

EXHIBIT NO. 1

18
9-12-09

~~24~~
~~9-8-09~~

City of Alexandria, Virginia

MEMORANDUM

DATE: AUGUST 24, 2009
TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL
FROM: JAMES K. HARTMANN, CITY MANAGER *J*
SUBJECT: ORDINANCE TO AMEND CITY CODE SECTIONS RELATED TO THE VIRGINIA COMMUNICATIONS SALES AND USE TAX

ISSUE: An ordinance to amend and repeal City Code ordinances to change the City Code sections to accurately reflect the City's powers subsequent to the enactment of the Virginia Communication Sales and Use Tax Act (Virginia Code §§ 58.1-645, et. seq.).

RECOMMENDATION: That City Council pass the ordinance on first reading and set it for public hearing, second reading and final passage on Saturday, September 12.

DISCUSSION: In 2006, the General Assembly passed the Virginia Communications Sales and Use Tax Act (the "Act"), which replaced various local taxes, including utility taxes on landline telephone service, the cell phone tax, the E-911 tax, the cable franchise fee and part of the business license tax on telecommunications service companies. When the Act took effect on January 1, 2007, the Commonwealth assumed responsibility for collecting a flat five percent tax on the charge for, or sale of, communications services. Businesses remit the Communications Tax to the Commonwealth within 30 days of the end of the month in which the service occurred. The Commonwealth remits the City's portion of these taxes approximately one month later. The City's portion is currently 2.59 percent of total Commonwealth net revenues and is based on a formula derived from pre-enactment State-wide collection levels of the local taxes replaced by the Act. The City has received \$11.3 million in communications tax remittances for FY 2009. Since the City has been authorized to collect the local taxes replaced by the Act since January 1, 2007, the attached ordinance merely reflects the City's taxing powers subsequent to enactment. The City ordinances were not changed at the time that the State Act took effect, as it was unclear at that time if the State Act would be challenged. It was not, so it is now prudent to remove the old City taxing language.

FISCAL IMPACT: There is no estimated fiscal impact from these changes.

ATTACHMENT: Ordinance to amend Sections 3-2-61, 3-2-62, and 3-2-69

STAFF:
Bruce Johnson, Chief Financial Officer
Laura B. Triggs, Director of Finance
Debbie Kidd, Division Chief, Revenue Administration
Christina Zechman Brown, Assistant City Attorney

1	Introduction and first reading:	9/08/09
2	Public hearing:	9/12/09
3	Second reading and enactment:	9/12/09

INFORMATION ON PROPOSED ORDINANCE

Title

AN ORDINANCE to amend Sections 3-2-61 (DEFINITIONS), 3-2-62 (TAX RATE AND LEVY), and 3-2-69 (DUTIES OF DIRECTOR) and repeal Sections 3-2-63 (APPLICATION FOR CLASSIFICATION AS COMMERCIAL OR INDUSTRIAL USER), 3-2-67 (APPLICABILITY TO TELEPHONE SERVICE), and 3-2-71 (CELLULAR TELEPHONE TAX) of Article F (TAX ON PERSONS PURCHASING TELEPHONE AND WATER SERVICES) of Chapter 2 (TAXATION) of Title 3 (FINANCE, TAXATION AND PROCUREMENT); repeal Article U (ENHANCED EMERGENCY TELEPHONE SERVICE, E-911, TAX) of Chapter 2 (TAXATION) of Title 3 (FINANCE, TAXATION AND PROCUREMENT); and amend Section 9-1-84 (PUBLIC UTILITIES) of Article C (NONREGULATORY LICENSES), of Chapter 1 (BUSINESS LICENSES) of Title 9 (LICENSING AND REGULATION) of the Code of the City of Alexandria, Virginia, 1981, as amended.

Summary

The proposed ordinance would amend and repeal sections of the Code to bring it into conformity with the taxing powers the City retains since the enactment of the Virginia Communication Sales and Use Tax Act (§§ 58.1-645, et. seq. of the Virginia Code).

