

CHAPTER 16- Repealed
CHAPTER 16.1
TAXATION

ARTICLE I. IN GENERAL

Section 16.1-1. Due date for taxes on real estate: penalties for delinquencies.

All taxes on real estate shall be due and payable by December fifth (5th) of the tax year. Should the fifth (5th) fall on a Saturday, Sunday, or a holiday, then the tax would be due and payable on the next business day following the fifth (5th). A penalty and interest shall be added to all delinquent real estate taxes not paid by December fifth (5th) of each calendar year as follows:

- (1) A penalty of ten (10%) percent per annum of the tax past due on such property or the sum of ten dollars (\$10.00) whichever shall be greater.
- (2) Interest on the amount of the delinquent taxes at the rate of ten (10%) percent per annum from January first of the year succeeding the year for which taxes are levied until paid.

Section 16.1-2. Omitted taxes. etc.

If any person has failed or shall hereafter fail for any one of the three (3) tax years last past or the current tax year to make a proper return of any property subject to taxation or to furnish information in order that assessments can be made, the town clerk shall ascertain the omitted taxes, adding thereto a penalty of ten (10%) percent, and send a bill to the taxpayer, for the amount so ascertained to be due. If the amount of such taxes plus penalty is not paid within thirty (30) days from the date of such bill, interest at the rate of ten (10%) percent per annum, unless otherwise provided, shall be charged thereon until the date of payment.

Section 16.1-3. Refund of taxes.

Unless otherwise provided by ordinance, no refund of taxes may be made except upon orders of the town council; and any request for a tax refund shall be made in writing to the town council.

Section 16.1-4. Fees to cover administrative costs of collection of delinquent taxes.

Where any taxes on real estate or any other taxes imposed by this chapter or any other provisions of this code are not paid by the date on which such taxes are due and payable, there is hereby imposed a fee, as set forth below, in addition to all penalties and interest otherwise imposed, to cover, in part, the administrative costs associated with the collection of such delinquent taxes. Where delinquent taxes are collected subsequent to the filing of a warrant or other appropriate legal document, but prior to judgment, there is hereby imposed a collection fee of forty-five dollars (\$45.00).

Section 16.1-5. When payment of tax waived.

When the total tax bill of any taxpayer is five (\$5.00) dollars or less, the Clerk of the Town of Floyd shall not bill such taxpayer for such tax and shall mark such tax as “waived” on the tax rolls of the Town.

When a reassessment, correction, or change is made to the tax rolls after bills for taxes have been mailed by the said Clerk, which reassessment, correction, or change results in an additional tax due of five (\$5.00) dollars or less, the Clerk shall not bill such amount and shall mark such tax as “waived” on the tax rolls of the Town.

Section 16.1-6. Real estate exemption for elderly and permanently and totally disabled persons.

- (a) The ordinance of the County of Floyd, Virginia, together with all amendments made or enacted by the County for exemption and relief from taxation of real estate or portions of real estate owned by certain elderly and certain permanently and totally disabled persons, subject to restrictions, conditions and limitations, together with all procedure clauses, forms and affidavits, and provisions for violation of the ordinance, is adopted by reference as a part of this section.
- (b) The Town of Floyd Council deems those persons falling within the limitations and conditions of this section to be bearing an extraordinary tax burden on the real estate described in this section, in relation to their income and financial worth; and they should therefore be granted the relief contained in this section.
- (c) This section shall be enforced as any other ordinance of the town is enforced, and all amendments made by the county shall become a part of this section upon passage by the county unless otherwise changed by ordinance of the town duly adopted after the county amendments become effective.
- (d) The commissioner of the revenue is authorized to advise the town of those persons entitled to exemption or relief in the same manner and at the time he submits to the town the regular tax roll for real estate taxes. Upon receipt of the names of those persons within the Town of Floyd who qualify for relief from taxation as defined by the ordinances of the County of Floyd, the Clerk of the Town of Floyd shall deduct from the real estate tax bill of such person the amount of up to \$50.00, for each tax year that such person so qualifies for relief hereunder.
- (e) This section shall apply to each tax year.
- (f) Any person who falsely claims an exemption or violates any provision of this article, shall be guilty of a Class 1 misdemeanor as provided by §15.2-1429 of the Code of Virginia, as amended.

State law references: Exemptions for elderly and handicapped, Code of Virginia, § 58.1-3210, et seq.

