

ORDINANCE NO. 16-15(1)

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 15, TAXATION, OF THE CODE OF THE COUNTY OF ALBEMARLE, VIRGINIA.

BE IT ORDAINED by the Board of Supervisors of the County of Albemarle, Virginia, that Chapter 15, Taxation, of the Code of the County of Albemarle, Virginia, is hereby amended and reordained as follows:

By Amending:

- Sec. 15-100 Payment of taxes; penalty; interest.
- Sec. 15-702 Definitions.
- Sec. 15-706 Procedure for claiming for exemption.
- Sec. 15-802 Applications for assessment--By property owner.
- Sec. 15-910 Penalty for late remittance or false return.
- Sec. 15-1102 Proration of tangible personal property.
- Sec. 15-1213 Penalty for late remittance or false return.
- Sec. 15-1603 Exemption from taxes on property for disabled veterans; Application for exemption.

CHAPTER 15. TAXATION

ARTICLE I. IN GENERAL

Sec. 15-100 Payment of taxes; penalty; interest.

A. Taxes due and owing to the county for real estate shall be due and payable in two (2) installments. The first installment shall be due and payable on or before the fifth day of June of the year such taxes are assessed and the second installment shall be due and payable on or before the fifth day of December of the year such taxes are assessed.

B. Taxes due and owing to the county for tangible personal property, machinery and tools, mobile homes and public service corporations shall be due and payable in two (2) installments. The first installment shall be due and payable on or before the fifth day of June of the year such taxes are assessed and the second installment shall be due and payable on or before the fifth day of December of the year such taxes are assessed.

C. Supplemental tax assessments for real estate, tangible personal property, machinery and tools, mobile homes and public service corporations shall be due and payable within thirty (30) days of the billing date.

D. A penalty equal to ten percent (10%) of the amount past due or ten dollars (\$10.00), whichever is greater, shall apply on all taxes remaining unpaid after the due date.

E. Interest at the rate of ten percent (10%) per annum shall apply on all taxes and penalties commencing the first day of the month following the month in which such taxes are due and continuing until paid.

F. The provisions herein shall not alter or supersede any other provisions of state law or any county ordinance, the subject of which is not specifically addressed herein.

G. Nothing in the provisions of this section shall be construed to prohibit the payment of the whole of the taxes levied by any taxpayer in one (1) sum at any time, provided that any penalty

and interest that may have accrued on the whole or any part thereof at the time of payment shall be paid therewith.

(8-10-77; 10-8-80; Ord. of 2-14-90; Ord. of 2-5-92; Ord. No. 95-8(2), 10-4-95; Code 1988, § 8-1.3; Ord. 98-A(1), 8-5-98)

State law reference--Similar provisions, Va. Code, § 58.1-3916.

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ARTICLE VII. REAL ESTATE TAX EXEMPTION FOR CERTAIN ELDERLY AND DISABLED PERSONS

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Sec. 15-702 Definitions.

The following definitions shall apply in the interpretation and enforcement of this article:

(1) *Dwelling*. The term “dwelling” means a building occupied as a residence.

(2) *Income*. The term “income” means the total gross income from all sources comprising the amount of money received on a regular basis which is available to meet expenses, regardless of whether a tax return is actually filed, or whether the money is taxable or deductible from an eligible owner’s income tax return.

(a) Income shall include: (i) retirement payments, including the portion that represents the contribution of the retiree; (ii) nontaxable social security retirement benefits; (iii) disability payments; and (iv) rental income.

(b) Income shall not include: (i) life insurance benefits; (ii) receipts from borrowing or other debt; and (iii) social security taxes taken out of the pay of a retiree.

(c) The income of a self-employed person received from the business shall be the gross income of the business, less the expenses of the business.

(3) *Manufactured home*. The term “manufactured home” means a structure subject to federal regulation which is transportable in one or more sections; is eight (8) body feet or more in width and forty body feet or more in length in the traveling mode, or is three hundred twenty (320) or more square feet when erected on site; is built on a permanent chassis; is designed to be used as a single-family dwelling, with or without a permanent foundation, when connected to the required utilities; and includes the plumbing, heating, air conditioning, and electrical systems contained in the structure.