Sponsor

Laura B. Triggs, Director of Finance

Staff

Bruce Johnson, Chief Financial Officer
Laura B. Triggs, Director of Finance
Debbie Kidd, Division Chief, Revenue Administration
Christina Zechman Brown, Assistant City Attorney

Authority

None

Estimated Costs of Implementation

None

Attachments in Addition to Proposed Ordinance and its Attachments (if any)

None

ORDINANCE NO. _____

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AN ORDINANCE to amend Sections 3-2-61 (DEFINITIONS), 3-2-62 (TAX RATE AND LEVY), and 3-2-69 (DUTIES OF DIRECTOR) and repeal Sections 3-2-63 (APPLICATION FOR CLASSIFICATION AS COMMERCIAL OR INDUSTRIAL USER), 3-2-67 (APPLICABILITY TO TELEPHONE SERVICE), and 3-2-71 (CELLULAR TELEPHONE TAX) of Article F (TAX ON PERSONS PURCHASING TELEPHONE AND WATER SERVICES) of Chapter 2 (TAXATION) of Title 3 (FINANCE, TAXATION AND PROCUREMENT); repeal Article U (ENHANCED EMERGENCY TELEPHONE SERVICE, E-911, TAX) of Chapter 2 (TAXATION) of Title 3 (FINANCE, TAXATION AND PROCUREMENT); and amend Section 9-1-84 (PUBLIC UTILITIES) of Article C (NONREGULATORY LICENSES), of Chapter 1 (BUSINESS LICENSES) of Title 9 (LICENSING AND REGULATION) of the Code of the City of Alexandria, Virginia, 1981, as amended.

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Section 3-2-61 of Article F of the Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, amended to read as follows:

Sec. 3-2-61 Definitions.

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

(1) Commercial or industrial user. The owner or tenant of property used primarily for commercial or industrial purposes, but this term shall not include apartment houses or other multiple-family dwellings.

(2) Dwelling unit. One or more rooms designed or intended for occupancy by a single-family.

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

(4) Purchaser. Every person who purchases a utility service.

(5) Residential user. The owner or tenant of property used primarily for residential purposes, and this term shall include, but not by way of limitation, apartment houses and other multiple-family dwellings.

(6) Seller. Every person, whether or not a public service corporation or a municipality, who sells or furnishes a utility service.

(7) Used primarily. This term shall relate to the larger portion of the use for which the utility service is furnished and, for the purposes of this article, in the determination of the

1 primary use for which a utility service is furnished, the primary or larger portion of that use shall
2 be determined by the relative load for each use or the relative time of operation by each.

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4 (8) Utility service. This term shall include ~~a local exchange telephone service and~~ water
5 service furnished in the city.

6
7 Section 2. That Section 3-2-62 of the City Code of the City of Alexandria, Virginia,
8 1981, as amended, be, and the same hereby is, amended to read as follows:

9
10 Sec. 3-2-62 Tax rate and levy.

11
12 There is hereby imposed and levied by the city, upon every purchaser of a utility service,
13 a tax for general purposes in the following amounts: 15 percent for water service ~~and 25 percent~~
14 ~~for telephone service~~. The above mentioned tax rates shall be computed as a percent of the
15 charge (exclusive of any federal or state tax thereon) made by the seller against the purchaser
16 with respect to ~~each~~ the utility service, which tax in every case shall be collected by the seller
17 from the purchaser and shall be paid by the purchaser unto the seller for the use of the city at the
18 time that the purchase price or such charge shall become due and payable under the agreement
19 between the purchaser and the seller; provided, that in case any monthly bill submitted by any
20 seller for service to a commercial or industrial user shall exceed \$150, there shall be no tax
21 computed on so much of the bill as shall exceed \$150. Bills shall be considered monthly bills,
22 for the purpose of this article, if submitted 12 times per year for periods of approximately one
23 month each. Accordingly, there shall be no tax computed on so much of a bill for services
24 submitted to a commercial or industrial user in excess of \$300 where the billing is made on a bi-
25 monthly basis, that is, every other month, and there shall be no tax computed on so much of a bill
26 for services submitted to a commercial or industrial user in excess of \$450 where the billing is
27 made quarterly.

28
29 Section 3. That Section 3-2-63 of the Code of the City of Alexandria, Virginia,
30 1981, as amended, be, and the same hereby is, repealed, and such section number is hereafter
31 reserved.

