classification applicable to the taxpayer's business, including whether the business properly falls within a business license subclassification. Any misrepresentation or change in the applicable law or the factual situation as presented in the ruling request shall invalidate any such ruling issued. A written ruling may be revoked or amended prospectively if (i) there is a change in the law, a court decision, or the guidelines issued by the Department of Taxation upon which the ruling was based or (ii) the Assessor notifies the taxpayer of a change in the policy or interpretation upon which the ruling was based. However, any person who acts on a written ruling which later becomes invalid shall be deemed to have acted in good faith during the period in which such ruling was in effect.

3.14.080 Recordkeeping And Audits

Every person who is assessable with a license tax shall keep sufficient records to enable the Assessor to verify the correctness of the tax paid for the license years assessable and to enable the Assessor to ascertain the correct amount of tax that was assessable for each of those years. All such records, books of accounts and other information shall be open to inspection and examination by the Assessor in order to allow the Assessor to establish whether a particular receipt is directly attributable to the taxable privilege exercised within this jurisdiction. The Assessor shall provide the taxpayer with the option to conduct the audit in the taxpayer's local business office, if the records are maintained there. In the event that the records are maintained outside this jurisdiction, copies of the appropriate books and records shall be sent to the Assessor's office upon demand.

3.14.090 Exclusions And Deductions From Gross Receipts

- (a) General rule. Gross receipts for license tax purposes shall not include any amount not derived from the exercise of the licensed privilege to engage in a business or profession in the ordinary course of business or profession.
- (b) The following items shall be excluded from gross receipts:
 - (1) Amounts received and paid to the United States, the Commonwealth or any county, city or Town for the Virginia retail sales or use tax or for any local sales tax or any local excise tax on cigarettes or for any federal or state excise taxes on motor fuels.
 - (2) Any amount representing the liquidation of a debt or conversion of another asset to the extent that the amount is attributable to a transaction previously taxed (e.g., the factoring of accounts receivable created by sales which have been included in taxable receipts even though the creation of such debt and factoring are a regular part of its business).
 - (3) Any amount representing returns and allowances granted by the business to its customer.
 - (4) Receipts which are the proceeds of a loan transaction in which the licensee is the obligor.
 - (5) Receipts representing the return of principal of a loan transaction in which the licensee is the creditor or the return of principal or basis upon the sale of a capital asset.
 - (6) Rebates and discounts taken or received on account of purchases by the licensee. A rebate or other incentive offered to induce the recipient to purchase certain goods or services from a person other than the offeror, and which the recipient assigns to the licensee in consideration of the sale of goods

and services, shall not be considered a rebate or discount to the licensee but shall be included in the licensee's gross receipts together with any handling or other fees related to the incentive.

- (7) Withdrawals from inventory for purposes other than sale or distribution and for which no consideration is received and the occasional sale or exchange of assets other than inventory, whether or not a gain or loss is recognized for federal income tax purposes.
- (8) Investment income not directly related to the privilege exercised by a licensable business not classified as rendering financial services. This exclusion shall apply to interest on bank accounts of the business and to interest, dividends and other income derived from the investment of its own funds in securities and other types of investments unrelated to the licensed privilege. This exclusion shall not apply to interest, late fees and similar income attributable to an installment sale or other transaction that occurred in the regular course of business.

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

- (1) Any amount paid for computer hardware and software that are sold to a United States federal or state government entity, provided that such property was purchased within two years of the sale to said entity by the original purchaser who shall have been contractually obligated at the time of purchase to resell such property to a state or

federal government entity. This deduction shall not occur until the time of resale and shall apply to only the original cost of the property and not to its resale price, and the deduction shall not apply to any of the tangible personal property which was the subject of the original resale contract if it is not resold to a state or federal government entity in accordance with the original contract obligation.

- (2) Any receipts attributable to business conducted in another state or foreign country in which the taxpayer is liable for an income or other tax based upon income.