Approved and adopted the 1st day of June, 2006.

ARTICLE II. BANK FRANCHISE TAX

Section 16.1-6. Definitions.

For the purpose of this article, the following words shall have the meanings ascribed to them by this section:

Bank and Bank Holding Company shall be as defined in Section 58.1-1201 of the Code of Virginia of 1950, as amended.

Net Capital shall mean a bank's net capital computed pursuant to the provisions of Section 58.1-1205 of the said Code of Virginia.

Section 16.1-7. Imposed: amount.

- (a) Pursuant to the provisions of Chapter 12 of Title 58.1 of the Code of Virginia, there is hereby imposed upon each bank located within the corporate boundaries of the town a tax on net capital equaling eighty (80) percent of the state rate of Franchise Tax set forth in Section 58.1-1203 of the Code of Virginia.
- (b) In the event that any bank located within the boundaries of the town is not the principal office but is

a branch extension or affiliate of the principal office located outside the corporate limits, the tax imposed in subsection (a) above shall be apportioned as provided by Section 58.1-1211 of the Code of Virginia.

Section 16.1-8. Returns, reports, etc.

- (a) On or after the first day of January of each year, but not later than March first of such year, all banks, the principal offices of which are located within the corporate limits of the town, shall prepare and file with the Commissioner of Revenue of Floyd County a return, as provided by Section 58.1-1207 of the Code of Virginia. Such return shall be filed in duplicate and shall set forth the tax on net capital computed pursuant to the provisions of Chapter 12 of Title 58.1 of the Code of Virginia. The said Commissioner shall certify a copy of such return, and schedules and shall forthwith transmit such certified copy to the state department of taxation. Additionally, where such bank has other offices located in political subdivisions other than this town, a copy of the real estate deduction schedules, and the apportionment under Section 58.1-1211 of the Code of Virginia. In addition to the foregoing, each such principal bank shall submit to the said Commissioner of Revenue a report of the deposits in each branch bank located in any political subdivision other than this town, as required pursuant to the provisions of Section 58.1-1212 of the Code of Virginia.
- (b) On or after the first day of January of each year, but not later than March first of such year, any bank which maintains one or more branch offices within the corporate limits of this town but whose principal office is located outside such corporate limit, shall file with the town clerk a return which shall set forth the tax on net capital computed pursuant to the provisions of Chapter 12 of Title 58.1 of the Code of Virginia. In computing such tax, the provisions of Section 58.1-1211 of the Code of Virginia, which imposes such tax only upon such proportion of the taxable value of net capital as the total deposits of such branch or branches located within the corporate limits of the town bears to the total deposits of the bank, as of the end of the preceding year, shall be applicable. A copy of the real estate deduction schedules and the aforementioned apportionment under Section 58.1-1211 of the Code of Virginia shall be filed with the town clerk and such return shall set forth the tax on net capital owing to each such political subdivision, as computed under the provisions of Chapter 12 of Title 58. 1 of the Code of Virginia.

Section 16.1-9. When payable.

Every bank, whether principal or branch office, located within the corporate limits of the town shall, on or before the first (1st) day of June of each year, pay to the town clerk all taxes imposed pursuant to this article.

Section 16.1-10. Penalty for failure to comply with article.

Any bank which shall fail or neglect to comply with any provision of this article shall be fined not less than one hundred dollars (\$100.00) not more than five hundred dollars (\$500.00).

ARTICLE III. - MEALS TAX*

*State law reference(s) — Code of Virginia Sections 58.1-3840, 58.1-3841

ADOPTED BY THE TOWN OF FLOYD, VIRGINIA, THIS 6TH DAY OF SEPTEMBER, 2007.
ORIGINAL ADOPTED BY THE TOWN OF FLOYD, VIRGINIA, THIS 16TH DAY OF JUNE, 2005.

Section 16.2-1. Definitions.

The following words and phrases, when used in this ordinance, shall have, for the purpose of this ordinance, the following respective meanings except where the context clearly indicates a different meaning:

Cater. The furnishing of food, beverages, or both on the premises of another, for compensation.

Collector. The clerk or designee.

Clerk. The Clerk of the Town of Floyd and duly designated deputies, assistants, inspector or other employees.

Food. All food, beverages, or both, including alcoholic beverages, purchased in or from a food establishment, whether prepared in such food establishment or not, and whether consumed on the premises or not, and without regard to the manner, time or place of service.

