



## ARLINGTON COUNTY, VIRGINIA

**County Board Agenda Item  
Meeting of July 8, 2006**

**DATE:** June 20, 2006

**SUBJECT:** Request to advertise for a public hearing on September 16, 2006 for proposed amendments to Chapter 27 (Miscellaneous Ordinances) of the Arlington County Code, Section 27-11.1, relating to penalty on late payment of personal property tax.

**C. M. RECOMMENDATION:**

Authorize advertising for a September 16, 2006 public hearing on the proposed amendments to Chapter 27 (Miscellaneous Ordinances) of the Arlington County Code, Section 27-11.1, as shown in Attachment I:

- 1) to increase the “super penalty” for delinquent business tangible and vehicular personal property taxes from 5% to 15%;
- 2) to change the date upon which “super penalty” is imposed, upon such unpaid balances, from the present 40 days after the due date to 60 days after the due date.

**ISSUE:** Should the Arlington County Code provision (§27-11.1 (f)) concerning late payment penalty be amended to increase the penalty for payment of personal property taxes more than 30 days past due (“super penalty”) from the 5% currently allowed in the ordinance to the full 15% that is allowed by State law and to change the date upon which “super penalty” is imposed from 40 days after the due date to 60 days after the due date?

**SUMMARY:** Code of Virginia §58.1-3916 allows up to 25% penalty on personal property taxes paid more than 30 days after the tax due date. Currently, Arlington’s ordinance allows for 10% penalty on personal property taxes paid after the due date and an additional 5% for taxes paid more than 40 days after the due date. The proposed amendment to the County’s ordinance will increase the additional penalty for late payment from 5% to 15% and will change the date the additional penalty is imposed from 40 days after the due date to 60 days after the due date to allow for the full 25% late payment penalty provided for in Code of Virginia Section 58.1-3916.

**DISCUSSION:** Under the revisions to Personal Property Tax Relief Act now in effect (the “new” PPTRA) penalty on late payment of local taxes will no longer be based on 100% of the tax due (the taxpayer share plus the Commonwealth share), but will henceforth be calculated only on the taxpayer share of the tax due. This will result in a loss of revenue to the County previously generated by late payment penalty. Although Code of Virginia §58.1-3916 allows a locality to charge up to 15% “super penalty” for taxes paid more than 30 days after the due date, the County currently charges only 5% “super penalty”. Amending County Code to conform to

County Manager: \_\_\_\_\_

County Attorney: \_\_\_\_\_

Staff: Kevin R. Appel, Chief Deputy Treasurer

the limits in State law will help to recoup some of the lost revenue and will provide additional incentive for timely payment.

Also, while §58.1-3916 allows the imposition of “super penalty” if personal property tax is not paid 30 days after the due date, the County ordinance currently does not impose “super penalty” until after 40 days past the due date. Even so, because of limitations inherent in the County tax system, it is very difficult and, at times, not possible to reflect the imposition of “super penalty” on or about the 40<sup>th</sup> day. This proposed amendment provides additional cushion for both the delinquent taxpayers and for staff before the higher “super penalty” is imposed.

**FISCAL IMPACT:** Due to changes in the Code of Virginia relating to how penalty on unpaid taxes is to be calculated, Arlington County will see a loss of some late payment penalty revenue. The following proposed changes would substantially offset any loss due to the change made by the State while also providing additional motivation for compliance with tax due dates and decreasing the costs for pursuing the collection of such delinquent taxes.

## ATTACHMENT I

**BE IT ORDAINED** by the County Board of Arlington, Virginia, that Chapter 27, Section 27-11.1, of the Arlington County Code is amended, reenacted and recodified to read in pertinent part as follows:

### Chapter 27

#### MISCELLANEOUS ORDINANCES

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##### **§ 27-11.1. Personal property tax on motor vehicles, trailers and boats.**

(a) *Tax liability.* There shall be a personal property tax at the rate established each year by the county board on motor vehicles, trailers, semitrailers, and boats ("taxable property") which have a situs in the county on January 1 of each year or which acquire a situs in the county on or after January 2. When taxable property acquires a situs in the county on or after January 16 and before December 16, the personal property tax for that year shall be prorated on a monthly basis. When taxable property with a situs in the county is transferred to a new owner, personal property tax will be assessed to the new owner, prorated on a monthly basis for the portion of the tax year during which the new owner owns the taxable property. For purposes of proration, a period of more than one-half ( 1/2) of a month shall be counted as a full month and a period of less than one-half ( 1/2) of a month shall not be counted. The value of all taxable property shall be assessed as of January 1 of the tax year.