3.14.100 License Fee And Tax

Every person or business subject to licensure under this article shall be assessed and required to pay annually as follows:

- (a) A fee for the issuance of such license in the amount of \$30; except that businesses having gross receipts less than \$5,000 from the previous year and those businesses taxed under subsection (b) hereof shall be exempt from the fee.
- (b) Except as may be otherwise provided in § 58.1-3712, § 58.1-3712.1 and § 58.1-3713, Code of Virginia, every person or business with annual gross receipts of more than \$20,000 shall be assessed and required to pay annually a license tax on all the gross receipts of such person or business includable as provided in this article at a rate set forth below for the class of enterprise listed:
 - (1) Any contractor not having an office within the Town but doing business within the Town in excess of \$25,000 in any year shall pay a license tax of \$0.15 cents per \$100 on all business done in the Town. (Code of Virginia, § 58.1-3715)
 - (2) For wholesalers, \$0.05 per \$100 of purchases. (Code of Virginia, § 58.1-3716)
 - (3) For carnivals, circuses and speedways, \$100 for each day of performances held in the Town of Bowling Green, or \$500 for each and every week performances are held, whichever is less. (Code of Virginia, § 58.1-3728)
 - (4) For fortune-tellers, clairvoyants and practitioners of palmistry, \$500 per year. (Code of Virginia, § 58-3726)
 - (5) For massage parlors, \$500 per year. (Code of Virginia, § 58.1-3706)
 - (6) For itinerant merchants or peddlers, \$50 per year. For itinerant merchants or peddlers of ice, wood, charcoal, meats, milk, butter, eggs, poultry, game, vegetables, fruits or other family supplies of a perishable nature or farm products, not grown or produced by them, \$25 per year. No fee will be charged to peddlers 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. (Code of Virginia, § 58.1-3717 and § 58.1-3719)
 - (7) A photographer having no regularly established place of business in the commonwealth who provides services consisting of the taking of pictures or the making of pictorial reproductions in the commonwealth shall pay \$10 per year. (Code of Virginia, § 58.1- 3727)
 - (8) For savings and loan associations and credit unions, \$50 per year. (Code of Virginia, § 58.1-3730)
 - (9) For direct sellers, as defined in § 58.1-3719.1, Code of Virginia, with total annual sales in excess of \$4,000, \$0.15 per \$100 of total annual retail sales or \$0.05 per \$100 of total

annual wholesale sales, whichever is applicable.

- (10) For telephone, telegraph, water, heat, light or power companies, or any combination thereof, 1/2 of 1% of the gross receipts of such companies accruing from sales to the ultimate consumer in the Town of Bowling Green, however, in the case of telephone companies, charges for long distance telephone calls shall not be included in gross receipts for purposes of license taxation and subject further to the limitations set forth in § 58.1-3731, Code of Virginia.
- (11) For coin-operated amusement machines, subject to limitations set forth in § 58.1-3720 and § 58.1-3721, Code of Virginia, \$20 per machine, up to a maximum of \$200.
- (12) For motor vehicle dealers, \$0.15 per \$100 of gross receipts. (Code of Virginia, § 58.1-3734 and § 58.1-3735)
- (13) Taxicab companies, and taxicab operators who do not drive for a company subject to this tax, \$30 per year.
- (14) All businesses not listed hereinabove and not otherwise exempt from taxation, \$0.15 per \$100 of gross receipts.

(Home Occupations?)

3.14.110 Proration Of Tax

In the event that a person has permanently ceased to engage in such business, trade, profession, occupation or calling within the Town during a year for which a license tax based on gross receipts has already been paid, the taxpayer shall be entitled upon application to a refund for that portion of the license tax already paid, prorated on a monthly basis so as to ensure that the licensed privilege is taxed only for that fraction of the year during which it is exercised in the Town. The Town may elect to remit any refunds in the ensuing fiscal year and may offset against such refund any amount of past due taxes owed by the same taxpayer. In no event shall the Town be required to refund any part of a flat fee or minimum flat tax. (See § 58.1-3710, Code of Virginia.)

3.14.120 Exemptions

Exemptions to the license tax or fee is as adopted in the Code of Virginia § 58.1-3703 C.

3.14.130 Violations And Penalties

It shall be unlawful and constitute a misdemeanor for any person to conduct a business or to engage in a profession, trade or occupation before procuring a license as required under the provisions of this article. It shall also be unlawful and constitute a misdemeanor for any person to violate any of the provisions of this article. Any person who fails to procure a license as required, or who violates any other provision of this article, shall be guilty of class 3 misdemeanor, unless otherwise specifically provided by law. Any criminal prosecution brought under this section shall not be deemed to relieve any person from any civil liability for the tax due. The collection of any tax imposed under this article may be enforced by any remedy allowed under the laws of the state.

Article 3.16 Vehicle License

3.16.010 Issuance Of License

3.16.020 License Required; Exceptions

3.16.030 License Year

3.16.040 Application For License; Amount Of Tax-Motor Vehicles; Motorcycles

3.16.050 Payment Of Personal Property Prerequisite To Issuance

3.16.060 Transfer/Duplicate Of A Permanent License

3.16.070 Limitations

3.16.080 Collection

3.16.090 Grace Period For Payment Of Tax By Persons Purchasing Vehicle

3.16.100 Violations And Penalty For Violations Of Permanent License Decal Statutes

3.16.110 Disposition Of Taxes And Fees

3.16.120 Taxation In More Than One Jurisdiction

3.16.010 Issuance Of License

This Article is enacted under the authority of, and shall be interpreted and applied in accordance with Section 46.2-752 of the Code of Virginia, as amended.

Subject to the provisions of Section 3.16.050, when the applicable license tax imposed by this article is paid, the motor vehicle for which such tax was paid shall be considered to be licensed pursuant to this article and a receipt shall be issued by the treasurer of the county for such payment. No license plate or decal shall be issued for or required to be displayed upon any such vehicle as evidence of such licensure or payment of such tax.

HISTORY

Adopted by Ord. O-2018-008 on 7/5/2018

3.16.020 License Required; Exceptions

- (a) Every motor vehicle, including, but not limited to, automobiles and trucks having a situs pursuant to Code of Virginia § 58.1-3511, as amended, which is normally garaged, stored or parked within the town and operated upon the streets, highways or roads within the town, for business purposes or for the private use and benefit of the owner thereof, shall be licensed in the name of the owner in accordance with the provisions of this article.
- (b) It shall be unlawful for any person to drive or operate such a vehicle on the streets, highways, or roads within the town, without having paid the requisite fee to the Treasurer of the Town of Bowling Green.
- (c) This section shall not apply to farm vehicles as defined in Code of Virginia § 46.2-698, as amended, nor to any other type of vehicle which is exempt from state or local registration and licensing pursuant to state law.
- (d) This section shall not apply to any motor vehicle when:
 - (1) The motor vehicle is owned and used personally by a disabled veteran and such vehicle bears special license plates issued in accordance with Code of Virginia § 46.2-739, as amended.
 - (2) The motor vehicle is owned by a person who has been a prisoner of war and such vehicle bears special license plates issued in accordance with Code of Virginia § 46.2-746, as amended.
 - (3) The motor vehicle is owned by a person who has been awarded the Medal of Honor and such vehicle bears special license plates issued in accordance with Code of Virginia § 46.2-745, as amended.
- (e) The following exceptions shall also apply:
 - (1) The motor vehicle is owned by any member of a volunteer fire department or volunteer rescue squad organized to serve the residents of the Town of Bowling Green who holds a valid driver's license, who presents satisfactory evidence of meeting the active status requirement for the respective department or squad of which he or she is a member, who, on January 1 of the year the application for the exemption is requested, was 18 years of age and had one full calendar year of active service with a department or squad organized in the Town of Bowling Green, whose vehicle is registered in the member's name or is leased by the member and is the primary vehicle used by the member in response to emergency calls, and who is not delinquent in taxes due to the Town of Bowling Green, subject to the following provision that no member shall be issued more than one

motor vehicle license free of charge.

