

Chapter 58

TAXATION*

Article I. In General

- Sec. 58-1. Amount of real estate tax; due date of real estate taxes; when same deemed delinquent; penalty for failure to pay taxes when due.
- Sec. 58-2. Tax relief for the elderly and handicapped.
- Sec. 58-3. Lien for delinquent real estate taxes; certificate as to inability to collect taxes and levies.
- Sec. 58-4. Certificates of unpaid taxes.
- Sec. 58-5. Tax on net capital of banks located in town.
- Secs. 58-6—58-30. Reserved.

Article II. Consumer Utility Tax Other than Electricity and Natural Gas

- Sec. 58-31. Definitions.
- Sec. 58-32. Rate; levy; procedure as to payment.
- Sec. 58-33. Collection.
- Sec. 58-34. Records.
- Sec. 58-35. Exemptions.
- Sec. 58-36. Exceptions; pay telephones; long distance, etc.
- Sec. 58-37. Penalty.

Article III. Tax on Meals Served in Restaurants or by Caterers

- Sec. 58-38. Definitions.
- Sec. 58-39. Levy.
- Sec. 58-40. Collection of tax by seller.
- Sec. 58-41. Report of taxes collected; remittance of tax.
- Sec. 58-42. Discount.
- Sec. 58-43. Penalty and interest.

***Charter reference(s)**—Preparation of tax tickets, § 12; collection of taxes, §§ 13, 14, 17.

Cross reference(s)—Any ordinance appropriating funds, relating to any annual budget, or imposing any tax that is consistent with this Code saved from repeal, § 1-9(4); administration, ch. 2; businesses, ch. 14; special license tax provisions, § 14-91 et seq.

State law reference(s)—Taxation generally, Code of Virginia, § 58.1-1 et seq.; priority of taxes in distribution of assets of person or corporation, Code of Virginia, § 58.1-6 et seq.; Setoff Debt Collection Act, Code of Virginia, § 58.1-520 et seq.; local sales and use taxes, Code of Virginia, § 58.1-605 et seq.; local bank franchise tax, Code of Virginia, § 58.1-1208 et seq.; local taxes generally, Code of Virginia, § 58.1-3000 et seq.; enforcement, collection, refunds, remedies and review of local taxes, Code of Virginia, § 58.1-3900 et seq.

OCCOQUAN CODE

- Sec. 58-44. Procedure when tax not reported or collected.
- Sec. 58-45. Preservation of records.
- Sec. 58-46. Cessation of business; tax due immediately.
- Sec. 58-47. Advertising payment or absorption of tax prohibited.
- Sec. 58-48. Gratuities and service charges.
- Sec. 58-49. Exemptions; limits on application.
- Sec. 58-50. Enforcement.
- Sec. 58-51. Penalty for violation of this article.

Article IV. Consumer Utility Tax on Electricity and Natural Gas

- Sec. 58-52. Definitions.
- Sec. 58-53. Consumer Utility Tax on Electricity.
- Sec. 58-54. Consumer Utility Tax for Natural Gas.
- Sec. 58-55. Penalties.
- Sec. 58-56. Conflicts.

Article V. Tax on Transient Room Rentals

- Sec. 58-60. Definitions.
- Sec. 58-61. Levy of tax on transient room rentals; collection generally.
- Sec. 58-62. Collection from transients; when payable.
- Sec. 58-63. Report of collection and remittance of tax.
- Sec. 58-64. Discount.
- Sec. 58-65. Penalty and interest for nonremittance.
- Sec. 58-66. Failure to collect and report tax.
- Sec. 56-67. Preservation of records.
- Sec. 58-68. Cessation of business; tax due immediately.
- Sec. 58-69. Exceptions for governmental employees on official business.
- Sec. 58-70. Enforcement.
- Sec. 58-71. Violations; penalty.

ARTICLE I. IN GENERAL**Sec. 58-1. Amount of real estate tax; due date of real estate taxes; when same deemed delinquent; penalty for failure to pay taxes when due.**

(a) There shall be and is hereby levied a tax at a rate to be set by the town council per each \$100.00 of the assessed value as established by the county, of real property located in the town January 1 of each year.

(b) All taxes assessed on real estate in the town shall be due and payable to the town treasurer on or before February 15 of the following year.