(4) *Net combined financial worth*. The term “net combined financial worth” means the net present value of all assets, including equitable interests, and liabilities, both as of December 31 of the immediately preceding calendar year, of the owners, and of the spouse of any owner of the dwelling. The term “net combined financial worth” shall not include: (i) the value of the subject dwelling and the land, not exceeding ten acres, upon which it is situated; (ii) the value of furniture, household appliances and other items typically used in a home; and (iii) the outstanding balance of any mortgage on the subject property, except to the extent that the subject property is counted as an asset.

(5) *Owning title or partial title*. The term “owning title or partial title” means owning the usufruct, control or occupation of the real estate, whether the interest therein is in absolute fee or is in

an estate less than a fee, such as the holding of a life estate, but not the holding of a subsequent remainder interest.

(6) *Permanently and totally disabled person.* The term “permanently and totally disabled person” means a person who is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment or deformity which can be expected to result in death, or can be expected to last for the duration of such person's life, as certified pursuant to section 15-706 herein.

(7) *Real estate.* The term “real estate” includes manufactured homes.

(8) *Relative.* The term “relative” means any person who is a natural or legally defined offspring, spouse, sibling, grandchild, grandparent, parent, aunt, uncle, niece, or nephew of the owner.

(9) *Taxable year.* The term “taxable year” means the calendar year for which the exemption is claimed.

(10) *Total combined income.* The term “total combined income” means the income received from all sources during the preceding calendar year, without regard to whether a tax return is actually filed, by (i) the owners of the dwelling who use it as their principal residence, (ii) the owners’ relatives who live in the dwelling except for those relatives living in the dwelling and providing bona fide caregiving services to the owner whether such relatives are compensated or not, and (iii) nonrelatives of the owner who live in the dwelling except for bona fide tenants or bona fide paid caregivers of the owner, whether compensated or not. ~~Income shall include only those sources of gross income that are subject to tax under federal income tax laws, regulations, rules, or policies.~~ The following amounts shall be excluded from the calculation of total combined income:

(a) The first sixty-five hundred dollars (\$6,500.00) of income of each relative who is not the spouse of an owner living in the dwelling and who does not qualify for the exemption provided by subdivision 9 c hereof.

(b) The first seventy-five hundred dollars (\$7,500.00) of income for an owner who is permanently disabled.

(c) If real property otherwise qualifies for the exemption and if the eligible owner(s) can prove by clear and convincing evidence that the physical or mental health of the eligible owner(s) 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 the eligible owner(s), and if a relative does move in for that purpose, then none of the income of the relative or of the relative’s spouse shall be counted towards the income limit, provided that the owner of the dwelling has not transferred assets in excess of five thousand dollars (\$5,000.00) without adequate considerations within a three (3) year period prior to or after the relative moves into the dwelling.

(2-15-73; 3-20-75; 11-9-77; 8-13-80; Ord. of 12-19-90; Ord. of 4-7-93; Code 1988, § 8-23; Ord. 98-A(1), 8-5-98; Ord. 03-15(2), 11-5-03; Ord. 05-15(4), 12-7-05, effective 1-1-06; Ord. 07-15(1), 10-3-07, effective 1-1-08; Ord. 11-15(1), 5-11-11; Ord. 14-15(3), 9-3-14)

State law reference--Va. Code §§ 36-85.3, 58.1-3210, 58.1-3212, 58.1-3217.

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Sec. 15-706 Procedure for claiming for exemption.

Owner(s) claiming the exemption from the real estate tax established by this article shall apply for the exemption as provided herein:

A. *Annual filing of affidavit; time to file.* Except as provided in paragraphs (A.1) and (A.2), the eligible owner(s) shall file the affidavit required by this section with the director of finance between January first and April first of each taxable year for which the exemption is claimed. In lieu of the filing of an annual affidavit, once a taxpayer is determined to be eligible, an affidavit may be filed on a three-year cycle with an annual certification by the taxpayer that no information contained on the last preceding affidavit filed has changed to violate the limitations and conditions provided in this article. Such annual certification must be filed not later than April first of the taxable year.