Food Establishment. Any place in or from which food or food products are prepared, packaged, sold or distributed in the town, including but not limited to, any restaurant, dining room, grill, coffee shop, cafeteria, café, snack bar, lunch counter convenient store, movie theatre, delicatessen, confectionary, bakery, eating house, eatery, drugstore, ice cream/yogurt shop, lunch wagon or truck, pushcart or other mobile facility from which food is sold, public or private club, resort, bar, club, lounge, or other similar establishment, public or private, and shall include private property outside of and contiguous to a building or structure operated as a food establishment at which food or food products are sold for immediate consumption.

Meals. Meal shall mean any prepared food or drink offered or held out for sale by a food establishment for the purpose of being consumed by any person and is ready for immediate consumption. All such food and beverages, unless otherwise specifically exempted or excluded herein shall be included, whether intended to be consumed on the seller's premises or elsewhere, whether designated as breakfast, lunch, snack, dinner, supper or by some other name, and without regard to the manner, time or place of service.

Seller. Any person who sells food in or from a food establishment and any caterer.

Levy. There is hereby and levied by the town on each person a tax at the rate of five (5) percent on the amount paid for meals purchased from any food establishment, whether prepared in such food establishment or not, and whether consumed on the premises or not.

Section 16.2-2Collection of tax by seller.

Every person selling or receiving any payment for food with respect to which a tax is levied hereunder shall contact and remit the tax imposed by this ordinance from the person on whom the same is levied or from the person paying for such food at the time payment for such food is made; provided, however, no blind person operating a vending stand or other business enterprise under the jurisdiction of the Department for the Visually Handicapped and located on property acquired and used by the United States for any military or naval purpose shall be required to collect or remit such taxes.

All tax collections shall be deemed to be held in trust for the town, and shall be due and payable on or before the 20th of each month or the next business day thereafter.

Section 16.2-3. Discount.

For the purpose of compensating the owner of any food establishment collecting the tax imposed by this article, such owner shall be allowed ten (10) percent of the amount of the tax due and accounted for in the form of a deduction on the owner's monthly return, provided the amount due is not delinquent at the time of payment.

Section 16.2-4. Exemptions; limits on application.

- (a) The tax imposed under this ordinance shall not be levied on the following items when served exclusively for off-premises consumption.
 - (1) Factory-prepackaged candy, gum, nuts, and other items of essentially the same nature.
 - (2) Factory-prepackaged doughnuts, ice cream, nabs, chips, cookies and items of essentially the same nature.
 - (3) Food sold in bulk. For the purpose of the provision, a bulk sale shall mean the sale of any item that would exceed the normal, customary and usual portion sold for on premises consumption (e.g. a whole cake, a gallon of ice cream); a bulk sale shall not include any food or beverage that is catered or delivered by a food establishment for off-premises consumption.
 - (4) Alcoholic and non-alcoholic beverages sold in factory sealed containers.
 - (5) Any food or food product purchased with food coupons issued by the United States Department of Agriculture under the Food Stamp Program or drafts issued through the Virginia Special Supplement Food Program for Women, Infants, and Children.
 - (6) Any food or food product purchased for home consumption as defined in the federal Food Stamp Act of 1977, 7 U.S.C. §2012, as amended except hot food or got food products ready for immediate consumption. For the purpose of administering the tax levied hereunder, the following items whether or not purchased for immediate consumption are excluded from the said definition of food in the federal Food Stamp Act: sandwiches, salad bar items sold from a salad bar, prepackaged single-serving salads consisting primarily of an assortment of vegetables, and non-sealed beverages. This subsection shall not affect provisions set forth in subparagraph (c) (3) (4) and (5) herein below.
- (b) A grocery store, supermarket, or convenient store shall not be subject to the tax except for any portion or section therein designated as a delicatessen or designated for the sale of prepared food and beverages.
- (c) The tax imposed hereunder shall not be levied on the following purchases of food and beverages:
 - (1) Food and beverages furnished by food establishments to employees as part of their when no charge is made to the employee.
 - (2) Food and beverages sold by day care centers, public or private elementary or secondary schools or food sold by any college or university to its students or employees.