(c) To all real estate taxes that may be delinquent, there shall be added a penalty of eight percent after February 15. To all real estate taxes that may be delinquent after March 15, interest of ten percent per annum shall be added to the unpaid balance, including the penalty.

(Code 1981, § 3-3)

Sec. 58-2. Tax relief for the elderly and handicapped.

Real estate within the town that meets the requirements for relief as established by the county shall not be subject to taxation by the town. The list of eligible taxpayers shall be provided by the county.

(Code 1981, § 3-4)

State law reference(s)—Exemptions for elderly and handicapped, Code of Virginia, § 58.1-3210 et seq.

Sec. 58-3. Lien for delinquent real estate taxes; certificate as to inability to collect taxes and levies.

(a) *Real estate taxes.* Real estate within the town shall be subject to a lien in favor of the town to secure the payment of taxes assessed against the property.

(b) *Collection of delinquent taxes and levies.* Pursuant to Code of Virginia, § 58.1-3921 et seq., the town treasurer, after using due diligence to collect taxes and levies due the town, shall before the first regular meeting of the town council in April of each year prepare lists of the taxes and levies that have not been collected, which lists the treasurer shall certify by oath as follows: "I, _____, Treasurer of the Town of Occoquan, after having been duly sworn, do certify that I have used due diligence to collect the foregoing taxes and levies and that I have been unable to collect them." Such certificate shall be acknowledged before an officer qualified to administer oaths.

(Code 1981, § 3-5)

State law reference(s)—Tax to constitute lien, Code of Virginia, § 58.1-3340.

Sec. 58-4. Certificates of unpaid taxes.

(a) The treasurer of the town shall issue, on or before May 1, to any applicant, a certificate setting forth the entire amount of unpaid taxes assessed against any real estate within the town, by or on behalf of the town, up to and including the last day of the calendar month preceding the date of the certificate.

(b) A separate certificate shall be issued for each separate piece of property as it appears upon the current tax records of the town. A fee of \$1.00 shall be charged for each certificate.

(c) The facts as set forth in each certificate shall be binding upon the town. No taxes other than those reported as unpaid in the certificate shall thereafter constitute a lien upon the real estate referred to in the certificate.

(d) The certificate provided for in this section shall be designated Certificates of Unpaid Taxes and shall be substantially in the following form:

I hereby certify that the records in the office of the Treasurer for the Town of Occoquan, Virginia, show that all town taxes due against the following property known as lot _____, block _____, and currently assessed in the name of _____, are paid in full to _____, with the exception of the following: _____

Treasurer.

(Code 1981, § 3-6)

Sec. 58-5. Tax on net capital of banks located in town.

(a) There is imposed a tax in the amount of 80 percent of the state rate of taxation on each \$100.00 of net capital of any bank located within the town.

(b) If any bank described in subsection (a) of this section has a branch located outside the town, the tax imposed shall be upon such proportion of the taxable value of the net capital as the total deposits of the bank or offices located in the town bear to the total deposits of the bank as of the end of the preceding year.

(Code 1981, § 3-7)

State law reference(s)—Bank franchise tax, Code of Virginia, § 58.1-1200 et seq.

Secs. 58-6—58-30. Reserved.

ARTICLE II. CONSUMER UTILITY TAX OTHER THAN ELECTRICITY AND NATURAL GAS***Sec. 58-31. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Commercial or industrial user means the owner or tenant of property used primarily for commercial or industrial purposes, who pays for utility service for the property.

Dwelling unit means one or more rooms designed or intended for occupancy by a single family.

Multiple-family dwelling means a building or portion thereof containing two or more dwelling units, but not including hotels or motels.

Person includes individuals, firms, partnerships, associations, corporations and combinations of individuals of whatever form and character.

Purchaser means every person who purchases a utility service.

Residential user means the owner or tenant of property used primarily for residential purposes, who pays for utility service in or for the property, and includes, but not by way of limitation, apartment house and other multiple-family dwellings.

Seller means every person whether a public service corporation or a municipality, or private corporation or not, who sells or furnishes a utility service.

Utility service includes a local exchange telephone service, electric service and gas furnished within the town.

(Ord. of 5-13-1975, § 1)

Cross reference(s)—Definitions generally, § 1-2.

Sec. 58-32. Rate; levy; procedure as to payment.

