


City of Alexandria, Virginia

MEMORANDUM

DATE: OCTOBER 28, 2009

TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

FROM: JAMES K. HARTMANN, CITY MANAGER 

SUBJECT: ORDINANCE TO EXEMPT POLLUTION CONTROL EQUIPMENT AND FACILITIES FROM REAL AND PERSONAL PROPERTY TAXES

ISSUE: An ordinance modifying the City Code to add a new Article X of Chapter 2 of Title 3, creating a separate property classification for pollution control equipment and exempting this equipment from City property taxes to comply with required State Code changes.

RECOMMENDATION: That City Council pass the proposed ordinance (Attachment) on first reading and schedule it for public hearing, second reading and final passage on Saturday, November 21. The proposed ordinance would create a separate property classification for pollution control equipment and exempt this equipment from City real estate and business personal property taxes.

DISCUSSION: The City currently levies real estate tax on all commercial and residential real property and levies the business personal property tax on all tangible property used in a business, profession or occupation. The City does not currently maintain a separate property classification for pollution control equipment and facilities. However, there are two facilities in the City (Mirant power plant and the Covanta energy-to-waste facility) that have equipment and/or facilities that would fall under this classification.

Under Virginia Code Section 58.1-3660, pollution control equipment and facilities are a separate classification of property. Previously, this section allowed localities to exempt certified pollution control equipment and facilities by ordinance. On March 9, 2009, Generally Assembly passed HB 2084, amending Section 58.1-3660 to state that such equipment and facilities shall be exempt from state and local taxation. HB 2084 was subsequently signed into law on March 30, 2009, and takes effect on January 1, 2011.

In the Code of Virginia section noted above and for the purposes of this ordinance, certified pollution control equipment and facilities shall be defined as:

...any property, including real or personal property, equipment, facilities, or devices, used primarily for the purpose of abating or preventing pollution of the atmosphere or waters of the Commonwealth and which the state certifying authority having jurisdiction

with respect to such property has certified to the Department of Taxation as having been constructed, reconstructed, erected, or acquired in conformity with the state program or requirements for abatement or control of water or atmospheric pollution or contamination. Such property shall include, but is not limited to, any equipment used to grind, chip, or mulch trees, tree stumps, underbrush, and other vegetative cover for reuse as mulch, compost, landfill gas, synthetic or natural gas recovered from waste or other fuel, and equipment used in collecting, processing, and distributing, or generating electricity from, landfill gas or synthetic or natural gas recovered from waste, whether or not such property has been certified to the Department of Taxation by a state certifying authority. Such property shall not include the land on which such equipment or facilities are located.

Under the new law, the City Code should be amended to add a new Article X of Chapter 2 of Title 3, creating a separate property classification for pollution control equipment and exempting this equipment from City real estate and business personal property taxes.

FISCAL IMPACT: The Finance Department does not have specific data on the current estimated value of the pollution control equipment and facilities in the City or on the amount of real estate or personal property taxes levied on such property since this information is not currently required to be reported to us. However, as there are only two facilities in the City (Mirant, Covanta) that would currently qualify for this exemption, the fiscal impact should be minimal.

ATTACHMENT: Proposed Ordinance

STAFF:

Bruce Johnson, Chief Financial Officer
Laura B. Triggs, Director of Finance
Debbie Kidd, Division Chief, Revenue Administration

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Introduction and first reading: 11/10/09
Public hearing: 11/21/09
Second reading and enactment: 11/21/09

INFORMATION ON PROPOSED ORDINANCE

Title

AN ORDINANCE to add a new Article X (POLLUTION CONTROL EQUIPMENT TAX EXEMPTION) of Chapter 2 (TAXATION) of Title 3 (FINANCE, TAXATION AND PROCUREMENT) of the Code of the City of Alexandria, Virginia, 1981, as amended.

Summary

The ordinance modifies the City Code to add a new Article X to Chapter 2 of Title 3, creating a separate property classification for pollution control equipment and exempting this equipment from City property taxes to comply with Virginia Code changes.