- (3) Food and beverages for use or consumption and which are paid for directly by the Commonwealth, any political subdivision of the Commonwealth or the United States.
- (4) Food and beverages furnished by a hospital, medical clinic, convalescent home, nursing home, home for aged, infirm, handicapped, battered women, narcotic addicts and alcoholics, or other extended care facility to patients or residents thereof and the spouses and children of such persons.
- (5) Food and beverages furnished by a public or private non-profit charitable organization or establishment or private establishment that contracts with the appropriate agency of the Commonwealth to offer meals at concession prices to elderly, infirm, blind, handicapped or needy persons in their homes or at central locations.
- (6) Food and beverages sold on an occasional basis, not exceeding four (4) times per calendar year, by a non-profit, non-profit educational, charitable or benevolent organization, church, or religious body as a fundraising activity, the gross proceeds of which are to be used by such organization exclusively nonprofit educational, charitable, benevolent or religious purpose.
- (7) Food and beverages sold through vending machines.

Section 16.2-5. Gratuities and service charges

When a purchaser provides a gratuity for an employee of a seller, the amount of gratuity is wholly in the discretion of the purchaser, the gratuity is not subject to the tax imposed by this ordinance, whether paid in cash to the employee or added to the bill and charged to the purchaser's account, provided in the latter case, the full amount of the gratuity is turned over to the employee by the seller.

An amount of percent, whether designated as gratuity, tip or service charge, that is added to the price of the food and beverages by the seller, and required to be paid by the purchaser, as a part of the selling price of the food and beverages and is subject to the tax imposed by this ordinance.

Section 16.2-6. Report of taxes collected; remittance; preservation of records.

It shall be the duty of every person required by this ordinance to pay the town taxes imposed by this ordinance to make a report thereof setting forth such information as the Clerk may prescribe and require, including all purchases taxable under this ordinance, the amount charged the purchaser for each such purchase, the date thereof, the taxes collected thereon and the amount of tax required to be collected by this ordinance. Such records shall be kept and preserved for a period of five (5) years. The Clerk or any authorized agents shall have the power to examine such records at reasonable times and without unreasonable interference with the business of such person, for the purpose of administering or enforcing the provisions of this ordinance, and to make transcripts of all or any parts thereof.

Section 16.2-7. Penalty for violation of ordinance.

- (a) Any such person willfully failing or refusing to file a return as required under this ordinance shall, upon conviction thereof, be guilty of a Class 1 misdemeanor except that any person failing to file such a return shall be guilty of a Class 3 misdemeanor if the amount of tax lawfully assessed in connection with the return is \$ 1,000.00 or less. Any person violating or failing to comply with any other provisions of this ordinance shall be guilty of a Class 1 misdemeanor.
- (b) Except as provided in subsection (a) above, any corporate or partnership officer, as defined in Virginia Code § 58.1-3906, or any other person required to collect, account for, or pay over the

meals tax imposed under this ordinance, who willfully fails to collect or truthfully account for or pay over such tax, or who willfully evades or attempt to evade such tax or payment thereof, shall, in addition to any other penalties imposed by law, be guilty of a Class 1 misdemeanor.

- (c) Each violation of or failure to comply with this ordinance shall constitute a separate offence. Conviction of any such violation shall not relieve any person from the payment, collection, or remittance of the tax as provided in this ordinance.
- (d) Failure to timely pay the monthly taxes required herein shall cause such payment to be subject to a delinquency charge of 10% of the amount of such payment, plus interest thereon at the rate of 10% per annum.

ARTICLE IV. - TRANSIENT LODGING TAX*

***State law reference(s)** - Excise tax on transient rooms, Code of Virginia, §§ 58.1-3819, 58.1-3840
ADOPTED BY THE TOWN OF FLOYD, VIRGINIA, THIS 16TH OF JUNE, 2005.

Section 16.3-1. Definitions.

For the purpose of this ordinance, the following words and phrases shall have the meaning respectively ascribed to them by this section unless the context clearly indicates a different meaning:

Hotel - means any public or private hotel, inn, hostelry, tourist home or house, motel, rooming house or other lodging place within the Town offering lodging, as defined in this section, for compensation to any transient, as defined in this section.

Lodging - means room or space furnished any transient.

Transient - means any person who, for a period of not more than 90 consecutive days, either at his own expense or at the expense of another, obtains lodging or the use of any space at any hotel, for which lodging or use of space a charge is made.