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33 Section 4. That Section 3-2-67 of the Code of the City of Alexandria, Virginia,
34 1981, as amended, be, and the same hereby is, repealed, and such section number is hereafter
35 reserved.

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37 Section 5. That Section 3-2-69 of the Code of the City of Alexandria, Virginia,
38 1981, as amended, be, and the same hereby is, amended to read as follows:

39
40 Sec. 3-2-69 Duties of director.

41
42 (a) The director shall be charged with the power and duty of collecting the taxes imposed
43 and levied under this article.

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45 ~~(b) The director shall distribute to each seller, except sellers that elect to maintain~~
46 ~~records and rate schedules or tariffs for classifying commercial or industrial users, as provided in~~
47 ~~section 3-2-64 of this code, a list containing the names and addresses of all commercial and~~
48 ~~industrial users served by the seller. The lists shall be kept current by the director by notifying~~

1 ~~the sellers of any additions and deletions thereto, and shall be revised completely at least once~~
2 ~~per calendar year.~~

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4 Section 6. That Section 3-2-71 of the Code of the City of Alexandria, Virginia,
5 1981, as amended, be, and the same hereby is, repealed, and such section number is hereafter
6 reserved.

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8 Section 7. That Article U of the Code of the City of Alexandria, Virginia, 1981, as
9 amended, be, and the same is hereby, repealed in its entirety.

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11 Section 8. That Section 9-1-84 of the Code of the City of Alexandria, Virginia,
12 1981, as amended, be, and the same hereby is, amended to read as follows:

13
14 Sec. 9-1-84 Public utilities.

15
16 (a) All motor vehicle carriers operating on or through the streets of the city shall pay for
17 the privilege of using the streets, roads and routes, including bridges, an annual license tax as
18 follows: one-fifth cent per mile for each mile operated within the city by any vehicle weighing
19 5,000 pounds or less, two-fifths cent per mile for each mile so operated by any vehicle weighing
20 more than 5,000 pounds and less than 15,000 pounds; and three-fifths cents per mile for each
21 mile so operated by any vehicle weighing more than 15,000 pounds.

22
23 (b) All telephone companies, for the privilege of doing business in the city, shall pay an
24 annual license tax equal to ~~\$1.03~~\$0.50 per \$100 of the gross receipts for the rentals, subscriptions
25 and stations, excluding however, business done between the city and points without the state and
26 messages sent by the federal government of this state and their officers and agents.

27
28 (c) All persons engaged in the business of sending telegrams from the city to any point
29 within the state shall pay for the privilege an annual license tax equal to \$0.50 per \$100 ~~two~~
30 ~~percent~~ of the gross receipts received from such telegrams and telegraphic communications of
31 any kind.

32
33 (d) All persons furnishing water for domestic and commercial consumption shall pay for
34 the privilege an annual license tax of one-half of one percent of the gross receipts from any one
35 or more of such businesses.

36
37 Section 9. That this ordinance shall become effective upon the date and at the time
38 of its final passage.

39
40 WILLIAM D. EUILLE
41 Mayor

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43 Introduction: 9/08/09
44 First Reading:
45 Publication:
46 Public Hearing:
47 Second Reading:
48 Final Passage:

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ORDINANCE NO. 4624

AN ORDINANCE to amend Sections 3-2-61 (DEFINITIONS), 3-2-62 (TAX RATE AND LEVY), and 3-2-69 (DUTIES OF DIRECTOR) and repeal Sections 3-2-63 (APPLICATION FOR CLASSIFICATION AS COMMERCIAL OR INDUSTRIAL USER), 3-2-67 (APPLICABILITY TO TELEPHONE SERVICE), and 3-2-71 (CELLULAR TELEPHONE TAX) of Article F (TAX ON PERSONS PURCHASING TELEPHONE AND WATER SERVICES) of Chapter 2 (TAXATION) of Title 3 (FINANCE, TAXATION AND PROCUREMENT); repeal Article U (ENHANCED EMERGENCY TELEPHONE SERVICE, E-911, TAX) of Chapter 2 (TAXATION) of Title 3 (FINANCE, TAXATION AND PROCUREMENT); and amend Section 9-1-84 (PUBLIC UTILITIES) of Article C (NONREGULATORY LICENSES), of Chapter 1 (BUSINESS LICENSES) of Title 9 (LICENSING AND REGULATION) of the Code of the City of Alexandria, Virginia, 1981, as amended.

