

## LATE PAYMENT PENALTY

### **DUE DATES:**

Real Estate and Personal Property taxes are due twice annually, with due dates of June 5 and December 5. Due dates falling on a Saturday, Sunday, or holiday move to the next business day by law (**Virginia Code §58.1-8**).

### **LATE PAYMENT PENALTY AND INTEREST:**

The late payment penalty is 10% of the unpaid balance and interest at 10% per annum. After 9/1/06, late payment penalty on personal property taxes is computed only on the taxpayer share of the tax assessed and does not include any of the relief provided by the State (**Virginia Code §58.1-3531**).

**Late payment penalty** is required by law for all untimely payments (**Virginia Code §58.1-3916**). The law specifies that payments made by mail must be postmarked by no later than the due date (**Virginia Code §58.1-9**). Thus taxpayers use the mail at their peril, and any payment that is not postmarked on time is subject by law to late penalty. The United States Post Office mark, not a postal meter stamp, is the official and final postmark. If the Post Office postmark conflicts with a postal meter stamp, the Post Office postmark must be used (1985-86 Report of the Atty. Gen. 295, July 9, 1985). The only exception to the postmark rule is the Treasurer's Office received no payment and the taxpayer can show, with appropriate proof that payment was mailed before the date (1980-81 Report of the Atty. General 348, April 22, 1981). Any documentation supporting a determination that penalty does not apply in such a case must be approved by the Treasurer or Chief Deputy Treasurer.

**Interest**, at 10% per annum begins to accrue on the balance due the first day following the due date. The Attorney General has held **that penalty and interest cannot be waived because the taxpayer did not know the deadline or misread the deadline on the tax bill** (1987-88 Report to Atty. Gen. 559, August 22, 1988); **because the taxpayer did not receive a bill** (1970-71 Report to Atty. Gen. 373, March 31, 1971); **because the bill was mailed to the wrong address** (1981-82 Report of the Atty. Gen. 393, March 25, 1982); or **because the taxpayer thought that the bill was incorrect** (1986-87 Report of the Atty. Gen. 321, July 31, 1986).

Late payment penalty and interest do not apply if the payment was due to the death of the taxpayer or to a medically determinable physical or mental impairment on the due date, provided payment is made within 30 days of the due date. Penalty and interest do not apply to the extent the Commissioner abates the underlying tax or certifies that the taxpayer was not assessed in a timely manner due to a clerical error by the Commissioner or the late payment was due solely to the fault of the Treasurer or Commissioner of the Revenue (i.e., if any act by the taxpayer contributes to the lateness, penalty and interest must apply). Otherwise, penalty and interest imposed automatically by law if payment is late, and there can be no "waiver" of penalty or interest. Penalty and interest either apply or they do not apply. **The bottom line is that taxpayers have a duty to know tax due dates and to pay on time. If no bill is received, that duty includes contacting the taxing authority, before the due date, determining what is owed, and paying on time** (1981-82 Report of the Atty. Gen. 393, March 25, 1982).

In the event a transfer of real property ownership occurs after January 1 of the tax year and a real estate tax bill has been mailed pursuant to §§58.1-3281 and 58.1-3912, the treasurer or other appropriate local official designated by ordinance of the local governing body in jurisdictions not having a treasurer, upon ascertaining that a property transfer has occurred, may invalidate a bill sent to the prior owner and reissue the bill to the new owner as permitted by §58.1-3912, and no penalty for failure to pay any tax for any such assessment shall be imposed if the tax is paid within two weeks after the notice thereof is mailed.