1. *First-time claimant.* Owners claiming the exemption for the first time may file the affidavit required by this section after April first, but before November first, of the taxable year.

2. *Hardship claimant.* Owners claiming the exemption as hardship claimant(s) may file the affidavit required by this section after April first, but before November first, of the taxable year. The term “hardship claimant” means only those cases in which the owner(s) claiming the exemption was/were hospitalized or in a nursing home between January first and April first of the taxable year, or a similar situation which, in the judgment of the director of finance, constitutes a hardship case justifying the extension of the filing period set forth in paragraph A beyond April first of the taxable year.

B. *Form and content of affidavit.* The affidavit shall be on a form prescribed and provided by the director of finance. The affidavit shall set forth the names of the eligible owner(s) and all other relatives of the eligible owner(s) occupying the real estate for which the exemption is claimed, their total combined income and their net combined financial worth. If the eligible owner(s) is/are under sixty-five (65) years of age, the form shall have attached either:

1. A certification by the Social Security Administration, the Department of Veteran Affairs or the Railroad Retirement Board to the effect that the eligible owner(s) is/are permanently and totally disabled; or, if the eligible owner(s) is/are not eligible for certification by any of these agencies;

2. A sworn affidavit by two (2) medical doctors who are either licensed to practice medicine in the Commonwealth or are military officers on active duty who practice medicine with the United States Armed Forces, to the effect that such person is permanently and totally disabled. A certification pursuant to 42 U.S.C. 423(d) by the Social Security Administration, so long as the person remains eligible for such social security benefits, shall be deemed to establish that the person is permanently and totally disabled. The affidavit of one of the doctors may be based upon a physical examination of the person by the doctor. The affidavit of one of the doctors may be based upon medical information contained in the records of the Civil Service Commission which is relevant to the standards for determining whether the person is permanently and totally disabled.

C. *Determination of eligibility.* If, after audit and investigation, the director of finance determines the subject real property to be eligible for exemption, he shall grant the exemption and shall exonerate the amount of the exemption from the real estate tax liability of those properties entitled to the exemption.

D. *Duration of exemption.* An exemption granted shall be effective only for the current taxable year and shall not be retroactive in effect.

(2-15-73; 11-9-77; 8-13-80; 5-13-87; Ord. of 12-19-90; Ord. of 4-7-93; Ord. No. 96-8(2), 12-11-96; Code 1988, § 8-28; Ord. 98-A(1), 8-5-98; Ord. 14-15(3), 9-3-14)

State law reference--Va. Code § 58.1-3213.

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ARTICLE VIII. SPECIAL ASSESSMENTS FOR AGRICULTURAL, HORTICULTURAL, FOREST OR OPEN SPACE REAL ESTATE

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Sec. 15-802 Applications for assessment--By property owner.

A. The owner of any real estate meeting the criteria set forth in sections 15-800 and 15-804 herein and the standards adopted by the Commissioner of Agriculture and Consumer Services, the Department of Forestry or the Department of Conservation and Historic Resources, and this article, must submit an application for taxation on the basis of a use assessment to the local assessing officer at least sixty days preceding the tax year for which such taxation is sought or within thirty (30) days of the mailing of notices of a general reassessment, whichever is later. An individual who is an owner of an undivided interest in a parcel may apply on behalf of himself and the other owners of such parcel upon submitting an affidavit that such other owners are minors or cannot be located.

