

ADOPTED

JUN 22 1999

ORDINANCE NO. 107A-29

**BOARD OF SUPERVISORS
JAMES CITY COUNTY
VIRGINIA**

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 20, TAXATION, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING ARTICLE I, IN GENERAL, SECTION 20-7.2, REFUND OF LEVIES ERRONEOUSLY PAID.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 20, Taxation is hereby amended and reordained by amending Section 20-7.2, Refund of levies erroneously paid.

Chapter 20. Taxation

Article I. In General

Sec. 20-7.2. Refund of levies erroneously paid.

Pursuant to section 58.1-3990 of the Code of Virginia, 1950, as amended, the board of supervisors hereby provides for the refund of any local levies erroneously assessed on tangible personal property, machinery and tools, or merchant's capital, or a local license tax or real estate.

If upon application, the commissioner of the revenue is satisfied that he or his predecessor in office has erroneously assessed such applicant with any local levies as provided herein, he shall certify to the tax-collecting officer the amount erroneously assessed. If the levies have not been paid, the applicant shall be exonerated from so much thereof as is erroneous, and if such levies have been paid, the tax collecting officer or his successor in office shall refund to the applicant the amount erroneously paid, together with any penalties and interest paid thereon.

A refund of any payment made on or after July 1, 1999, due to an erroneous assessment, shall bear interest in the amount of ten percent per annum commencing the first day of the month following the month in which such taxes are due or in which such taxes are paid, whichever is later. For the purposes of this paragraph, an erroneous assessment shall mean an assessment that a taxpayer can demonstrate, by clear factual evidence, that he or she was not subject to such assessment for the year in question. Correction of an assessment due to the sale, transfer or other disposition of property shall not be deemed to be an erroneous assessment. In addition, an assessment which is incorrect due to the action or inaction of a taxpayer shall not be deemed to be an erroneous assessment.

No refund shall be made in any case when application therefor was made more than three years after the last day of the tax year for which such taxes were assessed; provided, that if any tax is declared to be unconstitutional by a court of competent jurisdiction, the board of supervisors shall grant a refund of such tax hereunder to all taxpayers for those years to which the court proceeding was applicable.

State law reference-Code of Va., §58.1-3916.



Jack D. Edwards
Chairman, Board of Supervisors

ATTEST:



Sanford B. Wanner
Clerk to the Board

<u>SUPERVISOR</u>	<u>VOTE</u>
NERVITT	AYE
SISK	ABSENT
MCGLENNON	AYE
BRADSHAW	AYE
EDWARDS	AYE

Adopted by the Board of Supervisors of James City County, Virginia, this 22nd day of June, 1999.

MEMORANDUM

DATE: June 22, 1999

TO: The Board of Supervisors


FROM: M. Ann Davis, Treasurer
L. Carlyle Ford, Commissioner of the Revenue
Leo P. Rogers, Deputy County Attorney


SUBJECT: Interest on Refund for Erroneous Assessments

Attached is an ordinance that authorizes the Treasurer to pay interest to a taxpayer on a refund for erroneous assessment. A recent change to the State Code requires that the County pay interest to a taxpayer on payments made due to an erroneous assessment. The interest paid to such a taxpayer is ten percent per annum, the same rate charged to taxpayers on delinquent accounts.

The ordinance defines an erroneous assessment as clear factual evidence that the taxpayer was not subject to the tax for the year in question. The correction of an assessment due to the sale, transfer, or other disposition of tangible personal property is not an erroneous assessment. In addition, an assessment which is incorrect due to the action or inaction of a taxpayer is not deemed to be an erroneous assessment.

We recommend adoption of the ordinance.


M. Ann Davis


L. Carlyle Ford


Leo P. Rogers

LPR/mj
Interest.mem

Attachment