(a) On every bill sent for services, there is hereby imposed and levied by the town a tax upon each and every purchaser of a utility service for general purposes in the amount of 15 percent of the charge, exclusive of any federal tax thereon, made by the seller against the purchaser with respect to each utility service, which tax in every case shall be collected by the seller from the purchaser and shall be paid by the purchaser unto the seller for the use of the town at the time that the purchase price of such charge shall become due and payable under the agreement between the purchaser and

*Title of article changed in accordance with Code § 1-12 to correct numbering error in Ord. 2001-05.

the seller. Provided, however, that in case any monthly bill submitted by any seller for residential service shall exceed \$15.00 for a residential user, there shall be no tax computed on so much of such bill as shall exceed \$15.00.

(b) In the case of any multiple-family dwelling served by a master meter or meters, the tax is limited to the lesser of 15 percent of the net bill or 15 percent of an amount calculated at \$15.00 times the dwelling units served. If any monthly bill submitted by any seller for commercial or industrial service shall exceed \$60.00, there shall be no tax computed on so much of such bill as shall exceed \$60.00.

(c) If a bill is submitted by the seller for more than one month's utility service, then the amount of the bill excluded in computing the tax shall be the monthly exclusion allowed in this section, multiplied by the number of months for which the bill is submitted. Bills shall be considered monthly bills if submitted 12 times per year for periods of approximately one month each.

(Ord. of 5-13-1975, § 2)

Sec. 58-33. Collection.

It shall be the duty of every seller in acting as the tax collecting medium or agency in the town to collect from the purchaser for the use of the town the tax imposed and levied in this article at the time of collecting the purchase price charged, and the taxes collected during each calendar month shall be reported by each seller to the treasurer of the town and each seller shall remit the amount of tax shown by such report to have been collected to the treasurer on or before the last day of the first calendar month thereafter, together with the name and address of any purchaser who has refused to pay the tax. The required reports shall be in the form required by the treasurer.

(Ord. of 5-13-1975, § 3)

Sec. 58-34. Records.

Each and every seller shall keep complete records showing all purchases in the town, which records shall show the price charged against each purchaser with respect to each purchase, the date thereof and the date of payment thereof, and the amount of tax imposed under this article, and such records shall be kept open for inspection by the duly authorized agents of the town at reasonable times, and the duly authorized agents of the town shall have the right, power and authority to make the transcripts thereof.

(Ord. of 5-13-1975, § 4)

Sec. 58-35. Exemptions.

The United States of America, the state and the political subdivisions, boards, commissions and authorities thereof and all churches and hospitals are exempted from the payment of the tax imposed and levied by this article with respect to the purchase of utility service used by such governmental agencies, churches and hospitals.

(Ord. of 5-13-1975, § 5)

Sec. 58-36. Exceptions; pay telephones; long distance, etc.

The tax imposed and levied by this article on purchases with respect to telephone service shall apply to all charges made for local telephone exchange service except as follows:

- (1) *Coin box telephone.* No tax shall be imposed on telephone service paid for by inserting coins in coin-operated telephones.
- (2) *Flat rate service.* With respect to flat rate and flat message rate service, the tax shall apply only to the amount payable for local area service and shall not apply to any specific charge payable for local area service and shall not apply to any specific charge for calls to points outside the county or to any general charge or rate differential payable for the privilege of calling points outside the town.
- (3) *Message rate service.* Where purchases of telephone service are charged on a message rate basis, the tax shall apply only to the basic charge for such service and shall not apply to any charge for additional message units.

(Ord. of 5-13-1975, § 6)

Sec. 58-37. Penalty.

Any purchaser failing, refusing or neglecting to pay the tax imposed or levied in this article and any seller violating the provisions of this article, and any officer, agent or employee of any seller violating the provisions of this article shall, upon conviction, be subject to a fine of not more than \$100.00.

(Ord. of 5-13-1975, § 8)

ARTICLE III. TAX ON FOOD AND MEALS SERVED IN FOOD ESTABLISHMENTS OR BY CATERERS

Sec. 58-38. Definitions.

The following words and phrases, when used in this article, shall have, for the purposes of this article, the following respective meanings except where the context clearly indicates a different meaning:

Caterer. A person who furnishes food, beverages, or both, on the premises of another for compensation.

Collector. The treasurer of the town or designee.

Food. 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. Any place in or from which a meal, 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, café, 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 contiguous to a building or structure operated as a food establishment at which food or food products are sold for immediate consumption.

