

Chapter 64

SHORT-TERM RENTAL TAX

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§ 64-1. Definitions.

For purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

- (a) *A person is affiliated with another person* if either has a five (5) percent or greater ownership interest in the other, either directly or through a third person.
- (b) *Certificate of registration* shall refer to the annual certificate issued by the Arlington Commissioner of the Revenue to persons engaged in the short-term rental business in Arlington County who make application for such certificate pursuant to section 64-4 of this chapter.
- (c) *Commissioner of the revenue* shall mean the commissioner of the revenue of Arlington County, Virginia, and any of the commissioner's duly authorized deputies or agents.
- (d) *County* shall mean Arlington County, Virginia.
- (e) *Daily rental property* shall mean all tangible personal property held for rental and owned by a person engaged in the short-term rental business as defined in section 64-1(9) of this chapter, except trailers, as defined in Section 46.2-100(33) of the Virginia Code and other tangible personal property required to be licensed or registered with the department of motor vehicles, the department of game and inland fisheries or the department of aviation.
- (f) *Gross proceeds* shall mean the total amount charged including penalties, late charges or interest, to each person for the rental of daily rental property from a short-term rental business with a valid certificate of registration, excluding any state and local sales taxes paid pursuant to Chapter 6 of Title 58.1 of the Virginia Code. Gross proceeds is the taxable basis for the daily rental tax.
- (g) *Gross rental receipts* shall mean all proceeds from rentals during a calendar year, including rentals to persons affiliated with the lessor, except that proceeds from rental of personal property which also involves the provision of personal services for the operation of the personal property rented shall not be treated as gross receipts from rental. For purposes of this section the delivery and installation of tangible personal property shall not mean operation.
- (h) *Person* shall mean and include individuals, firms, partnerships, associations, corporations, and combinations of individuals of whatever form and character.
- (i) *Short-term rental business* shall include any person engaged in the short-term rental of daily rental property

as defined in section 64-1(5) of this chapter if:

- (1) Not less than eighty (80) percent of the gross rental receipts of such business in any year are from transactions involving rental periods of ninety-two (92) consecutive days or less, including all extensions and renewals to the same person or a person affiliated with the lessor; and, provided that,
- (2) Any rental to a person affiliated with the lessor shall be treated as rental receipts for the purposes of the eighty (80) percent requirement to qualify as a short-term rental business.

(Ord. No. 89-29, 1-1-90)

§ 64-2. Levy and rate of daily rental tax.

Pursuant to Section 58.1-3510.1 of the Virginia Code, and in addition to all other taxes of every kind now or hereinafter imposed by law, Arlington County hereby levies and imposes on every person engaged in the short-term rental business a tax of one (1) percent on the gross proceeds of such business as defined in section 64-1(6). Such tax shall be in addition to the tax levied pursuant to Section 58.1-605 of the Virginia Code.

(Ord. No. 89-29, 1-1-90)

§ 64-3. Exemptions from daily rental tax.

(a) No tax hereunder shall be collected or payable on rentals by the Commonwealth of Virginia, by any political subdivision of the commonwealth or by the United States.

(b) No tax hereunder shall be collected or payable on any rental of durable medical equipment as defined in subsection 22 of Section 58.1-608.

(c) All rentals exempt from the Virginia Sales and Use Tax, pursuant to Chapter 6 of Title 58.1 of the Virginia Code, shall be exempt from this daily rental tax.

(d) All exemptions from this tax claimed by short-term rental businesses at the time of payment of collected taxes shall be proved by the filing of appropriate documentation as directed by the commissioner of the revenue and are subject to verification by the commissioner at any time.

(Ord. No. 89-29, 1-1-90)

§ 64-4. Short-term rental business application for certificate of registration.

Every person engaging in the business of short-term rental, as defined in section 64-1(9), shall annually file an application for a certificate of registration with the commissioner of the revenue for each place of business in Arlington County from which short-term rental business will be conducted by the applicant. Such application shall be filed by January 31 of each year or within thirty (30) days of the beginning of a short-term rental business. The application shall be on a form prescribed by the commissioner and shall contain:

- (a) The name under which the applicant intends to operate the rental business;
- (b) The location in the county from which the rental business will be conducted as well as the location of the rental business headquarters;
- (c) The figures for the previous year's business including the total gross receipts from all business, the total gross rental proceeds and the total receipts from short-term rental of daily rental property;
- (d) A list of all tangible personal property owned by the applicant as of January 1 of the current year and used as short-term rental property;
- (e) A list of all property leased or licensed to the short-term rental business as of January 1 of the current year, used for short-term rental, with the name and address of the owner of such property;
- (f) Such other information as the commissioner may require; and

- (g) An oath by the person making application or an officer, partner or duly authorized agent for such applicant, that they are in fact qualified for tax treatment as a short-term rental business, they shall collect only those daily rental taxes due under the law in the time and manner prescribed by law, and they shall remit all daily rental taxes collected or due and owing to the county.

(Ord. No. 89-29, 1-1-90)

§ 64-5. Issuance and effect of certificate of registration for short-term daily rental business.

Upon approval of the application required by section 64-4, by the commissioner of the revenue, a certificate of registration shall be issued for each location from which a daily rental business is to be conducted or operated in the county by the applicant. The certificate shall be conspicuously displayed at all times at the place of business for which it is issued. Each annual certificate shall be valid and authorize the collection of the short-term rental tax until renewal or revocation of the certificate. The certificate is not assignable and shall be valid only for the person in whose name it is issued and the place of business designated.

(Ord. No. 89-29, 1-1-90)

§ 64-6. Collection and record-keeping.