(b) *Proration refunds.* When any taxable property loses its situs within the county or its title is transferred, the taxpayer shall be relieved from personal property tax and receive a refund of personal property tax, penalty and interest already paid, prorated on a monthly basis, upon application to the commissioner of the revenue, provided that application is made in the manner provided by Sections 58.1-3516 and 58.1-3980 of the Virginia Code; provided, however, no refund shall be made if the motor vehicle, trailer, or boat acquires a situs within the commonwealth in a nonprorating locality during the tax year. No interest shall be paid on refunds of pro-rated taxes.

(c) *Filing dates*

(1) The owner of every motor vehicle, trailer, or boat taxable in the county shall file a tax return for the vehicle with the commissioner of the revenue sixty (60) days of the vehicle first acquiring situs or becoming taxable in the county. This tax return shall be the basis for the assessment of the motor vehicle, trailer, or boat in all subsequent years in which the commissioner of the revenue has not been informed of a change in the address or name of the owner of the motor vehicle, trailer, or boat or of a change in the situs or ownership of the motor vehicle, trailer, or boat. Such owners are required to file a new personal property tax return with the commissioner of the revenue within sixty (60) days of any (i) change in the name or address of the person or persons owning the vehicle; (ii) a change in the situs of the vehicle; (iii) any other change affecting the assessment of the personal property tax on the vehicle for which a tax return was

previously filed; or (iv) any change in which a person acquires one (1) or more vehicles for which no personal property tax return has been filed with the county.

(2) Returns of all taxable semi-trailers with a situs within the county on January 1 shall be filed on or before May 1 of each tax year. Returns of all taxable semi-trailers which acquire a situs in the county or which have title transferred after January 1 shall be filed within sixty (60) days of the date on which situs is acquired or title transferred.

(d) *Assessments.* Tax assessments for all taxable property for which tax returns are on file with the commissioner of the revenue from previous years or which have been filed on or before July 15 of the tax year shall be assessed on the personal property tax book prepared by the commissioner of the revenue and certified to the treasurer on or before September 1 of the tax year. All taxable property for which tax returns are filed after July 15 of the tax year, but within the time required in subsection (c) above, shall be assessed within thirty (30) days of receipt of the filed return by the commissioner of the revenue, which assessment shall be certified to the treasurer for billing without penalty and interest.

(e) *Payment dates.* Assessments on all taxable property with a situs in the county on January 1 shall be paid on or before October 5 of each year. Assessments on all taxable property for which a return must be filed prior to July 15 of the tax year shall be paid on or before October 5 of each year. Taxes on all taxable property for which a tax return is timely filed after July 15 shall be paid without penalty or interest within thirty (30) days of billing by the treasurer or by October 5 of the year for which the taxes are due, whichever date is later.

(f) *Late filing and payment penalties and interest.* Any person who fails to timely file a required personal property tax return pursuant to subsection (c), above, shall incur a late filing penalty of ten (10) percent of the amount of tax assessed or ten dollars (\$10.00) whichever is greater, but not to exceed the amount of the tax, which penalty shall become part of the tax. Any person that fails to pay personal property tax on or before the date due, as provided above, shall incur a penalty of ten (10) percent of the tax assessed or ten dollars (\$10.00), whichever shall be greater, but not to exceed the amount of the tax, which penalty shall become part of the tax due. If, after ~~forty (40)~~ sixty (60) days from the payment due date the taxes remain unpaid in whole or in part, there shall be added to the amount an additional penalty of ~~five (5)~~ fifteen (15) percent of the unpaid tax assessed. Interest at the rate specified in section 27-3 from the first day of the month following the month in which taxes are due shall be paid upon the principal and penalties of such taxes remaining unpaid.

(g) *Proration or credit when taxes paid elsewhere in the commonwealth.* An exemption from this tax and any penalties arising therefrom shall be granted prorata for any tax year or portion thereof during which the property was legally assessed to the same taxpayer by another jurisdiction in the Commonwealth, and such tax on the assessed property was paid.

Any person who moves a motor vehicle from a nonprorating locality in Virginia into Arlington County in a single tax year shall be entitled to a property tax credit in Arlington if (i) the person was liable for personal property taxes on a motor vehicle and has paid those taxes to a nonprorating locality in Virginia and (ii) the taxpayer replaced, for any reason, the original vehicle upon which taxes were paid to the nonprorating locality for the same tax year. The Arlington County treasurer shall provide a credit against the total personal property tax assessed by Arlington County on the replacement vehicle in an amount equal to the tax paid to the nonprorating Virginia locality for the period of time commencing with the disposition of the original vehicle and continuing through the close of the tax year in which the owner incurred tax liability to the nonprorating Virginia locality for the original vehicle.