Meal. Any prepared food or beverage, including alcoholic beverages, offered or held out for sale by a food establishment or caterer for the purpose of being consumed by any person to satisfy the appetite and 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.

Seller. Any food establishment or caterer selling meals or food, or the person operating such business.

Treasurer. The treasurer of the town and any duly designated deputies, assistants, inspectors or other employees.

Town. The Town of Occoquan, Virginia, a municipal corporation of the Commonwealth of Virginia.

(Ord. O-2000-02, § 58-38)

Sec. 58-39 Levy.

In addition to all other taxes and fees of any kind now or hereafter imposed by law, there is hereby imposed and levied by the town on each person a tax at the rate of two percent (2%) on the amount paid for every meal or food purchased from any food establishment or caterer, whether prepared in such food establishment or not, and whether consumed on the premises or not.

(Ord. O-2000-02, § 58-39; Ord. O-2006-08, § 58-39)

Sec. 58-40. Collection of tax by seller.

Every person receiving any payment for a meal or food with respect to which a tax is levied hereunder shall collect and remit the amount of the tax imposed by this article from the person on whom the same is levied or from the person paying for such meal or food at the time payment for such food is made; provided, however, 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.

All tax collections shall be deemed to be held in trust for the town.

(Ord. O-2000-02, § 58-40)

Sec. 58-41. Report of taxes collected; remittance of tax.

It shall be the duty of every person required by this article to collect and remit to the town the taxes imposed by this article to make a report for each calendar month thereof setting forth such information as the treasurer may prescribe and require, including all purchases taxable under this article, the amount charged the purchaser for each such purchase, the date thereof, the taxes collected thereon and the amount of tax required to be collected by this article. The monthly reports shall be delivered to the treasurer on or before the twentieth (20th) day of the calendar month following the month being reported. Each report shall be accompanied by a remittance of the amount of tax due, made payable to the town and sent to the treasurer.

(Ord. O-2000-02, § 58-41)

Sec. 58-42. Discount.

For the purpose of compensating sellers for the collection of tax imposed by this article, every seller shall be allowed three percent (3%) of the total amount of the tax due and accounted for in the form of a deduction on his or her monthly return; provided the amount due is not delinquent at the time of payment.

(Ord. O-1999-03, § 58-42)

Sec. 58-43. Penalty and interest.

If any person whose duty it is to do so shall fail or refuse to make the report or remit the tax required by this article within the time and in the amount required, there shall be added to the tax by the treasurer a penalty in the amount of ten percent (10%) of the tax, or a minimum of ten dollars (\$10.00), whichever is greater; provided, however, that the penalty shall in no case exceed the amount of the tax due. The treasurer shall also assess interest on the tax and penalty at the rate of ten percent (10%) per annum from the day after the tax is due until paid.

(Ord. O-1999-03, § 58-43)

Sec. 58-44. Procedure when tax not reported or collected.

If any person whose duty it is to do so shall fail or refuse to collect the tax imposed under this article and make within the time provided herein any report and remittance required, the treasurer shall proceed in such manner as he may deem best to obtain facts and information on which to base an estimate of the tax due. As soon as the treasurer has secured whatever facts and information he is able to obtain upon which to base the assessment of any tax due and payable by any person who has failed or refused to collect such tax and make such report and remittance, he shall proceed to determine and assess against such person the tax and penalty and interest provided for in this article and shall notify such person by registered mail, sent to his or her last known address, of the amount of such tax and penalty and interest. The total amount thereof shall be payable within (10) days of the mailing of such notice. The treasurer shall have the power to examine such records for the purpose of administering and enforcing the provisions of this article as provided by law.

(Ord. O-1999-03, § 58-44)

Sec. 58-45. Preservation of records.

It shall be the duty of every person liable for collection and remittance of the taxes imposed by this article to keep and preserve for a period of five (5) years suitable records as may be necessary to determine the amount of purchases taxable under this article, the amount charged the purchaser for each such purchase, the date thereof, the taxes collected thereon and the amount of tax required to be collected by this article. The treasurer or his duly authorized agents shall have the power to examine such records, at reasonable times and without unreasonable interference with the business of such person, for the purpose of administering and enforcing the provisions of this article, and to make transcripts of all or any parts thereof.

(Ord. O-2000-02, § 58-45)

Sec. 58-46. Cessation of business: tax due immediately.

