

INTRODUCED: January 10, 2011

AN ORDINANCE No. 2011- **5-4**

To amend and reordain City Code §§ 98-167, 98-663 and 98-664, concerning the interest rate charged on delinquent taxes, the assessment of additional license taxes and omitted assessments for license taxes, for the purpose of changing the interest rate charged on delinquent taxes levied on tangible personal property, machinery and tools, personal property assessed for taxation by the state corporation commission, meals, admissions, transient lodging and shortterm rental from ten percent per annum to the interest rate established by the Virginia Department of Taxation for the first quarter of each tax year for the underpayment of income taxes, effective for the tax year beginning Jan. 1, 2011, and for each year thereafter; and to amend and reordain City Code §§ 98-127, 98-128, 98-134 and 98-137, concerning due dates for the payment of real estate taxes and forfeiture of partial exemption of real estate taxes, for the purpose of changing the interest rate charged on delinquent taxes levied on real estate from ten percent per annum to zero percent per annum, effective for the tax year beginning Jan. 1, 2011; and to amend and reordain City Code § 98-127, concerning due dates for the payment of real estate taxes, for the purpose of changing the interest rate charged on delinquent taxes levied on real estate from ten percent per annum to the interest rate established by the Virginia Department of Taxation for the first quarter of each tax year for the underpayment of income taxes, effective for the tax year beginning Jan. 1, 2012, and for each year thereafter.

\_\_\_\_\_  
Patron – Mayor Jones

\_\_\_\_\_  
Approved as to form and legality  
by the City Attorney

PUBLIC HEARING: **JAN 24 2011** AT 6 P.M.

THE CITY OF RICHMOND HEREBY ORDAINS:

AYES:   **9**   NOES:   **0**   ABSTAIN: \_\_\_\_\_

ADOPTED:   **JAN 24 2011**   REJECTED: \_\_\_\_\_ STRICKEN: \_\_\_\_\_

§ I. That, effective for the tax year beginning January 1, 2011, and for each year thereafter, until otherwise provided by law or ordinance, sections 98-167, 98-663 and 98-664 of the Code of the City of Richmond (2004) be and are hereby amended and reordained as follows:

**Sec. 98-167. Interest.**

(a) Whenever any taxes due under sections 98-196, 98-197 and 98-198 and articles VI through VIII and XV of this chapter are not paid prior to the day following the day of the year or, for admissions, lodging, meals and shortterm rental taxes, the day following the day of the month when such taxes became due and payable in the year, month or quarter for which they are levied, such unpaid taxes shall be deemed to be delinquent.

(b) Interest on such unpaid taxes shall be charged annually at the interest rate [~~of ten percent per annum~~] established by the Virginia Department of Taxation for the first quarter of each tax year for the underpayment of income taxes pursuant to Code of Virginia, § 58.1-15, from the day following the due date of the year or month in which the taxes became due and payable, pursuant to Code of Virginia, § 58.1-3916, and shall be paid upon the principal and penalties of taxes remaining unpaid. However, such interest rate shall not exceed ten percent per year.

**Sec. 98-663. Assessment of additional license taxes.**

If the director of finance or other assessing officer ascertains that any person has been regularly assessed with a license tax levied in this article for any license tax year of the three license tax years last past or for the then-current license tax year, but that upon a correct audit and computation of the license tax the assessment thereof should have been in an increased amount, and the assessment of the license tax in the lesser amount was not due to the fraudulent intent or intent to evade taxes on the part of the person, the director of finance or other assessing

officer shall assess the taxpayer with the additional license taxes found to be due, without any penalty or interest. If the assessment of the additional tax is not paid into the city treasury on the date of assessment, interest at the rate ~~[of ten percent per annum]~~ set forth in section 98-167 of this Code shall accrue thereon from the date of such assessment until payment. The collector shall collect such interest along with the tax and in the same manner as the tax may be collected.

