



Legislation Text

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City of Alexandria, Virginia

MEMORANDUM

DATE: NOVEMBER 4, 2020

TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

FROM: MARK B. JINKS, CITY MANAGER /S/

DOCKET TITLE:

Consideration of Authorization to Publish Delinquent Tax Listings Greater Than \$1,000 Online, Write Off Balances Less Than Twenty Dollars, and Destroy Records as Required By State Law.

ISSUE: Requesting Council authorization to publish the listings of delinquent taxes greater than \$1,000 online, write off balances less than twenty dollars, and to destroy records as required by State law.

RECOMMENDATION: That City Council:

- (1) Receive the listings of delinquent local property taxes;
- (2) Authorize that those parts of the delinquent real estate and personal property tax listings deemed advisable by the Director of Finance be published on the City of Alexandria website;
- (3) Authorize the Director of Finance to write-off uncollected tax balances for tax year 2019 less than twenty dollars each, totaling \$21,463 as of June 30, 2020, for which the Director of Finance has determined that the cost of collecting such balances would exceed the recoverable amount, provided that the Director of Finance will not include any balance for which she has reason to believe the taxpayer has intentionally paid less than the amount due and owed; and
- (4) Authorize the Director of Finance to dispose of records associated with taxes paid in calendar year 2014 and prior years in accordance with Code of Virginia §58.1-3129(A).

BACKGROUND: Code of Virginia §58.1-3924 provides for the Director of Finance to present City Council with listings of delinquent local property taxes annually. This docket memo reflects a related set of recommendations that are presented to Council annually for action. To meet this provision, the Director of Finance compiles the following types of listings of delinquent taxes as of June 30:

1. A list of delinquent real estate taxes;
2. List(s) of delinquent personal property taxes;
3. List(s) of delinquent property taxes amounting to less than twenty dollars for which no bills were sent; and
4. List(s) of the uncollected balances of previously billed property taxes for which the Director of Finance has determined the cost of collecting such balances would exceed the recoverable amount, provided that the Director of Finance will not include any balance for which she has reason to believe the taxpayer has purposely paid less than the amount due and owed.

These lists are available for public inspection upon appointment in the Director of Finance's Office located in City Hall, Suite 1600.

Code of Virginia §58.1-3129 states, "The treasurer may, with the consent of the governing body, destroy all paid tax tickets at any time after five years from the end of the fiscal year during which taxes represented by such tickets were paid, in accordance with retention regulations pursuant to the Virginia Public Records Act (§ 42.1-76 et seq.)." In accordance with this section, the Director of Finance seeks City Council's permission to destroy records pertaining to taxes paid for calendar year 2014 and prior years.

DISCUSSION: The Finance Department has compiled seven lists of various categories of delinquent City taxes and associated penalties, interest and fees as required by the Code of Virginia. Summary data for Lists 1 through 4 can be found in Table I. Summary data for Lists 5 through 7 can be found in Table II.

List 1 Listing of Real Estate Taxes for 2015 through 2019 Delinquent as of June 30, 2020.

List 2 Listing of Individual Personal Property Taxes for 2015 through 2019 Delinquent as of June 30, 2020.

List 3 Listing of Personal Property Taxes on Business Vehicles for 2015 through 2019 Delinquent as of June 30, 2020.

List 4 Listing of Business Personal Property Taxes for 2015 through 2019 Delinquent as of June 30, 2020.

List 5 Listing of Uncollected Individual Personal Property Taxes for tax year 2019 Amounting to Twenty Dollars or Less as of June 30, 2020.

List 6 Listing of Uncollected Personal Property Taxes on Business Vehicles for tax year 2019 Amounting to Twenty Dollars or Less as of June 30, 2020.

List 7 Listing of Uncollected Business Personal Property Taxes for tax year 2019 Amounting to Twenty Dollars or Less as of June 30, 2020.

Table I

Delinquent Real Estate and Personal Property Taxes for 2015-2019
As of June 30, 2020
(Amounts in millions)

List	Tax Type	Tax Levied	Taxes Collected	Percentage Collected	Taxes Due	Total Due
1	Real Estate	\$2,079.5	\$2,077.3	99.9%	\$2.2	\$ 2.3
2&3	Vehicle Personal Property	\$ 283.7	\$ 277.9	98.0%	\$5.8	\$ 8.7
4	Business Personal Property	\$ 80.5	\$ 79.1	98.3%	\$1.4	\$ 1.7
	TOTAL:	\$2,443.70	\$2,434.30	99.6%	\$9.4	\$12.7

Table II

Delinquent Personal Property Taxes for Tax Year 2019
As of June 30, 2020
Tax amounts less than \$20

List	Tax Type	Total Tax Due	Number of Taxpayers	Average Balance Due
5	Individual Vehicles	\$ 14,087	2,146	\$ 6.56
6	Business Vehicles	\$ 107	30	\$ 3.57
7	Other Business Personal Property	\$ 7,269	1,017	\$ 7.15
	TOTAL	\$21,463	3,193	\$ 6.72

Summary of Real Estate Tax Collection Statistics: As displayed in Table I, the Finance Department has collected \$2.077 billion, or 99.9 percent, of the real estate taxes levied for tax years 2015 through 2019. The “Top Twenty” delinquent real estate taxpayers comprise \$0.84 million or 36 percent of the total outstanding delinquency (Attachment I).

The Finance Department uses a variety of tools to monitor and collect delinquent taxes. These tools may include delinquency notifications and summons notices issued to delinquent taxpayers, as well as rent liens, bank liens, wage liens, and Circuit Court judgments placed against property owners. Whereas the Department previously worked with the City Attorney’s Office to initiate formal judicial sale procedures against delinquent

taxpayers, in FY 2020 the Department was instead going to refer delinquent accounts to the City's third-party collection vendor as authorized by Council in the FY 2020 approved budget. This initiative is an efficiency measure designed to ensure maximum coverage of delinquent accounts and outsource this workload from the City Attorney's Office. This added effort is at no cost to the City as the delinquent taxpayer is responsible for collection costs as authorized by State law. Placement for 2019 and prior delinquencies were planned for in the Spring of 2020. Because this fell at the height of the COVID-19 pandemic shutdown, staff deferred placement of the Real Estate delinquencies. At this time, staff anticipates making the referral to the collection vendor in late Spring of 2021, well-after the March 31, 2021 deadline endorsed by Council for pandemic hardship waivers of late payment penalties and interest on delinquent 2020 Real Estate taxes.

The City uses the litigation option cautiously, to avoid taking a person's home via judicial sale as collection can often be achieved through other means. At times, merely initiating the judicial sale process incentivizes either the property owner or the mortgage holder to pay the taxes due. Real estate taxes on a property must be delinquent for three years before a Virginia locality can begin judicial proceedings. In the interim, using a outside resource an assist with encouraging delinquent taxpayers to begin the payment process and avoid litigation. Staff also promotes Tax Relief for the Elderly and Disabled, to ensure property owners are aware of the program.

Advance notice is given to taxpayers before outsourcing in order to encourage them to avoid additional costs. The Department of Finance will maintain oversight of the collection program, and the collection vendor will work closely with both the Department of Finance and the City Attorney's Office. While pursuing its statutory collection mission, staff will continue to utilize compassionate, customer-focused payment plans when necessary.

To preserve the City's interest in the collection of delinquent real estate taxes, Virginia Code §58.1-3340 provides that a priority lien is automatically placed (by operation of law) on property with outstanding real estate taxes. This tax lien is a claim by the City for payment of the tax debt and begins on the day following the payment due date. The lien is recorded against delinquent properties on the City's computerized Real Estate system pursuant to Virginia Code § 58.1-3930, and remains in effect until the outstanding taxes, penalties and interest have been paid in full. The statutory lien ensures that the City will collect any delinquent real estate taxes when the owner sells the property or applies for a mortgage. This includes delinquent Stormwater Management Fees. Pursuant to Section 5-6-237(C) of the Code of the City of Alexandria, delinquent Stormwater Management Fees "constitute a lien on the property ranking on parity with liens for unpaid taxes and shall be collected in the same manner as provided for the collection of unpaid taxes." Virginia law allows staff to pursue delinquent real estate taxes for a period of 20 years.

Summary of Vehicle Personal Property Tax Collection Statistics: As shown in Table I, the Finance Department has collected \$277.9 million, or 98.0 percent, of the vehicle personal property taxes levied for tax years 2015 through 2019. Because a relatively large portion of the City's population is very transient, collecting personal property taxes on vehicles is far more challenging than collecting real estate taxes.

Once taxes have been delinquent for three months, accounts are placed with the department's private collection agency. Similar to real estate, this outsourcing is at no cost to the City as the delinquent taxpayer is responsible for NCC's 20% collection fee, as authorized by Va. Code § 58.1-3958.

In FY 2020, the collection company collected \$2.1 million in City Car Taxes on the City's behalf. Of this amount, \$1.0 million was from late payments for the current tax year 2019, and \$1.1 million was from delinquent prior year taxes (tax years 2014 - 2018). Again, taxpayers are given the opportunity to avoid

additional collection fee, as the Department of Finance sends appropriate warning letters in advance of placement. These warning letters generated approximately \$150,000 in FY 2020 payments directly to the City, in advance of placement with the collection agency.

Along with numerous telephone calls and letters, collection efforts included 853 bank and wage liens generating approximately \$143,000 in payments. Staff also assist taxpayers with documented financial hardship, administering nearly 150 extended payment plans as necessary.