- (2) The motor vehicle is owned by a former member of a volunteer fire department or volunteer rescue squad organized to serve the residents of the Town of Bowling Green who presents satisfactory evidence of having had 10 years of active service with a department or squad organized to serve the residents of the Town of Bowling Green, who holds a valid driver's license, whose vehicle is registered in the member's name or is leased by the member, and who is not delinquent in taxes due to the Town of Bowling Green, subject to the following provision that no member shall be issued more than one decal license free of charge.
- (3) The motor vehicle is owned or leased by any active deputy sheriff, salaried firefighter, or salaried emergency medical technician employed by Caroline County or the County Sheriff who also holds a valid driver's license and, on January 1 of the year the application for the exemption is requested, had one full calendar year of active service with the County, whose vehicle is registered in the member's name or is leased by the member, and who is not delinquent in taxes due to the Town of Bowling Green, subject to the limitation that no such deputy sheriff, firefighter or emergency medical technician shall be issued more than one motor vehicle license free of charge.

It shall be the responsibility of the Sheriff and Fire-EMS Chief to provide a list of deputies and career and volunteer fire and rescue personnel eligible for a permanent license/registration waiver to the Treasurer's Office by February 1 of each year. Appropriate vehicle related information must also be provided.

- (4) Antique vehicles not subject to renewal by the Virginia Department of Motor Vehicles.
- (5) The annual license tax for vehicles bearing Virginia National Guard license plates issued pursuant to Code of Virginia § 46.2-744, as amended, shall be one-half the tax prescribed below.

HISTORY

Adopted by Ord. 11-01-10 on 11/4/2010

*Amended by Ord. O-2018-008 on
7/5/2018*

3.16.030 License Year

- (a) For 2011, a permanent license shall be issued by the Bowling Green Treasurer under this article and shall commence on the first day of April 2011. Such license shall be valid as long as the vehicle is garaged in the town and owned by the licensee.
- (b) For 2012 and beyond the motor vehicle license tax shall commence on January 1 of each year.

HISTORY

Adopted by Ord. 11-01-10 on 11/4/2010

*Amended by Ord. O-2018-008 on
7/5/2018*

3.16.040 Application For License; Amount Of Tax-Motor Vehicles; Motorcycles

- (a) The owner of a motor vehicle for which a permanent license is required shall make application to the Treasurer of the Town of Bowling Green on a form to be prescribed by him or her and approved by the Town Council. The applicant shall submit with such application satisfactory evidence that all personal property taxes upon the motor vehicle to be licensed have been paid.
- (b) For 2012 and beyond, the owner of a motor vehicle for which a permanent license has been issued shall be assessed an annual license/registration tax by the Treasurer. Purchasers of new or used vehicles for which a permanent license has not been obtained within 10 days from purchase shall be billed for such tax on a supplemental bill for such vehicle as may be required.

- (c) The license fees for all motorized vehicles authorized in this article shall be set annually and adopted as part of the annual budget resolution.

The amount of such license fee shall not be greater than the annual or one-year fee imposed by the commonwealth on all motorized vehicles. The license fee shall be imposed in such manner, on such basis, for such periods, and subject to such proration for fractional periods of years as the Town Council may determine in the budget. HISTORY

Adopted by Ord. 11-01-10 on 11/4/2010

Amended by Ord. O-2018-005 on

6/7/2018 Amended by Ord. O-2018-008

on 7/5/2018

3.16.050 Payment Of Personal Property Prerequisite To Issuance

No motor vehicle shall be licensed by the town unless and until the applicant for such license shall have produced satisfactory evidence that all personal property taxes upon the motor vehicle to be licensed have been paid and satisfactory evidence that any delinquent personal property taxes owing have been paid which have been properly assessed or are assessable against the applicant by the town, in accordance with Code of Virginia § 46.2-752, as amended. Further, no motor vehicle license shall be issued unless the tangible personal property taxes properly assessed or assessable by the Town on any tangible personal property used or usable as a dwelling titled by the Department of Motor Vehicles and owned by the taxpayer have been paid.

HISTORY

Adopted by Ord. 11-01-10 on 11/4/2010

Amended by Ord. O-2018-008 on

7/5/2018

3.16.060 Transfer/Duplicate Of A Permanent License

- (a) Upon application to the Treasurer and proof of purchase by a person to whom a permanent license has been issued, such license may be transferred from the vehicle for which originally issued to a replacement vehicle in the name of such owner.
- (b) Upon application to the Treasurer by a person to whom a permanent license has been issued a duplicate may be issued, with proof of damage to original license and satisfactory evidence that all prior year personal property taxes requiring a vehicle license have been paid.
- (c) The cost of a transferred license shall be three dollars (\$3.00).
- (d) There shall be no refund of the license tax imposed herein for vehicles sold or otherwise disposed of during the tax year.