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Section 3-2-61 of Article F of the Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, amended to read as follows:

Sec. 3-2-61 Definitions.

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

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(2) Dwelling unit. One or more rooms designed or intended for occupancy by a single-family.

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

(4) Purchaser. Every person who purchases a utility service.

(5) Residential user. The owner or tenant of property used primarily for residential purposes, and this term shall include, but not by way of limitation, apartment houses and other multiple-family dwellings.

(6) Seller. Every person, whether or not a public service corporation or a municipality, who sells or furnishes a utility service.

(7) Used primarily. This term shall relate to the larger portion of the use for which the utility service is furnished and, for the purposes of this article, in the determination of the primary use for which a utility service is furnished, the primary or larger portion of that use shall be determined by the relative load for each use or the relative time of operation by each.

(8) Utility service. This term shall include water service furnished in the city.

Section 2. That Section 3-2-62 of the City Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, amended to read as follows:

Sec. 3-2-62 Tax rate and levy.

There is hereby imposed and levied by the city, upon every purchaser of a utility service, a tax for general purposes in the following amounts: 15 percent for water service. The above mentioned tax rate shall be computed as a percent of the charge (exclusive of any federal or state tax thereon) made by the seller against the purchaser with respect to the 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 city at the time that the purchase price or such charge shall become due and payable under the agreement between the purchaser and the seller; provided, that in case any monthly bill submitted by any seller for service to a commercial or industrial user shall exceed \$150, there shall be no tax computed on so much of the bill as shall exceed \$150. Bills shall be considered monthly bills, for the purpose of this article, if submitted 12 times per year for periods of approximately one month each. Accordingly, there shall be no tax computed on so much of a bill for services submitted to a commercial or industrial user in excess of \$300 where the billing is made on a bi-monthly basis, that is, every other month, and there shall be no tax computed on so much of a bill for services submitted to a commercial or industrial user in excess of \$450 where the billing is made quarterly.

Section 3. That Section 3-2-63 of the Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, repealed, and such section number is hereafter reserved.

Section 4. That Section 3-2-67 of the Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, repealed, and such section number is hereafter reserved.

Section 5. That Section 3-2-69 of the Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, amended to read as follows:

Sec. 3-2-69 Duty of director.

The director shall be charged with the power and duty of collecting the tax imposed and levied under this article.

Section 6. That Section 3-2-71 of the Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, repealed, and such section number is hereafter reserved.

Section 7. That Article U of the Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same is hereby, repealed in its entirety.

Section 8. That Section 9-1-84 of the Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, amended to read as follows:

Sec. 9-1-84 Public utilities.

(a) All motor vehicle carriers operating on or through the streets of the city shall pay for the privilege of using the streets, roads and routes, including bridges, an annual license tax as follows: one-fifth cent per mile for each mile operated within the city by any vehicle weighing 5,000 pounds or less, two-fifths cent per mile for each mile so operated by any vehicle weighing more than 5,000 pounds and less than 15,000 pounds; and three-fifths cents per mile for each mile so operated by any vehicle weighing more than 15,000 pounds.

(b) All telephone companies, for the privilege of doing business in the city, shall pay an annual license tax equal to \$0.50 per \$100 of the gross receipts for the rentals, subscriptions and stations, excluding however, business done between the city and points without the state and messages sent by the federal government of this state and their officers and agents.

(c) All persons engaged in the business of sending telegrams from the city to any point within the state shall pay for the privilege an annual license tax equal to \$0.50 per \$100 of the gross receipts received from such telegrams and telegraphic communications of any kind.

(d) All persons furnishing water for domestic and commercial consumption shall pay for the privilege an annual license tax of one-half of one percent of the gross receipts from any one or more of such businesses.

Section 9. That this ordinance shall become effective upon the date and at the time of its final passage.

WILLIAM D. EUILLE
Mayor

Final Passage: September 12, 2009