**Sec. 98-664. Omitted assessments.**

If the director of finance or other assessing officer ascertains that any person has not been assessed with a license tax levied in this article for any license tax year of the three license tax years last past or for the then-current license tax year, it shall be the duty of the director of finance or other assessing officer to assess the person with the proper license tax for the years so omitted, adding thereto the penalty of ten percent of the license tax and interest on the tax and penalty at ~~[ten percent per annum for the first year such tax shall be delinquent]~~ the rate set forth in section 98-167 of this Code from the first day of the license tax year for which the assessment is made to the date of payment. ~~[If such assessment shall cause such taxes to have been delinquent for a second and for any subsequent year, interest at the rate authorized pursuant to Code of Virginia, § 58.1-3916 will be charged for the second and any subsequent years such taxes or any part thereof shall remain delinquent.]~~

§ 2. That, effective for the tax year beginning January 1, 2011 and for each year thereafter, except as provided in section 3 of this ordinance, until otherwise provided by law or ordinance, sections 98-127, 98-128, 98-134 and 98-137 of the Code of the City of Richmond (2004) be and are hereby amended and reordained as follows:

**Sec. 98-127. Due date; payment without penalty; interest chargeable on delinquent taxes.**

(a) Taxes levied on real estate shall be due and payable on the first day of the tax year for which they are levied. Such taxes may be paid without penalty during the year for which they are levied if one-half of such taxes are paid on or before January 14 of that year and the remaining one-half of such taxes are paid on or before June 14 of that year.

(b) The collector shall give notice of each due date for real estate taxes by publication as required by Code of Virginia, § 58.1-3911.

(c) Whenever any taxpayer shall fail, refuse or neglect to pay the installment of taxes on or before the due date, there shall be added to the installment of taxes a penalty of ten percent thereof.

(d) Whenever an installment of such taxes is not paid on or before the due date, such unpaid taxes on the following day shall be deemed to be delinquent. Interest on such unpaid taxes shall be charged thereon at the rate of [~~ten~~] zero percent per annum from the day following the due date pursuant to Code of Virginia, § 58.1-3916.

(e) [~~This~~] Except as provided otherwise in section 98-128 of this Code, this section shall not apply to taxes on real estate assessed for taxation by the state corporation commission.

**Sec. 98-128. Due date when assessed by state corporation commission; penalty; rates of interest chargeable on delinquent taxes.**

(a) Taxes levied on real estate assessed for taxation by the state corporation commission shall be due and payable on the first day of the tax year for which they are levied. Credit on account of such taxes will be allowed during the year for which they are levied by payment of one-half of such taxes on or before January 14 of that year and of the remaining one-half of such taxes on or before June 14 of that year of the amount of taxes paid or levied for the preceding tax year. When the assessment of such real estate is made by the state corporation commission and the assessment is certified to the assessor, the taxes due and payable shall be

computed. If the payment made on account of the taxes exceeds the amount of the taxes so computed, the excess shall be refunded to the taxpayer. If the payment made on account of the taxes is less than the amount of the taxes so computed, the deficit may be paid by the taxpayer without penalty within 30 days after the taxpayer is given notice thereof. If the deficit is not paid within such 30 days, a penalty of ten percent of the amount of the deficit shall be added thereto.

(b) Whenever any such taxpayer shall fail, refuse or neglect to pay any installment of taxes paid or levied for the preceding tax year on or before the date on which such installment is due, there shall be added to the amount of the taxes for the current year when computed a penalty of ten percent to be retroactive to the respective due date in the year in which levied.

(c) Whenever an installment of the taxes so computed is not paid by the due date, such unpaid taxes shall be deemed to be delinquent. Interest on such unpaid taxes shall be charged thereon at the rate [~~of ten percent per annum~~] set forth in section 98-127 of this Code from the day following the due date pursuant to Code of Virginia, § 58.1-3916.

**Sec. 98-134. Same—Forfeiture of exemption.**

For real property first qualifying for partial exemption of real estate taxes under section 98-132 after July 25, 1988, the partial exemption for each tax year shall be conditioned upon the payment of each installment of the nonexempt amount of real estate taxes on the property on or before the due date of such installment. Upon the failure to pay such real estate taxes on or before such due date, the partial exemption claimed for that tax year shall be forfeited, and the annual credit issued for that tax year shall be canceled and shall be of no effect. The partial exemption claimed for any tax year shall be retained if payment of the nonexempt amount, plus the ten percent late payment penalty and interest at [~~ten percent per annum~~] the rate set forth in section 98-127 of this Code on the nonexempt amount due, is received by the Collections

Division of the Department of Finance on or before June 30, or the last business day preceding June 30, of the tax year in question if June 30 falls on a weekend.