HISTORY

Adopted by Ord. 11-01-10 on 11/4/2010

Amended by Ord. O-2018-008 on

7/5/2018

3.16.070 Limitations

This article is subject to the limitations on the imposition of such license taxes by the town as are set forth in Code of Virginia §§ 46.2-663, 46.2-683, 46.2-750, 46.2-752 and 46.2-755, as amended.

HISTORY

Adopted by Ord. 11-01-10 on 11/4/2010

Amended by Ord. O-2018-008 on

7/5/2018

3.16.080 Collection

The Treasurer shall, after the due date for any license registration fee required under this section, collect such license tax in accordance with the provisions of Code of Virginia § 58.1-3919, as amended and any other applicable state law. Additionally, the Treasurer shall have the authority to take any action authorized by Code of Virginia § 46.2-752, as amended.

HISTORY

Adopted by Ord. 11-01-10 on 11/4/2010

Amended by Ord. O-2018-008 on

7/5/2018

3.16.090 Grace Period For Payment Of Tax By Persons Purchasing Vehicle

Purchasers of a new or used motor vehicle shall be allowed a ten (10) day grace period, beginning with the date of purchase, during which to pay license taxes charged by the Town of Bowling Green.

HISTORY

Adopted by Ord. 11-01-10 on 11/4/2010

Amended by Ord. O-2018-008 on

7/5/2018

3.16.100 Violations And Penalty For Violations Of Permanent License Decal Statutes

- (a) Violations of the requirements of this article shall be punished as a Class 4 misdemeanor as provided in Code of Virginia § 18.2-11, as amended. A violation of Section 3.16.020 may not be discharged by payment of the fine except upon presentation of satisfactory evidence that the required license has been obtained. Each day upon which a violation of this article continues shall be treated as a separate offense to be punished as a separate offense.
- (b) All fines shall be recoverable before a court of competent jurisdiction upon a summons issued by the sheriff or any sworn deputy of the sheriff.

HISTORY

Adopted by Ord. 11-01-10 on 11/4/2010

Amended by Ord. O-2018-008 on

7/5/2018

3.16.110 Disposition Of Taxes And Fees

The revenue derived from all town motor vehicle permanent license/registration taxes shall be applied to general town purposes.

HISTORY

Adopted by Ord. 11-01-10 on 11/4/2010

Amended by Ord. O-2018-008 on

7/5/2018

3.16.120 Taxation In More Than One Jurisdiction

No vehicle shall be subject to taxation under this article in more than one jurisdiction.

HISTORY

Adopted by Ord. 11-01-10 on 11/4/2010

Amended by Ord. O-2018-008 on

7/5/2018

Article 3.18 Enforcement

3.18.010 Enforcement Costs And Fees

3.18.010 Enforcement Costs And Fees

Each person chargeable with delinquent taxes or other delinquent charges, fees shall also be required to pay the administrative costs and reasonable attorney's or collection agency's fees. The attorney's or collection agency's fees shall not exceed 20 percent of the taxes or other charges so collected. The administrative costs shall be in addition to all penalties and interest, and shall not exceed \$30 for taxes or other charges collected subsequent to 30 or more days after notice of delinquent taxes or charges pursuant to Virginia Code § 58.1-3916, but prior to the taking of any judgment with respect to such delinquent taxes or charges, and \$35 for taxes or other charges collected subsequent to judgment.

No tax assessment or tax bill shall be deemed delinquent and subject to the collection procedures during the pendency of any administrative appeal under Virginia Code § 58.1-3980, so long as the appeal is filed within 90 days of the date of the assessment, and for 30 days after the date of the final determination of the appeal, provided that nothing in this paragraph shall be construed to preclude the assessment or refund, following the final determination of such appeal, of such interest as otherwise may be provided by general law as to that portion of a tax bill that has remained unpaid or was overpaid during the pendency of such appeal and is determined in such appeal to be properly due and owing.

HISTORY

Adopted by Ord. 2017-004 on 8/3/2017