

DEPARTMENT OF TAXATION

2002 Fiscal Impact Statement

1. **Patron:** Howell

3. **Committee:** House Finance

4. **Title:** Business, Professional and Occupational
License Tax Appeals

2. **Bill Number:** HB 317

House of Origin:

X **Introduced**

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 Enrolled

5. Summary/Purpose:

This bill would provide that taxpayers may utilize the Business, Professional and Occupational License (BPOL) Tax administrative appeals process through the local Commissioner of the Revenue and the state Department of Taxation to appeal all assessments of BPOL taxes. Under current law, only audit assessments may be appealed using this administrative appeals process.

This bill would also provide that in order to utilize the administrative appeals process, taxpayers must file their appeals with the local assessing officer within three years of the date of the assessment. Under current law, taxpayers must file their appeals with the local assessing officer within ninety days of the date of the assessment.

This bill would also clarify that in the event a taxpayer does not receive a final determination on an appeal from the local assessing officer within one year of filing the appeal, the taxpayer may treat the lack of action as an adverse final local determination eligible for appeal to the state Department of Taxation. Current law does not address this issue.

The provisions of the bill would be effective for all appeals pending or filed on or after July 1, 2001.

6. **Fiscal Impact Estimates are:** Not available (see Line 8).

7. **Budget amendment necessary:** No.

8. Fiscal implications:

As this bill would allow additional assessments of BPOL taxes to be appealed using the administrative appeals process, this bill would have a negative effect on local revenues to the extent that these appeals are successful.

9. Specific agency or political subdivisions affected:

Department of Taxation
All localities

10. Technical amendment necessary: No.

11. Other comments:

Since 1996, when uniform ordinance provisions were enacted to amend the current Business, Professional and Occupational License (BPOL) statutes, the department has been responsible for ruling on appeals of BPOL tax audit assessments and issuing official written opinions on non-appeal questions. The 1996 amendments were intended to bring about uniformity in the administration of the local BPOL tax and to institute common procedures within localities for appealing BPOL assessments. The procedures for appealing BPOL assessments include the right to appeal certain assessments to the state Tax Commissioner.

In the 1999 General Assembly, a similar appeals process was established for the "Local Business Taxes." Currently, this appeals process is limited to appeals of assessments of the machinery and tools, business tangible personal property and merchant's capital taxes.

For appeals of state taxes, taxpayers are allowed to file administrative appeals with the Department of Taxation within 90 days after the date of assessment pursuant to Code of Virginia §58.1-1821. As a practical matter, the department allows taxpayers to file administrative appeals as long as judicial remedies are available. This practice provides for a more efficient process and avoids unnecessary litigation.

House Bill 318 would expand the Local Business Tax administrative appeals process to allow taxpayers to file appeals of the local wills and administration tax, recordation tax, consumer utility tax, admissions tax, video programming excise tax, transient occupancy tax, cigarette tax, food and beverage tax, and meals tax.

Additionally, House Bill 318 would allow taxpayers to appeal Local Business Taxes within three years of the date of assessment and allow appeals to be eligible for review by the Department of Taxation if the local assessing officer takes no action within one year of filing the appeal.

c: Secretary of Finance

Date: 1/15/02/JEM