Whenever any person required to collect and pay to the town a tax imposed by this article shall cease to operate, go out of business or otherwise dispose of his business, any tax then payable to the town shall become immediately due and payable, and such person shall immediately make a report and pay the tax due to the treasurer.

(Ord. O-1999-03, § 58-46)

Sec. 58-47. Advertising payment or absorption of tax prohibited.

No seller shall advertise or hold out to the public in any manner, directly or indirectly, that all or any part of a tax imposed under this article will be paid or absorbed by the seller or by anyone else, or that the seller or anyone else will relieve any purchaser of the payment of all or any part of the tax.

(Ord. O-1999-03, § 58-47)

Sec. 58-48. Gratuities and service charges.

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, in the latter case, the full amount of the gratuity is turned over to the employee by the seller. An amount or percentage, whether designated as a gratuity or a service charge, that is added to the price of a meal by the seller and required to be paid by the purchaser, as a part of the selling price of the meal and is subject to the tax imposed by this article.

(Ord. O-1999-03, § 58-48)

Sec. 58-49. Exemptions; limits on application.

The following classes of meals shall not be subject to tax under this article:

(a) The tax imposed under this article shall not be levied on factory-prepackaged candy, gum, nuts and other items of essentially the same nature served for on or off-premises consumption.

(b) The tax imposed under this article shall not be levied on the following items when served exclusively for off-premises consumption:

(1) Donuts, ice cream, crackers, nabs, chips, cookies and factory-prepackaged items of essentially the same nature;

(2) 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.

(3) Alcoholic and non-alcoholic beverages sold in factory sealed containers.

(4) 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.

(5) 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 the 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 non-factory-sealed beverages. This subsection shall not affect provisions set forth in subparagraphs (d) (3), (4) and (5) hereinbelow.

(c) 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.

(d) 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 non-profit 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 by a non-profit educational, charitable or benevolent organization, church, or religious body as a fundraising activity, the net proceeds of which are to be used by such organization exclusively for non-profit educational, charitable, benevolent or religious purposes.

(7) Food and beverages sold through vending machines.

(Ord. O-2000-02, § 58-49)

Sec. 58-50. Enforcement.

(a) It shall be the duty of the treasurer to ascertain the name of every person operating a restaurant in the town, liable for the collection of the tax imposed by this article, who fails, refuses or neglects to collect such tax or to make the reports and remittance required by this article. The treasurer may have issued a summons for such person, and the summons may be served upon such person by any town police officer in the manner provided by law. One return of the original summons shall be made to the general district court for the town.

(b) In the event the purchaser of any meal refuses to pay the tax imposed by this article, the seller may call upon the police department for assistance; and the investigating officer may, when probable cause exists, issue the purchaser a summons returnable to the general district court as provided by law.

(Ord. O-1999-03, § 58-50)

Sec. 58-51. Penalty for violation of this article.

(a) Any person willfully failing or refusing to file a return as required under this article shall, upon conviction thereof, 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 \$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 subsection (a) 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 over the meals 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 thereof, shall, in addition to any other penalties imposed by law, be guilty of a Class 1 misdemeanor.

(c) 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 provided in this article.

(Ord. O-2000-02, § 58-51)

ARTICLE IV. CONSUMER UTILITY TAX ON ELECTRICITY AND NATURAL GAS*

Sec. 58-52. Definitions.

Consumer means every person or business entity, individually or through agents, employees, officers, representatives or permittees, makes a taxable purchase of electricity or natural gas services.

Commercial or industrial consumer means the owner or tenant of property used primarily for commercial or industrial uses, but does not include apartment houses or other multiple-family dwellings.

Electric supplier means any person or business entity owning or operating facilities for the generation, transmission or distribution of electricity for sales, except any person owning or operating solar, water or hydroelectric facilities with a designated generation capacity of less than twenty-five megawatts.

* Article inserted in accordance with Code § 1-12 to correct numbering error in Ord. 2001-05.

Gas supplier means any person or business entity licensed by the State Corporation Commission to engage in the business of selling natural gas.

Gas utility means a public utility authorized to furnish natural gas service in Virginia.

CCF means the volume of gas at standard pressure and temperature in units of 100 cubic feet.

Kilowatt hours (kWh) delivered means 1000 watts of electricity delivered by an electric supplier to an actual consumer, except that in the case of eligible customer-generators (sometimes called cogenerators) as defined in Section 56-594 of the Code of Virginia, (1950), as amended, 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.

