

Finance Department
Policies and Procedures for the Assessment and Collection of Admission, Lodging
and Meals Taxes

1. **Introduction**

1.1 This policy applies to the Department of Finance’s treatment of the collection and remittance by other parties of admission, lodging and meals (“ALM”) taxes.

1.2 The purpose of this policy is to ensure compliance with state law and the City Code and to enable the employees of the Department of Finance (“the employee”) to perform the duties of the Director of Finance regarding the levy and collection of ALM taxes.

1.3 ALM taxes are considered “trust taxes” in that they are collected by another party and held in trust on behalf of the City of Richmond until remitted. At no time are ALM taxes collected by these persons considered to belong to those who have collected them from their patrons on behalf of the City.

2. **Policy.** Virginia Code § 58.1-3840 authorizes cities to impose excise taxes on admissions, transient room rentals, and meals. The pertinent provisions can be found in Chapter 26 of the Richmond City Code in Article VIII (meals), Article IX (admission), and Article X (transient lodging).

3. **Collection.** The person, as defined in subsection A, receiving the payment is responsible for the collection of the ALM taxes and for holding them in escrow until remitted to the City.

A. **For All ALM Taxes.** Richmond City Code § 1-2 defines “person” to mean “any individual, corporation, partnership, association, cooperative, limited liability company, trust, joint venture, government political subdivision, or any other legal or commercial entity and any successor, representative, agent, agency or instrumentality thereof.”

B. **For Admission Taxes.** As set forth in section 4.1(C), if satisfactory evidence is provided, then given the City’s broad definition of “person,” for purposes of admission taxes collection, the “person receiving the payment” may be the promoter of the event, meaning the person or entity charged with such tasks as, but not limited to, marketing, advertising and planning the event, or an online ticketing service.

4. **Remittance.** The person who collected the tax is responsible for remitting the tax collected along with the completed and signed Admissions, Lodging, and Meals Taxes form.

4.1 **Admission Tax Presumption.**

- A. **Background.** In the event that the person responsible for the collection of admission taxes fails to remit such taxes, the employee will make an assessment as discussed in section 4.3. In order to make such an assessment, the employee must determine who is liable for the tax. In most cases, the business permanently located at the place of amusement is the person who received the payment for admission and is thus required to remit the tax to the City. However, there may be situations in which the business permanently located at the place of amusement is not the party who has received the payment, such as where a contract calls for another party to collect the admission tax or where the operator of the event has merely leased the place of amusement for the duration of the event. If the business permanently located at the place of amusement did not receive the payment for admission then the employee must determine on an event-by-event basis which party is responsible for remitting the tax.
- B. **The Rule. In the absence of satisfactory information to the contrary, it is the City's policy to consider the business permanently located at the place of amusement to be the entity that received the payment and therefore, is responsible for the collection and remittance of the admission tax to the City.**
- C. **Determination of Satisfactory Information.** In the event that the business permanently located at the place of amusement disputes that it is the party responsible for remitting the tax, the employee must make a determination as to which party is liable based on information provided by the business. The following serve as non-exhaustive examples of the types of documents that an employee should review to determine that the business permanently located at the place of amusement is not the party required to remit the admission tax:
1. An agreement between the business permanently located at the place of amusement and another person stating that the other person agrees to collect the taxes or remit them, or both, to the City.
 2. Official correspondence from another person affirming that it is the entity that collected the tax.
 3. Receipts or other financial documentation demonstrating that another person collected the tax.

If the business permanently located at the place of amusement disputes that it is the party responsible for remitting the tax and the employee is unable to determine whether the business permanently located at the place of amusement collected the admission tax, the employee must forward all documents to the City Attorney's office for assistance in making the determination of who is liable to remit the tax to the City.

4.2 Seller's Commission.

- A. **Deduction.** Pursuant to Richmond City Code § 26-2, the taxpayer is entitled to deduct a commission in the amount of 1.5% of the **meals tax** remitted if remitted on or before the due date.
- B. **Effect of Delinquent Taxes.** Pursuant to Virginia Code § 58.1-3813, the employee must credit payments received to the most delinquent account. This can have a significant effect on the commission authorized by Richmond City Code § 26-2 if a party remitting meals taxes is delinquent for even one month. If a party remits meals taxes for the current month but (i) failed to remit meals taxes in an earlier month and (ii) the amount remitted for the current month is insufficient to cover both the current month and the delinquent earlier month, the employee must credit the payment to the earlier month's delinquency, likely resulting in the party being delinquent for the current month. If the party is delinquent for the current month because its payment was credited to an earlier month, the party is not allowed to deduct the 1.5% commission for which Richmond City Code § 26-2 provides. In such a case, the employee must assess the party for the total amount of meals tax owed—i.e., without taking a 1.5% commission into consideration.

For example: If a party fails to remit meals taxes for the month of April, the employee will make a statutory assessment, including penalties and interest, for the April delinquency. If the party then remits for the month of May the amount of meals taxes owed minus the deducted 1.5% commission, the employee will credit the payment for May to the April delinquency. Unless the payment for May is sufficient to cover both (i) the amount of the April delinquency, consisting of the full amount of meals taxes owed plus penalties and interest, and (ii) the amount owed for May, consisting of the total amount of meals taxes owed minus the 1.5% commission on those meals taxes, the party will not be allowed the 1.5% commission for the party's payment for May, and the employee will assess the party for (i) any amount still owed for the April delinquency, (ii) the total amount of meals taxes owed for May with no 1.5% commission deducted, and (iii) any penalties and interest on items (i) and (ii).

4.3 Failure to Remit.

- A. **Penalty and Interest.**
1. **Penalty.** ALM taxes are assessed a 10% or \$10.00 penalty, whichever is greater, if payment is not received by the due date. In no case shall the penalty exceed the amount of the tax.
 2. **Interest.** Interest on delinquent ALM taxes and on the penalty is charged annually at the rate of 10% from the day following the due date.

B. **Statutory Assessment.** In the event that the person responsible for collecting the taxes has failed, refused, or neglected to remit those taxes owed by the due date, the employee must make a statutory assessment in accordance with Richmond City Code § 26-435. Upon making such an assessment, the employee must notify the taxpayer by mail sent to the taxpayer's last known address of all of the following:

1. The amount of such tax.
2. Penalty and interest.
3. Total amount due.
4. That the total amount due must be paid within 10 days from the date of such notice.

4.4 **Refunds.** In the event that a refund is requested for ALM taxes, the employee must contact the City Attorney's office for assistance and shall provide to the City Attorney all documentation related to the matter.

5. **Effective Date.** August 1, 2018.

6. **Approval**

John B. Wack

Director of Finance, City of Richmond

July 24, 2018

Date