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

§ 58.1-3660 of the Code of Virginia (1950), as amended

Estimated Costs of Implementation

None

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

None

ORDINANCE NO. _____

AN ORDINANCE to add a new Article X (POLLUTION CONTROL EQUIPMENT TAX EXEMPTION) of Chapter 2 (TAXATION) of Title 3 (FINANCE, TAXATION AND PROCUREMENT) of the Code of the City of Alexandria, Virginia, 1981, as amended.

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Article X of Chapter 2 of Title 3 of the Code of the City of Alexandria, Virginia, 1981, as amended, be, and the same hereby is, added to read as follows:

[The following is all new language.]

ARTICLE X Pollution Control Equipment Tax Exemption

Sec. 3-2-395 Separate class of property.

Certified pollution control equipment and facilities, as defined herein, are hereby declared to be a separate class of property and shall constitute a classification for local taxation separate from other classifications of real or personal property.

Sec. 3-2-396 Definitions.

(a) As used in this article the term "certified pollution control equipment and facilities" shall mean any property, including real or personal property, equipment, facilities or devices, used primarily for the purpose of abating or preventing pollution of the atmosphere or waters of the Commonwealth of Virginia and which the state certifying authority having jurisdiction with respect to such property has certified to the Virginia Department of Taxation as having been constructed, reconstructed, erected or acquired in conformity with the state program or requirements for abatement or control of water or atmospheric pollution or contamination. Such property shall include, but is not limited to, any equipment used to grind, chip or mulch trees, tree stumps, underbrush and other vegetative cover for reuse as mulch, compost, landfill gas, synthetic or natural gas recovered from waste or other fuel, and equipment used in collecting, processing and distributing or generating electricity from, landfill gas or synthetic or natural gas recovered from waste, whether or not such property has been certified to the Department of Taxation by a state certifying authority. Such property shall not include the land on which such equipment or facilities are located.

(b) As used in this article the term "state certifying authority" shall mean the State Water Control Board, for water pollution; the State Air Pollution Control Board, for air pollution; the Department of Mines, Minerals and Energy, for coal, oil, and gas production, including gas, natural gas and coalbed methane gas; and the Virginia Waste Management Board, for waste disposal facilities, natural gas recovered from waste facilities and landfill gas production facilities and shall include any interstate agency authorized to act in place of a certifying authority of the Commonwealth of Virginia.

1 (c) As used in this article "local tax rate" shall mean the real estate property tax rate or
2 personal property tax rate, as applicable.

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4 Sec. 3-2-397 Exemption authorized.

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6 Tax exemption is provided according to the terms of this article for qualified property
7 owners who possess certified pollution control equipment or facilities.

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9 Sec. 3-2-398 Administration of exemption.

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11 The exemption shall be administered by the local revenue administration division and the
12 local real estate assessments office according to the general provisions of this article.

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14 Sec. 3-2-399 Requirements for exemption.

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16 Exemption shall be granted to persons subject to the following provisions:

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18 (1) The title of the property for which exemption is claimed is held, or partially held, on
19 the first day of the taxable year, by the person or persons claiming exemption.

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21 (2) The state certifying authority has certified that the applicant has met all requirements
22 qualifying the equipment or facilities for exemption from taxation.

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24 Sec. 3-2-400 Claiming the exemption.

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26 Upon receipt of the certificate from the state certifying authority, the local revenue
27 administration division or real estate assessments officer shall proceed to determine the value of
28 such qualifying pollution control equipment or facilities.

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30 Sec. 3-2-401 Amount of exemption.

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32 The amount of the exemption provided by this article shall be determined by applying the
33 pertinent local tax rate to the value of the certified pollution control equipment or facilities and
34 subtracting this amount from the total personal property tax due on the personal property or
35 subtracting this amount from the total real estate property tax due on the real property to which
36 the equipment, facilities or devices are attached.

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38 Sec. 3-2-402 Effective date of exemption.

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40 This article shall be effective for the tax year beginning on January 1, 2011.

Section 2. That this ordinance shall become effective on January 1, 2011.

WILLIAM D. EUILLE
Mayor

Introduction: 11/10/09
First Reading: 11/10/09
Publication:
Public Hearing:
Second Reading:
Final Passage: