

ORDINANCE NO. 3411

AN ORDINANCE to amend Chapter 2 (TAXATION), of Title 3 (FINANCE, TAXATION AND PROCUREMENT) of The Code of the City of Alexandria, Virginia, 1981, as amended, by adding thereto a new Article T (DAILY RENTAL TAX).

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Chapter 2 of Title 3 of The Code of the City of Alexandria, Virginia, 1981, as amended, be and the same hereby is amended by adding a new Article T to read as follows:

ARTICLE T

Daily Rental Tax

Sec. 3-2-356 Definitions.

The following words, phrases and terms shall, for the purposes of this article, have these meanings:

(1) "Certificate of registration" means the annual certificate issued pursuant to section 3-2-359 to persons engaged in a short-term rental business.

(2) "Director" means the director of finance or a designee duly authorized to act for the director.

(3) "Daily rental property" means all tangible personal property held for rental and owned by a person engaged in a short-term rental business, except trailers as defined in section 46.2-100 of the Code of Virginia (1950), as amended, and other tangible personal property required to be licensed or registered with the Virginia Department of Motor Vehicles, the Department of Game and Inland Fisheries, or the Department of Aviation.

(4) "Gross proceeds" means the total amount charged to persons, including penalties, late charges and interest, for the rental of daily rental property by a short-term rental business, excluding any state and local sales taxes paid pursuant to chapter 6 of title 58.1 of the Code of Virginia (1950), as amended.

(5) "Gross rental receipts" means the total amount charged to persons, including penalties, late charges and interest, for the rental of daily rental property by a short-term rental business, less the portion of such amount which is for the retention of personal services for the operation, but not the delivery or installation of the property.

(6) "Short-term rental business" means a business in which not less than 80 percent of the gross rental receipts in any year are from rental transactions involving rental periods of 92 consecutive days or less, including all extensions and renewals to the same person or a person affiliated with the lessor; provided, that the receipts from rentals to a person affiliated with the lessor, while included in the computation of total gross rental receipts, shall be excluded from the receipts used to determine whether 80 percent or more of such gross receipts is from short-term rental transactions. "Affiliated" means holding in common with the lessor an ownership interest, in excess of five percent, in any business.

Sec. 3-2-357 Levy and rate of daily rental tax exemptions.

In addition to all other taxes of every kind now or hereinafter imposed by law, for tax year 1990 and each year thereafter, there is hereby levied and imposed on every person engaged in a short-term rental business a daily rental tax of one percent on the gross proceeds of such business; provided, however, that no such tax shall be assessed on the following rentals:

(1) rentals of tangible personal property to the Commonwealth of Virginia, to any political subdivision of the Commonwealth or to the United States;

(2) rentals of durable medical equipment, as this term is defined in section 58.1-608(7)(b) of the Code of Virginia (1950), as amended; and

(3) rentals of tangible personal property which, if the subject of a sale, would be exempt from the state sales and use tax pursuant to chapter 6 of title 58.1 of the Code of Virginia (1950), as amended.

Sec. 3-2-358 Application for certificate of registration.

Every person engaging in a short-term rental business shall annually file with the director an application for a certificate of registration which shall be signed by the person as owner of the business. The application shall be filed by January 31 of each year or within 30 days of the start of a short-term rental business. The application shall be on a form prescribed by the director and shall contain:

(1) the name under which the applicant intends to operate the business;

(2) each location in the city from which the business is to be conducted, as well as the location of the rental business headquarters;

(3) a statement of the total gross receipts, as that term is defined in section 9-1-2 of this code, the total gross proceeds and the total gross rental receipts of the business for the immediately preceding calendar year;

(4) a statement of the portion of the business' gross proceeds for the immediately prior year for which no daily rental tax was assessable pursuant to section 3-2-357;

(5) a listing of all the daily rental property owned by the business on January 1 of the current year;

(6) a listing of all property leased or licensed to, and held for rental by, the business on January 1 of the current year, and the name and address of the owner of such property;

(7) an oath by the person making the application or by an officer, partner or duly authorized agent of the applicant that the business is qualified for tax treatment as a short-term rental business and that the business will collect and remit daily rental taxes in the time and manner prescribed by law; and

(8) such other information as the director may require.

Sec. 3-2-359 Certificate of registration.