Pipeline distribution company means a corporation or business entity, other than a pipeline transmission company which transmits, by means of a pipeline, natural gas, manufactured gas or crude petroleum and the products or byproducts thereof to a purchaser for purposes of furnishing heat or light.

Pipeline transmission company means a corporation or business entity authorized to transmit natural gas, manufactured gas or crude petroleum and the products or byproducts thereof in the public service by means of pipeline or pipelines from one point to another when such gas or petroleum is not for sale to an ultimate consumer for purposes of furnishing heat or light.

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

Service provider means a person or business entity that delivers electricity to the consumer.

Used primarily relates to the larger portion of the use for which electric or natural gas utility service is furnished and for the purposes of this ordinance.

(Ord. O-2001-01, § 58-52; Ord. O-2001-05)

Sec. 58-53. Consumer Utility Tax on Electricity.

(a) In accordance with Section 58.1-3814 of the Code of Virginia, (1950), as amended, effective January 1, 2001, there is hereby imposed and levied a per meter tax on each purchase of electricity provided to consumers by electric suppliers as follows:

(1) Residential consumers: Such tax shall be at the rate of a \$1.05 minimum charge plus \$ 0.011881 per kWh delivered monthly to such consumers, not to exceed \$2.25 per month.

(2) Group or Master Metered Apartment (Multiple-Family Dwelling) consumers: Such tax shall be at the rate of a \$ 1.05 per meter minimum charge plus \$0. 011881 per kWh delivered monthly to such consumers, not to exceed the lesser of fifteen percent of the net bill or fifteen percent of an amount calculated at \$ 15.00 times the dwelling units served per month. Group or master metered apartment houses or other multiple-family dwellings shall be taxed at the residential electric consumer rate for each dwelling unit.

(3) Commercial and Industrial consumers: Such tax, for the period of January 1, 2001 to December 31, 2003, shall be at the rate of a \$ 1.72 minimum charge plus \$0. 010517 per kWh delivered monthly to such consumers, not to exceed \$ 9.00 per month.

(4) Conversion: The conversion of tax pursuant to this ordinance 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.

(b) Exemptions: The following consumers of electricity are exempt from the tax imposed by this Section 58-41:

(i) Any public safety agency as defined in Section 58.1-3813 of the Code of Virginia (1950), as amended

(ii) The United States of America, the state and the political subdivisions, boards, commissions and authorities thereof.

(c) Billing, collection and remittance of tax: The service provider shall bill the electricity consumer tax to all users who are subject to the tax and to whom it delivers electricity and shall remit the same to this jurisdiction on a monthly basis in accordance with the applicable provisions of Title 58.1 of the Code of Virginia (1950), as amended. If any consumer receives and pays for electricity 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 electric service and the tax and remit the tax portion to this jurisdiction.

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.

(d) Computation of bi-monthly bill: Bills shall be considered as monthly bills for the purposes of this ordinance if submitted 12 times per year at approximately 30 day intervals. The tax on a bi-monthly bill (approximately 60 day intervals) shall be determined as follows: (i) kWh consumed shall be divided by 2; (ii) a monthly tax shall be calculated using the rates set forth above; (iii) the tax determined by (ii) shall be multiplied by 2; (iv) the tax in (iii) shall not exceed twice the monthly maximums set forth in subsection (a) above.

(Ord. O-2001-01, § 58-53; Ord. O-2001-05)

Sec. 58-54. Consumer Utility Tax For Natural Gas.

(a) In accordance with Section 58.1-3814 of the Code of Virginia, (1950), as amended, there is hereby imposed and levied a per meter tax on each purchase of natural gas provided to consumers by pipeline distribution companies and gas utilities as follows:

(1) Residential consumers: Such tax shall be at the rate of a \$ 1.35 minimum charge plus \$0.0141600 per CCF delivered monthly to such consumers, not to exceed \$2.25 per month.

(2) Group or Master Metered Apartment (Multiple-Family Dwelling) consumers: Such tax shall be at the rate of a \$ 6.86 minimum charge plus \$0.0351952 per CCF delivered monthly to such consumers, not to exceed the lesser of fifteen percent of the net bill or fifteen percent of an amount calculated at \$ 15.00 times the dwelling units served per month.