B. Applications may be filed no later than sixty days after the filing deadline specified herein, upon the payment of a late filing fee of one hundred twenty-five dollars (\$125.00). ~~In addition, a further extension of the filing deadline is permitted, upon payment of an extension fee of one hundred twenty-five dollars (\$125.00), to a date no later than thirty days after a notice of assessment is mailed.~~ An application shall be submitted whenever the use or acreage of such land previously approved changes. No application fee will be required when the change in acreage occurs solely as a result of a conveyance necessitated by government action or condemnation of a portion of any land previously approved for taxation on the basis of use assessment. Failure to submit an application by the specified deadline shall disqualify the entire parcel for taxation under this article. Applications shall be submitted on forms prepared by the state tax commissioner and supplied to the county for use of the applicants. A separate application shall be filed for each parcel listed on the land book.

(8-23-73; 8-13-75; 4-21-76; 4-13-88; Ord. of 8-11-93; Code 1988, § 8-33; Ord. 98-A(1), 8-5-98; Ord. 02-15(3), 5-15-02)

State law reference--Va. Code § 58.1-3234.

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ARTICLE IX. TRANSIENT OCCUPANCY TAX

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Sec. 15-910 Penalty for late remittance or false return.

A. If any lodging provider whose duty it is to do so shall fail or refuse to remit to the director of finance the tax required to be collected and paid under this article within the time and in the amount specified in this article, there shall be added to such tax ~~by the director of finance~~ a penalty in the amount of ten percent (10%) of the total amount of tax owed if the failure is not for more than one month, with an additional penalty of five percent (5%) of the total amount of tax owed for each additional month or fraction thereof during which the failure continues, such penalty not to

exceed twenty-five percent (25%) of the taxes collected but not remitted, provided, however, the minimum penalty shall be ten dollars (\$10.00), or the amount of the tax assessable, whichever is less.

B. If any lodging provider whose duty it is to do so shall fail or refuse to file any return required by this article within the time specified in this article, there shall be added to such tax ~~by the director of finance~~ a penalty in the amount of ten percent (10%) of the tax assessable on such return or \$10, whichever is greater; provided, however, that the penalty shall in no case exceed the amount of the tax assessable.

C. It shall be unlawful for any person to willfully fail or refuse to file any return required under this article or to make any false statement with the intent to defraud in connection with any return required by this article. It shall be a Class 3 misdemeanor if the amount of the tax lawfully assessed in connection with the return is \$1,000 or less, and it shall be a Class 1 misdemeanor if the amount of the tax lawfully assessed in connection with the return is more than \$1,000.

(§ 8-43; Code 1988, § 8-51, Ord. No. 98-8(2), 6-10-98; Ord. 98-A(1), 8-5-98; Ord. 07-15(2), 10-3-07, effective 1-1-08)

State law reference – Va. Code §§ 58.1-3916, 58.1-3916.1

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ARTICLE XI. PERSONAL PROPERTY--IN GENERAL

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Sec. 15-1102 Proration of tangible personal property.

A. The tangible personal property tax shall be levied upon motor vehicles, trailers and boats which acquire a situs within the county after January first of any tax year for the remaining portion of the tax year. Such tax shall be prorated on a monthly basis.

B. When any motor vehicle, trailer, semitrailer or boat loses its situs in the county or changes ownership after January first of the tax year, any tax assessed on such motor vehicle, trailer, semitrailer or boat shall be relieved, or refunded if paid. Such relief or refund shall be prorated on a monthly basis. No refund shall be made if the motor vehicle, trailer, semitrailer or boat acquires a situs within the Commonwealth in a nonprorating locality. No refund of less than five dollars (\$5.00) shall be issued to a taxpayer, unless specifically requested by the taxpayer.

C. Whenever a motor vehicle, trailer, semitrailer or boat with a situs in the county is transferred to a new owner within the county, the new owner shall be subject to taxation on a prorated basis for the remaining portion of the tax year. The previous owner shall be eligible for relief or refund as provided by paragraph (B) of this section.

D. For the purposes of this section a period of more than one-half ($\frac{1}{2}$) of a month shall be counted as a full month and a period of less than one-half ($\frac{1}{2}$) of a month shall not be counted.

E. The director of finance may apply any refunds under this section to any delinquent accounts owed by the taxpayer. In addition, this refund may be applied as a credit toward the tax due on any motor vehicle, trailer, semitrailer or boat owned by the taxpayer during the same tax year.

