

DEPARTMENT OF TAXATION

2015 Fiscal Impact Statement

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| 1. Patron Emmett W. Hanger, Jr. | 2. Bill Number <u>SB 1040</u> |
| | House of Origin: |
| | <u> </u> Introduced |
| | <u> </u> Substitute |
| | <u> </u> Engrossed |
| 3. Committee Passed House and Senate | |
| 4. Title Business, Professional, and Occupational License Tax; Businesses Ceasing Operations | Second House: |
| | <u> </u> In Committee |
| | <u> </u> Substitute |
| | <u> </u> X Enrolled |

5. Summary/Purpose:

This bill would provide that if a taxpayer ceases business and intends to settle outstanding, existing business accounts in the following year, such taxpayer would be authorized to pay the Business, Professional, and Occupational License ("BPOL") Tax in that following year based on an estimate of gross receipts for such year instead of on the previous year's gross receipts.

Under current law, a business that is subject to license taxation on its gross receipts generally calculates its tax liability for the license year using its prior year's gross receipts, unless the local ordinance provides for a different period for measuring the gross receipts of a business.

The effective date of this bill is not specified.

- 6. Budget amendment necessary:** No.
- 7. Fiscal Impact Estimates are:** Not available. (See Line 8.)
- 8. Fiscal implications:**

To the extent that taxpayers who have ceased to be engaged in business would pay the BPOL Tax based on an estimate of the current year's gross receipts instead of the previous year's gross receipts, this bill would have an unknown negative impact on local revenues. In Fiscal Year 2012, the BPOL tax generated approximately \$705.0 million for the counties, cities, and towns that imposed the tax. According to *Virginia Local Tax Rates, 2013*, published by the Weldon Cooper Center for Public Service, a BPOL tax or fee is imposed in all 39 cities, 49 of the counties, and 99 of the towns in the Commonwealth. This bill would have no impact on state revenues.

9. Specific agency or political subdivisions affected:

Department of Taxation
All localities that impose the BPOL Tax

10. Technical amendment necessary: No.

11. Other comments:

BPOL Tax

The Business, Professional and Occupational License (BPOL) tax is a tax on businesses for the privilege of engaging in business at a definite place of business within a Virginia locality. The measure or basis of the BPOL tax may either be the gross receipts or the Virginia taxable income of the business. Under current BPOL law, any locality may charge a license fee in an amount not to exceed:

- \$50 for any locality with a population of 25,000 and greater
- \$30 for any locality with a population smaller than 25,000

The locality may not assess a license tax on gross receipts upon which it charges a license fee. Additionally, the locality may not impose a license tax on a business with gross receipts:

- less than \$100,000 in any locality with a population greater than 50,000
- less than \$50,000 in any locality with a population of 25,000 but no more than 50,000.

Any business with gross receipts in excess of these thresholds may be subject to license tax at a rate not to exceed the rates set forth below:

- Contracting - sixteen cents per \$100 of gross receipts
- Retail sales - twenty cents per \$100 of gross receipts
- Financial, real estate and professional services - fifty eight cents per \$100 of gross receipts
- Repair, personal and business services, and all other businesses - thirty six cents per \$100 of gross receipts.

Localities that imposed a higher rate structure on January 1, 1978 are allowed to continue to impose the tax at those rates.

Under current law, a business that is subject to license taxation on its gross receipts generally calculates its tax liability for the license year using its prior year's gross receipts, unless the local ordinance provides for a different period for measuring the gross receipts of a business. Many local ordinances provide that a beginning business must calculate its license tax liability for its first year based on its estimated first year receipts. At the end of the first license year, the business's license tax liability is adjusted to reflect actual first year receipts. After the first year, each succeeding year's tax is based upon the prior year's gross receipts and is not corrected to reflect actual gross receipts.

Proposal

This bill would provide that if a taxpayer ceases business and intends to settle outstanding, existing business accounts in the following year, such taxpayer would be authorized to pay the Business, Professional, and Occupational License ("BPOL") Tax

based on an estimate of gross receipts for such year instead of on the previous year's gross receipts.

The bill would provide that once all accounts have been closed, the business's license tax liability would be subject to adjustment. If the taxpayer is found to continue to operate the business for which it gave notice of the cessation of operations during the year in which it pays the tax on the estimated basis, the taxpayer would be required to pay the full amount of the BPOL Tax based on the previous year's gross receipts and a penalty of 10 percent of the tax due. The bill also would provide a penalty of 10 percent of the amount paid if the estimated gross receipts are found to be unreasonable. A taxpayer subject to the 10 percent penalty for continuing to operate the business would not be subject to an additional penalty for an unreasonable estimate of gross receipts.

The effective date of this bill is not specified.

Similar Legislation

House Bill 1386 would provide that disaster-related or emergency-related work performed by an out-of-state business within Virginia would not be considered in determining whether the business is required to file, remit, or pay any state or local tax or fee, or whether such business or its out-of-state employees be licensed or registered in any manner by Virginia or local governments.

cc : Secretary of Finance

Date: 3/5/2015 AM
DLAS File Name: SB1040FER161