**Sec. 98-137. Same—Forfeiture of exemption.**

For real property first qualifying for partial exemption of real estate taxes under section 98-135 after July 25, 1988, the partial exemption for each tax year shall be conditioned upon the payment of each installment of the nonexempt amount of real estate taxes on the property on or before the due date of such installment. Upon the failure to pay such real estate taxes on or before such due date, the partial exemption claimed for that tax year shall be forfeited, and the annual credit issued for that tax year shall be canceled and shall be of no effect. The partial exemption claimed for any tax year shall be retained if payment of the nonexempt amount, plus the ten percent late payment penalty and interest at [~~ten percent per annum~~] the rate set forth in section 98-127 of this Code on ~~the~~ nonexempt amount due, is received by the Collections Division of the Department of Finance on or before June 30, or the last business day preceding June 30, of the tax year in question if June 30 falls on a weekend.

§ 3. That, effective for the tax year beginning January 1, 2012, and for each year thereafter, until otherwise provided by law or ordinance, section 98-127 of the Code of the City of Richmond (2004) be and is hereby amended and reordained as follows:

**Sec. 98-127. Due date; payment without penalty; interest chargeable on delinquent taxes.**

(a) Taxes levied on real estate shall be due and payable on the first day of the tax year for which they are levied. Such taxes may be paid without penalty during the year for which they are levied if one-half of such taxes are paid on or before January 14 of that year and the remaining one-half of such taxes are paid on or before June 14 of that year.

(b) The collector shall give notice of each due date for real estate taxes by publication as required by Code of Virginia, § 58.1-3911.

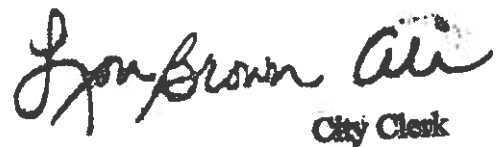
(c) Whenever any taxpayer shall fail, refuse or neglect to pay the installment of taxes on or before the due date, there shall be added to the installment of taxes a penalty of ten percent thereof.

(d) Whenever an installment of such taxes is not paid on or before the due date, such unpaid taxes on the following day shall be deemed to be delinquent. Interest on such unpaid taxes shall be charged annually thereon at the rate [~~of zero percent per annum~~] established by the Virginia Department of Taxation for the first quarter of each tax year for the underpayment of income taxes pursuant to Code of Virginia, § 58.1-15, from the day following the due date pursuant to Code of Virginia, § 58.1-3916. However, such interest rate shall not exceed ten percent per year.

(e) Except as provided otherwise in section 98-128 of this Code, this section shall not apply to taxes on real estate assessed for taxation by the state corporation commission.

§ 4. This ordinance shall be in force and effect upon adoption.

A TRUE COPY:  
TESTE:

  
City Clerk



CITY OF RICHMOND  
INTRACITY CORRESPONDENCE

RECEIVED  
JAN 07 2011

OFFICE OF CITY ATTORNEY  
RECEIVED  
JAN 04 2010  
CHIEF ADMINISTRATIVE OFFICE  
CITY OF RICHMOND

O&R REQUEST

DATE: December 27, 2010 EDITION: 1

TO: The Honorable Members of City Council

THROUGH: Dwight C. Jones, Mayor *[Signature]*

THROUGH: Byron Marshall, Chief Administrative Officer *[Signature]*

THROUGH: Marcus Jones, DCAO, Finance & Administration *[Signature]*

FROM: Barbara Reese, Director of Finance *[Signature]*

RE: City of Richmond Tax Amnesty Program and Amendment to Rate of Interest for Omitted Taxes and Assessments

ORD. or RES. No. \_\_\_\_\_

**PURPOSE:** To adopt the general provisions under which the Director of Finance may implement the City of Richmond Tax Amnesty Program in any year and at any point in time in the year as established by Chapter 200 of the 2010 Acts of Assembly; to adopt the specific provisions of the 2011 City of Richmond's Real Estate Tax Amnesty Program; and to adopt changes to the annual rate of interest applied to 2011 delinquent real estate accounts and all other delinquent tax accounts. (See attached general provisions, the 2011 provisions, and rate of interest policies.)

**REASON:** To establish the general provisions under which the Director of Finance may implement any Tax Amnesty Program and to specifically outline the parameters of the 2011 City of Richmond Real Estate Tax Amnesty Program authorized by the 2010 General Assembly as part of a comprehensive tax compliance plan and improved fiscal compliance and controls with the objective of the City of Richmond becoming a Tier One City with a AAA bond rating.