(3) Commercial and Industrial consumers: Such tax, for the period of January 1, 2001 to December 31, 2003, shall be at the rate of a \$ 2.51 minimum charge plus \$0. 0627327 per CCF delivered monthly to such consumers, not to exceed \$ 9.00 per month.

(4) Conversion: The conversion of tax pursuant to this ordinance to monthly CCF 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.

(b) Exemptions: The following consumers of natural gas are to be exempt from the tax imposed by this Section 58-42:

(i) Any public safety agencies as defined in Section 58.1-3813 of the Code of Virginia (1950), as amended.

(ii) The United States of America, the state and the political subdivisions, boards, commissions and authorities thereof.

(c) Billing, collection and remittance of tax: The service provider shall bill the natural gas consumer tax to all users who are subject to the tax and to whom it delivers natural gas and shall remit the same to this jurisdiction on a monthly basis in accordance with the applicable provisions of Title 58.1 of the Code of Virginia (1950), as amended. If any consumer receives and pays for natural gas 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 natural gas service and the tax and remit the tax portion to this jurisdiction.

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.

(d) Computation of bi-monthly bill: Bills shall be considered as monthly bills for the purposes of this ordinance if submitted 12 times per year at approximately 30 day intervals. The tax on a bi-monthly bill (approximately 60 day intervals) shall be determined as follows: (i) CCF consumed shall be divided by 2; (ii) a monthly tax shall be calculated using the rates set forth above; (iii) the tax determined by (ii) shall be multiplied by 2; (iv) the tax in (iii) shall not exceed twice the monthly maximums set forth in subsection (a) above.

(Ord. O-2001-01, § 58-54; Ord. O-2001-05)

Sec. 58-55. Penalties.

Any consumer of electricity or natural gas failing, refusing or neglecting to pay the tax imposed and levied under this ordinance, and any officer, agent or employee of any electric supplier, gas distribution company or gas utility violating the provisions of this ordinance shall, upon conviction thereof, be punished by a fine of not less than \$10 nor more than \$300.00, or by imprisonment in jail for not more than 90 days, or by both such fine and imprisonment. 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 ordinance.

(Ord. O-2001-01, § 58-55; Ord. O-2001-05)

Sec. 58-56. Conflicts.

Any ordinance or provision of the Code of Occoquan (1998), as amended, relating to the imposition of the consumer utility tax for electrical or natural gas service, and in conflict herewith stands repealed to the extent of the inconsistency, as of the effective date of this ordinance.

(Ord. O-2001-01, § 58-56; Ord. O-2001-05)

ARTICLE V. TAX ON TRANSIENT ROOM RENTALS*

Sec. 58-60 Definitions.

For the purpose of this article the following words and phrases shall have the meanings respectively ascribed to them by this section unless the context clearly indicates a different meaning.

Treasurer shall mean the town treasurer of the town and his duly designated deputies, assistants, inspectors, clerks or other employees.

*Article number changed in accordance with Code § 1-12 to correct numbering error in Ord. 2001-05.

Hotel shall mean 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 in this section, for compensation to any transient, as hereinafter defined in this section.

Lodging shall mean any room or space furnished any transient.

Person shall mean any individual, corporation, company, association, firm, copartnership or any group of individuals acting as a unit.

Transient shall mean any person who, for a period of not more than ninety (90) consecutive days, either at his own expense or at the expense of another, obtains lodging of the use of any space at any hotel, for which lodging or use of space a charge is made.

(Ord. O-1999-02, § 58-60)

Sec. 58-61. Levy of tax on transient room rentals; collection generally.

There is hereby imposed and levied upon every transient obtaining or occupying lodging within the town, in addition to all other taxes and fees of every kind now imposed by law, a tax equivalent to one percent (1%) of the amount charged for such lodging. The tax shall be collected from transients in the manner and at the time provided in this article.

(Ord. O-1999-02, § 58-61)

Sec. 58-62. Collection from transients; when payable.

Every person receiving any payment for lodging or the use of space 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 article shall be deemed held in trust by the person required to collect such taxes until the same shall have been remitted to the town as provided by this article.

(Ord. O-1999-02, § 58-62)

Sec. 58-63. Report of collection and remittance of tax.

The person collecting any tax as provided in this article shall make out a report thereof, upon such forms and setting forth such information as the commissioner may prescribe and require, showing the amount of lodging, charges collect and the tax required to be collected and shall sign and deliver such reports with the remittance of such tax to the treasurer. Such reports and remittances shall be made on or before the twentieth day of each month covering the amount of tax due and collected during the preceding month.

