

DEPARTMENT OF TAXATION

2011 Fiscal Impact Statement

1. **Patron** Salvatore R. Iaquinto

2. **Bill Number** HB 1587

3. **Committee** Senate Finance

House of Origin:

 Introduced

 Substitute

 Engrossed

4. **Title** Business, Professional, and Occupational License Tax; Business License Incentive Program

Second House:

 X **In Committee**

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill would clarify that localities by ordinance may provide an exemption, refund, rebate, or other relief from the Business, Professional, and Occupational License ("BPOL") Tax for a period not to exceed 2 years for businesses locating for the first time in a locality. The bill would also provide that a business would not be deemed to locate for the first time in a locality on the basis of merger, acquisition, similar business combination or a change in business form.

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:**

This bill would have no impact on state revenues. As it is a clarification of current law, this bill would have no revenue impact on local revenues. To the extent that a locality offers relief to businesses that locate in the locality for the first time, the locality would have an unknown revenue loss.

9. **Specific agency or political subdivisions affected:**

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 generally is the gross receipts of the business. The BPOL tax is a tax on gross receipts, not net income. 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.

Permitted Administration of the BPOL Tax

23 *Virginia Administrative Code* ("VAC") 10-500-20(C) provides that while localities must follow the exemptions, rates, classifications and thresholds set forth in state law, local ordinances may:

- 1) set tax rates at levels lower than those authorized by state law or select the classifications to tax or not tax;
- 2) establish subclassifications within the classifications set out in state law and provide for different rates or exemptions for such subclassifications, as long as no rate exceeds the maximum permitted by state law;
- 3) establish graduated tax rates for any classification or subclassification so that the rate increase or decreased with volume, as long as no rate exceeds the statutory maximum for the classification under state law; and
- 4) establish a threshold amount of gross receipts below which no tax will be imposed, or a maximum tax for any classification.

23 VAC 10-500-20(D) provides that "[l]ocalities may establish classifications and subclassifications based upon reasonable distinctions in municipal policy, and through the

establishment of classifications and subclassifications, localities may choose to exempt certain categories of taxpayers."

Proposal

This bill would clarify that localities by ordinance may provide an exemption, refund, rebate, or other relief from the Business, Professional, and Occupational License ("BPOL") Tax for a period not to exceed 2 years for businesses locating for the first time in a locality. The bill would also provide that a business would not be deemed to locate for the first time in a locality on the basis of merger, acquisition, similar business combination or a change in business form.

The effective date of this bill is not specified.

Similar Legislation

House Bill 1437 would allow localities to impose the BPOL tax on either the gross receipts or the Virginia taxable income of a business.

Senate Bill 1408 would exempt any business that loses money and does not have a profit for the taxable year from the BPOL Tax for taxable years beginning on or after January 1, 2012. The business would be required to offer its income tax return to the local commissioner of the revenue as proof of the losses. Eligibility would be determined annually, and it would be the obligation of the business owner to submit the applicable income tax return.

The **Introduced Executive Budget** directs the Joint Legislative Audit and Review Commission ("JLARC") to study the impact on local revenue streams of restructuring the BPOL Tax such that the basis of the tax is changed from gross receipts to net income and submit its final report by November 1, 2012.

cc : Secretary of Finance

Date: 2/7/2011 AM
DLAS File Name: HB1587F161