



TAX BULLETIN 21-1

Virginia Department of Taxation

January 7, 2021

IMPORTANT INFORMATION REGARDING VIRGINIA'S LITTER TAX

Increased Litter Tax Rate and Additional Penalty

This bulletin is intended to notify taxpayers of changes to the Virginia Litter Tax effective for returns due May 1, 2021. Pursuant to 2020 House Bill 1154 (Chapter 782) the annual litter tax rate increases from \$10 to \$20 per establishment and the additional annual litter tax on specific businesses will be increased from \$15 to \$30 per establishment. In addition, 2020 House Bill 502 (Chapter 468) imposed a \$100 penalty for delinquent payment of the litter tax that is added to the existing penalty.

Background

Under existing law, the Litter Tax is imposed on each Virginia business establishment from which a taxable business is conducted on January 1 of the taxable year. Businesses subject to the Litter Tax are required to file Form 200 and pay the tax due by May 1 of the subsequent year. For example, a business subject to the litter tax that is in operation on January 1, 2020 is required to file a Litter Tax return by May 1, 2021.

The May 1 deadline applies regardless of whether a business operates on a calendar or fiscal year basis for income tax purposes. When the return is filed, the full amount of the tax as shown on the face of the return should be paid. Virginia law does not provide for an extension of time to file or pay the tax.

A business not yet open on January 1 of the taxable year will not be liable for the Virginia Litter Tax until the next succeeding calendar year. For example, if a business opens on February 1, 2020, and is subject to the Litter Tax, it will not be required to file a Litter Tax return until May 1, 2022.

Annual Litter Tax Rate Increase

The Virginia Litter Tax is imposed annually on each establishment from which business

is conducted by manufacturers, wholesalers, distributors, and retailers of:

- Food for human or pet consumption;
- Groceries;
- Cigarettes and tobacco products;
- Soft drinks and carbonated waters;
- Beer and other malt beverages;
- Wine;
- Newspapers and magazines;
- Paper products and household paper;
- Glass containers;
- Metal containers;
- Plastic or fiber containers made of synthetic material;
- Cleaning agents and toiletries;
- Non-drug drugstore sundry products;
- Distilled spirits; and
- Motor vehicle parts.

Under prior law, such tax applied at an annual rate of \$10 per establishment. Effective for Litter Tax returns due May 1, 2021, this annual rate increases to \$20 per establishment.

An additional litter tax on each establishment is imposed on manufacturers, wholesalers, distributors, and retailers of groceries, soft drinks, carbonated waters, beer, and other malt beverages. Under prior law, such tax applied at an annual rate of \$15 per establishment. Effective for Litter Tax returns due May 1, 2021, this annual rate for the additional tax increases to \$30 per establishment.

Additional Penalty

Under existing law, any taxpayer who fails to pay the Litter Tax by the May 1 deadline is subject to a penalty equal 100% of the tax due. In addition, interest accrues at the rate established pursuant to *Va. Code § 58.1-1812*. Effective for Litter Tax payments due May 1, 2021, an additional penalty of \$100 will apply to any late payments. This new penalty applies in addition to the existing 100% penalty and any interest that may accrue.

Examples

Example 1

A manufacturer of paper products has two locations from which it conducts business in Virginia on January 1, 2020. This manufacturer has a Litter Tax liability of \$40 (\$20 x 2) due May 1, 2021.

Example 2

A grocery retailer has 20 locations in Virginia as of January 1, 2020. The grocery retailer has a Litter Tax liability of \$1,000 $[(20 \times \$20) + (20 \times \$30)]$ due May 1, 2021.

Example 3

A restaurant opened one location in the City of Richmond on August 1, 2020. This is its only location in Virginia. Since it was not in operation on January 1, 2020, the restaurant will not owe Litter Tax on May 1, 2021. It will not be required to file a Litter Tax return until May 1, 2022.

Example 4

A manufacturer that produces metal containers has one location in Virginia from which it conducts business. The manufacturer has a Litter Tax liability of \$20. The taxpayer files its Litter Tax return on June 15, 2021. In addition to the \$20 tax, the manufacturer must pay \$120 in penalties $[(\$20 \times 100\%) + \$100]$, for a total liability of \$140 plus interest.

Example 5

A distributor of soft drinks has two distribution facilities in Virginia. The distributor has a Litter Tax liability of \$100 $[(\$20 \times 2) + (\$30 \times 2)]$. The distributor files its return on June 5, 2021. In addition to the \$100 tax, the distributor must pay \$200 in penalties $[(\$100 \times 100\%) + \$100]$, for a total liability of \$300 plus interest.

Additional Information

This Tax Bulletin is available online in the Laws, Rules & Decisions section of the Department's website. If you have additional questions, please visit the Department's website at <http://www.tax.virginia.gov> or contact the Department at (804) 367-8037.