Upon approval of the application required by section 3-2-358, a certificate of registration shall be issued for each location from which a daily rental business is to be conducted or operated in the city. The certificate shall be conspicuously displayed at all times at the place of business for which it is issued. The certificate shall not be assignable and shall be valid only for the business and location designated thereon.

Sec. 3-2-360 Collection and record-keeping.

(a) Every person engaging in a short-term rental business with a valid certificate of registration shall collect the daily rental tax from the lessee of daily rental property at the time of the rental.

(b) Every person collecting the daily rental tax shall maintain a record of the rental transactions for which the tax is collected. This record shall, for each transaction, contain the following:

(1) a description of the property rented;

(2) the period of time over which the property was rented;

(3) the name and address of the person to whom the property was rented; and

(4) the total amount charged for the rental, including all late charges, penalties and interest.

(c) Every person engaging in a short-term rental business shall maintain a record of the rental transactions which are claimed to be exempt from payment of the daily rental tax. In addition to the information specified in subsection (b), this record shall, for each transaction, contain the following as applicable:

(1) a copy of the Virginia Department of Taxation tax exemption certificate;

(2) a copy of the U.S. State Department tax exemption certificate which specifies the exempt renter by name; or

(3) other explanation and proof of the claimed exemption.

Sec. 3-2-361 Quarterly returns and remittance of tax.

(a) Each certified short-term rental business subject to the provisions of this article shall file quarterly tax returns with the director. Such returns shall be filed within 20 days of the end of a quarter and shall state for the quarter just ended:

(1) the total gross receipts, as that term is defined in section 9-1-2 of this code, of the business;

(2) the total gross proceeds of the business;

(3) the portion of the total gross proceeds of the business claimed to be exempt from the daily rental tax pursuant to section 3-2-357; and

(4) the total daily rental taxes due and owing for the quarter.

(b) Each quarterly return shall be accompanied by a payment of the daily rental taxes due and owing by the short-term rental business. Until paid to the city, any daily rental taxes collected by the business shall be deemed to be held in trust for the city.

(c) Whenever any person required to collect a tax under this article shall cease to operate the short-term rental business, such person shall, within 20 days of ceasing to operate the business, file with the director a report containing the information required by subsection (a) and shall make the payment required by subsection (b).

Sec. 3-2-362 Effect of failure or refusal to collect tax.

The certificate of registration of any person engaging in a short-term rental business who fails or refuses to collect the tax imposed under this article shall, after 15 days' notice by the city, be revoked. Thereafter, unless a new certificate is issued, the business shall be ineligible for the tax status conferred by this article and shall be subject to all applicable taxes levied by this code.

Sec. 3-2-363 Penalties and interest--failure to file return or pay over taxes collected.

If any person engaging in a certified short-term rental business fails or refuses, within the time specified in this article, to file a return required by section 3-2-361 or to remit to the director the taxes required to be collected, and paid along with said returns, there shall be added to the taxes past due a penalty equal to 10 percent of such taxes or the sum of \$10, whichever is greater; provided, that the penalty shall in no case exceed the amount of taxes due. In addition, interest at the rate of 10 percent per annum on both the overdue taxes and the penalty shall commence on the first day following the day such taxes are due and shall continue until all taxes and penalties are paid. The imposition of a penalty under this section shall not be deemed a defense to any criminal prosecution for failure to comply with any of the requirements of this article.

Sec. 3-2-364 Uncertified lessor prohibited from collecting tax.

It shall be unlawful for any person to collect from a lessee the daily rental tax levied by section 3-2-357, unless said person possesses a valid certificate of registration issued by the director. Any person violating this prohibition shall be subject to the penalty set out in section 3-2-365. Any taxes collected in a manner not authorized by law shall be forfeited to the city.

Sec. 3-2-365 Criminal penalties.

(a) Any person willfully failing or refusing to file a return or remit taxes, as required by section 3-2-361, shall be guilty of a class 3 misdemeanor; provided, that, if the amount of unpaid taxes due with the return exceed \$1,000, the person shall be guilty of a class 1 misdemeanor.

(b) Any person violating the prohibition in section 3-2-364 shall be guilty of a class 1 misdemeanor.

(c) The punishment provided for in this section shall be in addition to any other remedy for the collection of taxes provided by law.

Section 2. That this ordinance shall become effective upon the date and at the time of its final passage.

JAMES P. MORAN, JR.
Mayor

Final Passage: November 18, 1989