However, these recent collection efforts do not represent a full year. After the pandemic started, staff placed enforced collection actions for prior year delinquencies on hold beginning in February; 2019 delinquencies have not yet been placed with the collection agency. While blocks remain on the DMV registration for delinquent vehicles, staff did recall accounts from the State's Set-Off-Debt program for income tax refunds otherwise intended for delinquent taxpayers. Collectively, these actions impact the collection of delinquent taxes, but reflects the City's awareness of the economic stress in the community at the present time and parallels the extended due date Council adopted for tax year 2020 taxes.

However, staff does not recommend continuing forbearance for an extended period of time as doing so has a consequence on budgeted revenue and on tax equity. Staff will monitor the economic conditions, at present, staff plans on resuming enforced collection activity mid-year in FY 2021. Pursuant to the Code of Virginia, the statute of limitations for the collection of delinquent Car Taxes is five years, except in cases where the taxes have been reduced to judgment. Typically, however, older debt is harder to collect.

In addition to collections, staff also engages in the discovery process to guard against tax evasion. Under this program, the Department of Finance undertakes weekly computer matching to records of the Virginia DMV. Field observations are also made based upon citizen complaints, and apartment rent rolls are obtained where feasible, pursuant to Virginia law, to help identify potential tax evaders. The City's \$350 surcharge is also applied to vehicles erroneously displaying out-of-state license plates, following investigation by the department's RADAR program (Research and Discover All Registrations). As authorized by Council as part of the approved budget, the RADAR program launched a discovery initiative in FY 2020 following the elimination of vehicle decals. Utilizing an automated license plate reader camera, staff systematically canvass the City, matching vehicle license plates to the City's vehicle tax roll. Vehicles that are not registered are manually researched by staff to validate potential tax liabilities.

While the program began in November 2019, field operations were halted in the Spring because of the pandemic. Some remote work continues, but new field discovery has been deferred until conditions warrant.

Despite truncated discovery efforts, staff did research 1,110 vehicles identified through field work, resulting in 244 vehicles being added to the tax roll for \$116,915 in additional tax levy. Of the remainder, 326 vehicles were already on the tax roll, 268 were normally garaged and taxed in another jurisdiction, 261 had no discernable taxable situs (apparent visitors), and 11 had various tax exemptions. From the initial camera field work, staff still has another 2,247 vehicles in the process of being researched during FY 2021 to determine possible tax liabilities.

Additionally, another discovery effort separate from the field camera was initiated between January and June of 2020. Under this program staff's third-party data analytics vendor, staff analyzed approximately 17,000 apartments within the City. From that analysis, approximately 1,102 vehicles with out-of-state license plates were identified as possibly being normally garaged at the apartment addresses. Of these, staff identified 170 as already being on the City's tax roll. Another 97 were researched in late FY 2020, resulting in 49 vehicles being

added to the tax roll resulting approximately \$45,000 in additional tax levy. Staff will continue to research the remaining 835 vehicles during FY 2021.

Summary of Business Personal Property Tax Collection Statistics: As shown in Table I, the Finance Department has collected \$79.1 million, or 98.3 percent, of the business personal property taxes levied for tax years 2015 through 2019. As allowed by Virginia law, the delinquent amount includes statutory assessments made on the best information available pending the filing of timely tax returns. Staff works with businesses throughout the year to obtain returns, and to adjust and collect the appropriate amounts. As authorized in the FY 2020 budget, staff had planned to place delinquent Business Personal Property taxes with NCC this Spring. As with Car Taxes however, and consistent with the Spring tax moratorium due to the pandemic, staff withheld outsourcing delinquent Business Personal Property taxes during FY 2020. Staff anticipates placing these delinquent taxes with NCC mid-year in FY 2021. The statute of limitations for collection is five years.

Publishing List of Delinquent Taxpayers: As authorized, the Department of Finance intends to continue the practice of posting certain delinquent tax information on the City's website. Given the ability to make information more widely available on the web, the Finance Department no longer publishes the names of delinquent taxpayers in the newspaper, with no negative impact on the collection rate. The status of all delinquencies is checked prior to listing, and accounts are adjusted for tax payments made between June 30 and the online posting. If the taxes are paid in full before posting online, the property owner's name or the name of the business will not be listed. Names of taxpayers that have received tax adjustments for amounts discharged under bankruptcy, filed tax exemption appeals, appealed the tax assessment or entered into formal payment arrangements with the City will also not be listed. Within the framework described above, the Finance Department is requesting that City Council authorize the publication on the City's website of those portions of the real estate tax and personal property tax listings deemed advisable by the Director, specifically for taxpayers who have a delinquent balance of \$1,000 or greater.

FISCAL IMPACT: Staff efforts resulted in the collection of more than \$5.4 million in delinquent taxes, penalties and interest in FY 2020. The Department of Finance anticipates collecting a comparable amount in FY 2021.

ATTACHMENTS:

Attachment 1: Top Twenty Delinquent Real Estate Taxpayers for Tax Years 2019 and Prior as of October 26, 2020.

STAFF:

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