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

(b) The person collecting this tax shall maintain a record of all rental transactions for which this tax is collected, which record shall contain:

- (1) A description of the property rented;
- (2) The period of time for which the property was rented;
- (3) The name and address of the person to whom the property was rented; and
- (4) The amount charged for each rental including all late charges, penalties and interest.

(c) Every person engaged in the short-term rental business shall maintain a complete record of all exemptions from payment of this tax granted to renters of short-term rental property including, in addition to the information specified in subsection (b) of this section:

- (1) A copy of the Virginia Department of Taxation tax-exemption certificate; or
- (2) A copy of the U.S. State Department tax exemption certificate, which U.S. State Department card must specify that the renter by name is exempt from sales tax; or
- (3) Other explanation and proof of claimed exemption.

(Ord. No. 89-29, 1-1-90)

§ 64-7. Filing of quarterly tax returns and remittance of tax.

Each certified short-term rental business under the provisions of this chapter shall file a quarterly tax return with the commission of the revenue, indicating for the quarter just past:

- (1) The total business gross receipts of the return filer;
- (2) The gross proceeds derived from the short-term rental business;
- (3) All rental gross proceeds claimed to be exempt from the daily rental tax and documentation of each such claim; and
- (4) The total daily rental tax due the county for the previous quarter's short-term rental business.

Each return shall be accompanied by payment of the taxes due and owing or collected by the certified short-term rental business. The quarterly return and payment of tax shall be filed with the commissioner of the revenue on or before the twentieth day of each of the months of April, July, October and January, representing, respectively, the gross proceeds and taxes collected during the preceding quarters ending March 31, June 30, September 30 and December 31.
(Ord. No. 89-29, 1-1-90)

§ 64-8. Taxes held in trust for county.

The taxes required to be collected under this chapter shall be deemed to be held in trust for the county by the person required to collect such taxes until remitted as required in this chapter.
(Ord. No. 89-29, 1-1-90)

§ 64-9. Penalty for failure or refusal to collect tax.

If any certified short-term rental business in the county fails or refuses to collect the tax imposed under this chapter, their current certificate of registration shall be revoked and the business shall not be subject to the provisions of Sections 58.1-3510, 58.1-3510.1 and 58.1-3706.C of the Virginia Code nor to the provisions of section 11-61.4 and Chapter 64 of the Arlington County Code for the calendar year in which the certificate was revoked. Any payments of daily rental tax made previous to the revocation of the certificate shall be refunded to such lessees as can be identified by the lessor.
(Ord. No. 89-29, 1-1-90)

§ 64-10. Penalties and interest; failure to file return or pay over taxes collected.

If any certified short-term rental business fails to file the returns required by this section or fails or refuses to remit to the commissioner of the revenue the tax collected and paid under this chapter at the time specified in this chapter, its certification as a short-term rental business shall be revoked and there shall be added to such tax collected prior to revocation of the certificate and due the county but not paid a penalty in the amount of ten (10) percent of the tax past due or the sum of ten dollars (\$10.00), whichever is greater. The assessment of such penalty shall not be deemed a defense to any criminal prosecution for failure to comply with any of the requirements of this chapter.

Interest shall accrue on taxes due and delinquent prior to June 30, 1999, at the rate of ten (10) percent for the first year. For the second and subsequent years, interest shall be paid on the delinquent tax and penalty at a rate established by the treasurer, at his or her discretion, but not to exceed ten (10) percent per annum or the rate of interest established pursuant to Section 6621 of the Internal Revenue Code of 1984, as amended, whichever is greater, up to June 30, 1999; and as prescribed in section 27-3 thereafter. Interest on taxes due and payable after July 1, 1999, shall accrue interest as prescribed in section 27-3. Penalty and interest for failure to file the return or to pay the tax due pursuant to this chapter shall be assessed on the first day following the day such quarterly return and tax payment is due. The certification shall be revoked if the failure to pay the tax due or to file the returns required by this chapter continues for sixty (60) days beyond the due date.
(Ord. No. 89-29, 1-1-90; Ord. No. 99-16, 7-10-99; Ord. No. 99-19, 8-14-99)

§ 64-11. Uncertified renters prohibited from collecting tax.

No person renting any property or services to any other person shall collect from the lessee the daily rental tax authorized by this chapter unless they have a valid certificate of registration issued for the current year by the commissioner of the revenue. Any taxes collected in a manner not authorized by law shall be forfeited to the county.
(Ord. No. 89-29, 1-1-90)

§ 64-12. Criminal penalties.

Persons violating or failing to comply with any provision of this chapter shall be guilty of a Class 3 misdemeanor, except as provided below:

- (1) If the amount of tax due and unpaid for any quarter exceeds one thousand dollars (\$1,000.00), any person failing to file a return or remit payment when due and convicted with such failure on a criminal warrant shall be guilty of a Class 1 misdemeanor.

- (2) Any person violating section 64-11 of this chapter shall be guilty of a Class 1 misdemeanor.

(Ord. No. 89-29, 1-1-90)

§ 64-13. Taxation of rental property that is not daily rental property.

Except for daily rental passenger cars, rental property that is not daily rental property shall be classified for taxation pursuant to Section 58.1-3503 of the Virginia Code.
(Ord. No. 89-29, 1-1-90)

§ 64-14. Effect of revocations of certification as short-term rental business.

If upon audit by the commissioner of the revenue of the preceding full year's gross proceeds and gross rental receipts, it is ascertained that a certified short-term rental business did not meet the criteria for certification set out in section 64-1(9), any current certification shall be revoked or renewal of certification shall be denied. In addition, the business shall not be treated for business license tax and business tangible property tax assessment as a certified short-term rental business for the preceding year and for the current year. The business shall be assessed any additional business license and business tangible property taxes found to be due.
(Ord. No. 89-29, 1-1-90)