**RECOMMENDATION:** The City Administration recommends adoption.

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# 201012012



**BACKGROUND:** Since 2009, the City of Richmond has focused its efforts on the goal of becoming a Tier One City with a AAA bond rating. For 2010 and 2011, the City has focused on well managed government practices which will assist in reaching that goal. These practices include the development and execution of a comprehensive tax compliance plan; and improved fiscal compliance and controls. The comprehensive tax compliance plan is designed to improve revenue collections without increasing the tax rates. For FY 2010 both current real estate and personal property tax collection rates were the highest in four years. Delinquent property tax collections totaled \$14.7 million, which was \$2.5 million more than budgeted.

A tax amnesty program will allow certain taxpayers to pay their outstanding delinquent, underreported and nonreported tax balances in full during a set period of time with a reduction in delinquent penalty charges.

The 2010 legislation adopted by the General Assembly established the City of Richmond Tax Amnesty program. As a "Dillon rule" state, this specific authority from the General Assembly is required for a local government to adopt, or implement, a tax amnesty program. The City of Richmond is the only Virginia locality with legislative authority to implement a tax amnesty program.

Most states have utilized tax amnesty periods. Since 1982, 43 states and the District of Columbia have engaged in tax amnesty programs. The Commonwealth of Virginia has conducted three amnesty programs since 1982. In 2009, the Commonwealth of Virginia conducted a program that allowed more than \$100 million in delinquent taxes to be collected. Local governments around the country have also implemented tax amnesty programs, including Los Angeles, California and Albany, New York.

Most tax amnesty programs last from 60 to 90 days, with 60 days being the most prevalent length.

For most taxes, the City of Richmond currently charges delinquent accounts a 10% penalty and 10% annual interest. Also, if an account is referred to a delinquent collection service, an additional 20% charge is added. The City of Richmond assesses the maximum interest rate allowed under Virginia law. With interest rates at historically low levels for the last several years and after reviewing guidelines from the State Department of Taxation and the Internal Revenue Service, the annual interest rate should be adjusted downward and potentially reset at the beginning of each tax year.

Finally, the City Administration recognizes that the conversion to a semi-annual real estate collection schedule, while being both a fiscally and operationally prudent decision for the City of Richmond, may present financial difficulties for some taxpayers in the first year of the change. Therefore, the City Administration is proposing that the rate of interest applied to delinquent 2011 real estate tax accounts be set at 0% so that those taxpayers who are having difficulty adjusting to the change will not be over-penalized.

**FISCAL IMPACT: Positive**

Delinquent balances (less penalties and interest):

Real Estate: \$15,543,276 – the goal is to collect 20 percent of the outstanding balance during FY 2011 – or \$3.1 million

**COST TO CITY:** As shown in the Fiscal Impact above, the additional revenue will more than offset the estimated \$100,000 (postage, mailing, staffing) in one-time costs.

**REVENUE TO CITY:** See above FISCAL IMPACT.

**DESIRED EFFECTIVE DATE:** Upon adoption. However, the specific implementation date will be determined by the Director of Finance as noted on the attached “Suggestions.”

**REQUESTED INTRODUCTION DATE:** January 10, 2011

**CITY COUNCIL PUBLIC HEARING DATE:** January 24, 2011

**REQUESTED AGENDA:** Consent

**RECOMMENDED COUNCIL COMMITTEE:** Finance and Economic Development

**CONSIDERATION BY OTHER GOVERNMENTAL ENTITIES:** None

**AFFECTED AGENCIES:** Finance, Budget and Strategic Planning

**RELATIONSHIP TO EXISTING ORD. OR RES.:** N/A

**REQUIRED CHANGES TO WORK PROGRAM(S):** Would affect the current tax collection processes.

**ATTACHMENTS:** General provisions, 2011 specific provisions, changes to annual interest rate charges, and Chapter 200 of the 2010 Acts of the General Assembly.

**STAFF:** Tony Leone, Department of Finance  
Bill Wheeler, Department of Finance

### **General Provisions of the City of Richmond Tax Amnesty Program**

The following shall be included in the guidelines for each tax amnesty period established by the Director of Finance:

- A. The determination of the period of time that each tax amnesty program will be available.
- B. The eligibility period.
- C. The determination of each person, corporation, estate, trust, or partnership that may participate.
- D. The determination of each person, corporation, estate, trust or partnership that may not participate because they are at the inception of the program under investigation or prosecution for filing a fraudulent return or failing to file a return with the intent to evade tax shall qualify to participate.
- E. The method of applying for participation in the program.
- F. The waiver of up to 100% of penalty charges during the tax amnesty period on any delinquent taxes and interest owed.
- G. The Director of Finance shall report to the City Council prior to each tax amnesty period the procedures and guidelines that will be followed for that period.