F. Each taxpayer owning tangible personal property with a situs within the county shall file a return on forms prescribed by the director of finance on or before January 31 of each year or

within thirty (30) days of the date of purchase or the establishment of a situs within the county. Any taxpayer who fails to file a return required by Virginia Code § 58.1-3518 and/or this article shall be subject to a penalty of 10 percent of the tax assessable on such return or \$10, whichever is greater; provided, however, that such penalty shall in no case exceed the amount of the tax assessable. Such penalty shall be assessed on the day after such return is due, and when so assessed, shall become a part of the tax.

G. Tangible personal property, which was legally assessed by another jurisdiction in the Commonwealth and on which the tax has been paid, is exempt from taxation under this section for the portion of the year such property was legally assessable by another jurisdiction in the Commonwealth.

(§ 8-1.9, Ord. of 2-14-90; Ord. of 2-5-92; Ord. No. 94-8(10), 8-3-94; Code 1988, § 8-69; Ord. 98-A(1), 8-5-98)

State law reference--Similar provisions, Va. Code, §§ 58.1-3516, 58.1-3916.

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ARTICLE XII. FOOD AND BEVERAGE TAX

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Sec. 15-1213 Penalty for late remittance or false return.

A. If any seller whose duty it is to do so shall fail or refuse to remit to the director of finance the tax required to be collected and paid under this article within the time and in the amount specified in this article, there shall be added to such tax ~~by the director of finance~~ a penalty in the amount of ten percent (10%) of the total amount of the tax owed if the failure is not for more than one month, with an additional penalty of five percent (5%) of the total amount of the tax owed for each additional month or fraction thereof during which the failure continues, such penalty not to exceed twenty-five percent (25%) of the taxes collected but not remitted, provided, however, the minimum penalty shall be ten dollars (\$10.00), or the amount of the tax assessable, whichever is ~~less~~ greater, provided, however, that the penalty shall in no case exceed the amount of the tax assessable.

B. If any seller whose duty it is to do so shall fail or refuse to file any return required by this article within the time specified in this article, there shall be added to such tax ~~by the director of finance~~ a penalty in the amount of ten percent (10%) of the tax assessable on such return or \$10, whichever is greater; provided, however, that the penalty shall in no case exceed the amount of the tax assessable.

C. It shall be unlawful for any person to willfully fail or refuse to file any return required under this article or to make any false statement with the intent to defraud in connection with any return required by this article. It shall be a Class 3 misdemeanor if the amount of the tax lawfully assessed in connection with the return is \$1,000 or less, and it shall be a Class 1 misdemeanor if the amount of the tax lawfully assessed in connection with the return is more than \$1,000.

(§ 8-88, 12-10-97; Code 1988, § 8-88; Ord. 98-A(1), 8-5-98; Ord. 07-15(2), 10-3-07, effective 1-1-08)

State law reference—Va. Code §§ 58.1-3916, 58.1-3916.1

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ARTICLE XVI. PROPERTY EXEMPTED FROM TAXATION

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Sec. 15-1603 Exemption from taxes on property for disabled veterans; Application for exemption.

A. Pursuant to Article X, Section 6-A of the Constitution of Virginia, and for tax years beginning on or after January 1, 2011, the following real property, including such joint real property of husband and wife, of any veteran who has been rated by the U.S. Department of Veterans Affairs or its successor agency pursuant to federal law to have a 100 percent service-connected, permanent, and total disability, and who occupies the real property as the veteran's principal place of residence, shall be exempt from taxation:

- (i) the qualifying dwelling, and
- (ii) the land, not exceeding ten acres, upon which said dwelling is situated.

If the veteran's disability rating occurs after January 1, 2011, and he has a qualified primary residence on the date of the rating, then the exemption for him under this section begins on the date of such rating. However, no interest shall be due on any refund due to the veteran for taxes paid prior to the veteran's filing of the required affidavit or written statement. If the qualified veteran acquires the property after January 1, 2011, then the exemption shall begin on the date of acquisition, and the previous owner may be entitled to a refund for a pro rata portion of real property taxes paid.