(Ord. O-1999-02, § 58-63)

Sec. 58-64. Discount.

For the purpose of compensating persons required to collect such taxes for the collection of the tax imposed by this article, every person required to collect such taxes shall be allowed three (3) percent of the total amount of the tax due and accounted for in the form of a deduction on his or her monthly return; provided, however, the amount due is not delinquent at the time of payment.

(Ord. O-1999-02, § 58-64)

Sec. 58-65. Penalty and interest for nonremittance.

If any person whose duty is to do so shall fail or refuse to report and remit to the treasurer the tax required to be collected and paid under this article, within the time and in the amount as provided for in this article, there shall be added to such tax by the treasurer a penalty in the amount of ten (10) percent of the tax due or the sum of ten dollars (\$10.00), whichever is greater, provided, however, that the penalty shall in no case exceed the amount of the tax due. The treasurer shall also assess interest on the tax and penalty at the rate of ten (10) percent per year from the day after the tax is due until paid.

(Ord. O-1999-02, § 58-65)

Sec. 58-66. Failure to collect and report tax.

If any person whose duty is to do so shall fail or refuse to collect the tax imposed under this article and to make, within the time provided herein, any report and remittance required, the treasurer shall proceed in such manner as he may deem best to obtain facts and information on which to base an estimate of the tax due. As soon as the treasurer has secured whatever facts and information as he is able to obtain upon which to base the assessment of any tax due and payable by any person who has 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 and penalty and interest as provided for in this article and shall notify such person by registered mail, sent to his last place of known address, the amount of such tax and penalty and interest. The total amount thereof shall be payable within ten (10) days of mailing of such notice. The treasurer shall have the power to examine such records for the purpose of administering and enforcing the provisions of this article as provided by law.

(Ord. O-1999-02, § 58-66)

Sec. 58-67. Preservation of records.

It shall be the duty of every person liable for the collection and remittance of the taxes imposed by this article to keep and preserve for a period of two (2) years such suitable records as may be necessary to determine the amount of such tax as he may have been responsible for collecting and paying to the town. The treasurer shall have the power to examine such records, at reasonable times

and without unreasonable interference with the business of such person, for the purpose of administering and enforcing the provisions of this article, and to make transcripts of all or any parts thereof.

(Ord. O-1999-02, § 58-67)

Sec. 58-68. Cessation of business; tax due immediately.

Whenever any person required to collect and pay to the town a tax imposed by this article shall cease to operate, go out of business or otherwise dispose of his business, any tax then payable to the town shall become immediately due and payable, and such person shall immediately make a report and pay the tax due to the treasurer.

(Ord. O-1999-02, § 58-68)

Sec. 58-69. Exceptions for governmental employees on official business.

No tax shall be payable hereunder with respect to any payment for lodging of the use of space paid by or for any federal, Virginia or town official or employee when on official business.

(Ord. O-1999-02, § 58-69)

Sec. 58-70. Enforcement.

(a) It shall be the duty of the treasurer to ascertain the name of every hotel offering lodging to a transient in the town, liable for the collection of the tax imposed by this article, which fails, refuses or neglects to collect such tax or to make the reports and remittances required by this article. The treasurer may have issued a summons to such person responsible for the hotel offering lodging to a transient, and the summons may be served upon such person by any town police officer in the manner provided by law. One (1) return of the original summons shall be made to the general district court for the town.

(b) In the event the purchaser of any transient room rental refuses to pay the tax imposed by this article, the hotel operator may call upon the police department for assistance, and the investigating officer may, when probable cause exists, issue the purchaser a summons returnable to the general district court as provided by law.

(Ord. O-1999-02, § 58-70)

Sec. 59-71. Violations; penalty.

Any person violating or failing to comply with any of the provisions of this article shall, upon conviction thereof, be guilty (1) of a Class 3 misdemeanor if the amount of the tax lawfully assessed is one thousand dollars (\$1,000.00) or less, or (2) a Class 1 misdemeanor if the amount of the tax lawfully assessed is more than one thousand dollars (\$1,000.00) and punishable as provided in

TAXATION

§ 58-71

section 1-13 of this Code. Conviction shall not relieve any person from the payment, collection or remittance of the tax as provided in this article. Each violation or failure shall be a separate offense.

(Ord. O-1999-02, §58-71)