### **Provisions of the 2011 City of Richmond Tax Amnesty Program for Delinquent Real Estate Taxes**

- A. During the period February 15 to April 15, 2011, the Director of Finance shall implement a tax amnesty program for delinquent real estate taxes.
- B. All outstanding delinquent real estate taxes as of February 1, 2011 are eligible.
- C. No person, corporation, estate, trust, or partnership currently, or at the inception of this program, under investigation or prosecution for filing a fraudulent return or failing to file a return with the intent to evade tax shall qualify to participate.
- D. For those persons who submit their 2011 application for the tax relief for the elderly and disabled program by March 31, 2011, they will be granted amnesty for the current tax year through June 14, 2011. Furthermore, the Director of Finance shall waive any interest on the 2011 outstanding balance for such persons who are deemed qualified so long as the 2011 real estate tax bill is paid in full by June 14, 2011.
- E. The Department of Finance shall notify in writing each person, corporation, estate, trust, or partnership that is eligible to participate in the amnesty program.
- F. Each person, corporation, estate, trust, or partnership is responsible for verifying that the Department of Finance has the correct address for receipt of the notification of eligibility for the amnesty program.
- G. All civil penalties shall be waived.
- H. The eligible person, corporation, estate, trust, or partnership must pay the full amount of the delinquent tax and any interest by the end of the amnesty period to receive amnesty. Any eligible person, corporation, estate, trust, or partnership that does not pay the entire amount owed may not be eligible for future amnesty programs.

- I. Upon the completion of the Program on April 15, 2011, each delinquent real estate account will have a \$30 administrative fee pursuant to Section 98-98 of the Richmond City Code applied in addition to all other applicable fees, penalty, and interest.
- J. Upon the completion of the Program on April 15, 2011, each delinquent real estate account will be assigned to a delinquent collection attorney who may impose up to a 20 percent collection fee on each account in addition to all other applicable fees, penalty, and interest.
- K. The Director of Finance shall report the results of the 2011 Tax Amnesty Program for Delinquent Real Estate Taxes to the Finance & Economic Development Committee.

**Rate of Interest Specified for Omitted Taxes and Assessments**

- A. The rate of interest applied to eligible delinquent accounts during the 2011 tax amnesty period will be 5%.
- B. The rate of interest applied in tax year 2011 for all delinquent real estate taxes shall be 0%.
- C. Except as indicated in item B, effective January 1, 2011, the rate of interest applied for any tax year for all unpaid taxes under the purview of the Department of Finance (to include but not limited to real estate, SCC, personal property, business license, admissions, lodging, meals and short-term rental) shall be equal to the interest rate established and announced for the underpayment of State income taxes by the Virginia Department of Taxation for the first calendar quarter of each tax year.

## CHAPTER 200

*An Act to establish the City of Richmond tax amnesty program.*

[H 796]

Approved April 7, 2010

Be it enacted by the General Assembly of Virginia:

**1. § 1. City of Richmond tax amnesty program established.**

*A. There is hereby established the City of Richmond tax amnesty program. The program shall be administered by the director of finance, and any person, individual, corporation, estate, trust, or partnership required to file a personal property or machinery and tools tax return or to pay any local personal property tax, machinery and tools tax or real property tax shall be eligible to participate, subject to the requirements set forth below and guidelines established by the director of finance. The director of finance may require participants in the program to complete an amnesty application and such other forms as he may prescribe, and to furnish any additional information he deems necessary to make a determination regarding the validity of such amnesty application.*

*B. The tax amnesty program may have the following features:*

*1. Civil penalties assessed or assessable, as provided for in Title 58.1, which are the result of nonpayment, underpayment, nonreporting or underreporting of personal property, machinery and tools, or real property tax liabilities, may be waived upon receipt of the payment of the amount of those taxes and interest owed with the following exceptions:*

*a. No person, individual, corporation, estate, trust, or partnership currently, or at the inception of this program, under investigation or prosecution for filing a fraudulent return or failing to file a return with the intent to evade tax shall qualify to participate.*

*b. Any other parameters as deemed reasonable and fiscally responsible by the Mayor and the City Council.*

*C. For purposes of computing the outstanding balance due to the nonpayment, underpayment, nonreporting or underreporting of any personal property, machinery and tools, or real property tax liability which has not been assessed prior to the first day of the program, the rate of interest specified for omitted taxes and assessments under § 58.1-3916 shall be applicable.*

**2. That an emergency exists and this act is in force from its passage.**