Clerk - means the Clerk of the Town and any of his duly authorized agents

Section 16.3-2. Tax imposed; amount.

There is hereby levied and imposed, in addition to all other taxes or fees of every kind imposed by the law, on each transient obtaining lodging or the use of any space at any hotel, a tax equal to five (5) percent of the total amount paid for such lodging or the use of space by or for any such transient to any hotel. Such tax shall be collected from such transient at the time and in the manner provided by other provisions in said section.

Section 16.3-3. Collection from transients; when payable.

Every person receiving any payment for lodging or the use of space with respect to which a tax is levied under this article shall collect the amount of such tax so imposed from the transient on whom tax is levied, or from the person paying for such lodging, at the time payment for such lodging is made. The taxes required to be collected under this article shall be deemed to be held in trust by the person required to collect such taxes until the same have been remitted to the Clerk.

Section 16.3-4. Report of collection and remittance of tax.

The person collecting any tax as provided in this article shall make out a report thereof upon such forms setting forth such information as the Clerk may prescribe and require, showing the amount of lodging charges collected and the tax required to be collected and shall sign and deliver such reports with

the remittance of such tax to the clerk. Such reports and remittances shall be made on or before the 20th day of each month covering the amount of tax due and collected during the preceding month.

Section 16.3-5. Discount.

For the purpose of compensating the owner of any hotel collecting the tax imposed by this article, such owner shall be allowed ten (10) percent of the amount of tax due and accounted for in the form of a deduction on this monthly return, provided the amount due is not delinquent at the time of payment.

Section 16.3-6. Penalty and interest for non-remittance.

- (a) If any person shall fail or refuse to report and remit to the Clerk the tax required to be collected and paid under this article within the time and in the amount as provided for in this article, there shall be added to such tax by the Clerk a penalty in the amount of ten (10) percent thereof and interest thereon at the rate of ten (10) percent per annum, which shall be computed upon the tax and penalty from the date such taxes were due and payable.
- (b) Any failure to timely file and pay the transient lodging tax when due shall constitute a Class 1 misdemeanor.

Section 16.3-6. Failure to collect and report tax.

If any person shall fail or refuse to collect the tax imposed under this article and to make within the time provided herein any report and remittance required, the Clerk shall proceed in such manner as he may deem best to obtain facts and information as he able to obtain which to base the assessment of any tax due and payable by any person who has failed or refused to collect such tax and to make such report and remittance, he shall proceed to determine and assess against such person such tax and penalty and interest as provided for this article and shall notify such person interest, and total amount thereof shall be payable within ten (10) days of mailing of such notice. The Clerk shall have the power to examine such records for the purpose of administering and enforcing the provisions of this article as are provided by law.

Section 16.3-7. Records; inspection by Clerk.

It shall be the duty of every person liable for the collection and payment to the Town of any tax imposed by this article to keep and preserve for a period of two years such suitable records as may be necessary to determine the amount of such tax as he may have been responsible for collecting and paying the Town. The Clerk shall have the right to inspect such records at all reasonable time.

Section 16.3-8. Cessation of business; tax due immediately.

Whenever any person required to collect and pay the Town a tax imposed by this article shall cease to operate, go out of business, or otherwise dispose of his business, any tax then payable to the Town shall be immediately due and payable, and such person shall immediately make a report and pay the tax due to the Clerk.

Section 16.3-8. Exceptions for governmental employees on official business.

No tax shall be payable under this article with respect to any payment for lodging or the use of space paid by or for any federal, state, or local official or employee when on official business.

Section 16.3-9. Exceptions for transient at places of lodging at public institutions.

With respect of those places of lodging at public institutions whose operating costs are financed by legislative appropriations, no tax shall be payable hereunder with respect to any payment for lodging or the use of space paid by or for:

- (1) Any person obtaining lodging at such places in connection with or as a part of any bona fide educational conference or program arranged by such public institution; or
- (2) Any person who is an invited guest of the public institution where such payment was made by the public institution.

Section 16.3-10. Violations; how punishable.

Any person violating or failing to comply with any of the provisions of this article shall, upon conviction thereof, be guilty of a Class 1 misdemeanor, punishable of imprisonment of up to twelve (12) months in jail and a fine not to exceed \$2,500.00. Conviction shall not relieve any person from the payment, collection or remittance of the tax as provided in this article. Each violation or failure shall be a separate offence.