B. The surviving spouse of a veteran eligible for the exemption set forth in this section shall also qualify for the exemption, so long as the death of the veteran occurs on or after January 1, 2011, the surviving spouse does not remarry, and the surviving spouse continues to occupy the real property as the spouse's principal place of residence.

C. For purposes of this exemption, real property of any veteran includes real property (i) held by a veteran alone or in conjunction with the veteran's spouse as tenant or tenants for life or joint lives, (ii) held in a revocable inter vivos trust over which the veteran or the veteran and his spouse hold the power of revocation, or (iii) held in an irrevocable trust under which a veteran alone or in conjunction with his spouse possesses a life estate or an estate for joint lives or enjoys a continuing right of use or support. The term does not include any interest held under a leasehold or term of years.

The exemption for a surviving spouse under subsection B includes real property (i) held by the veteran's spouse as tenant for life, (ii) held in a revocable inter vivos trust over which the surviving spouse holds the power of revocation, or (iii) held in an irrevocable trust under which the surviving spouse possesses a life estate or enjoys a continuing right of use or support. The exemption does not apply to any interest held under a leasehold or term of years.

D. In the event that (i) a person is entitled to an exemption under this section by virtue of holding the property in any of the three ways set forth in subsection C and (ii) one or more other persons have an ownership interest in the property that permits them to occupy the property, then the tax exemption for the property that otherwise would have been provided shall be prorated by multiplying the amount of the exemption by a fraction that has as a numerator the number of people who are qualified for the exemption pursuant to this section and has as a denominator the total number of all people having an ownership interest that permits them to occupy the property.

In the event that the primary residence is jointly owned by two or more individuals, not all of whom qualify for the exemption pursuant to subsection A or B, and no person is entitled to the exemption under this section by virtue of holding the property in any of the three ways set forth in subsection C, then the exemption shall be prorated by multiplying the amount of the exemption or deferral by a fraction that has as a numerator the percentage of ownership interest in the dwelling held by all such joint owners who qualify for the exemption pursuant to subsections A and B, and as a denominator, 100 percent.

€ E. The veteran or surviving spouse claiming the exemption under this section shall file with the director of finance or his designee, on forms to be supplied by the county, an affidavit or written statement (i) setting forth the name of the disabled veteran and the name of the spouse, if any, also occupying the real property, (ii) indicating whether the real property is jointly owned by a husband and wife, and (iii) certifying that the real property is occupied as the veteran's principal place of residence. The veteran shall also provide documentation from the U.S. Department of Veterans Affairs or its successor agency indicating that the veteran has a 100 percent service-connected, permanent, and total disability. The veteran shall be required to refile the information required by this section only if the veteran's principal place of residence changes. In the event of a surviving spouse of a veteran claiming the exemption, the surviving spouse shall also provide documentation that the veteran's death occurred on or after January 1, 2011.

F. The fact that veterans or their spouses who are otherwise qualified for an exemption under this section are residing in hospitals, nursing homes, convalescent homes, or other facilities for physical or mental care for extended periods of time shall not be construed to mean that the real estate for which the exemption is sought does not continue to be the sole dwelling of such persons during such extended periods of other residence so long as such real estate is not used by or leased to others for consideration.

(Ord. 11-15(2), 5-11-11)

State law reference -- §§ 58.1-3219.5, 58.1-3219.6

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I, Travis O. Morris, do hereby certify that the foregoing writing is a true, correct copy of an Ordinance duly adopted by the Board of Supervisors of Albemarle County, Virginia, by a vote of _____ to _____, as recorded below, at a regular meeting held on _____.

Senior Deputy Clerk, Board of County Supervisors

	<u>Aye</u>	<u>Nay</u>
Mr. Dill	_____	_____
Ms. Mallek	_____	_____
Ms. McKeel	_____	_____
Ms. Palmer	_____	_____
Mr. Randolph	_____	_____
Mr. Sheffield	_____	_____