

# DEPARTMENT OF TAXATION

## 2012 Fiscal Impact Statement

1. **Patron** R. Steven Landes

2. **Bill Number** HJ 4

3. **Committee** House Rules

**House of Origin:**

  X   **Introduced**

       **Substitute**

       **Engrossed**

4. **Title** Business, Professional, and Occupational License Tax; Study on Classifications and Rates

**Second House:**

       **In Committee**

       **Substitute**

       **Enrolled**

### 5. **Summary/Purpose:**

This resolution would direct the Department of Taxation to conduct a study of the Business, Professional, and Occupational License ("BPOL") Tax with the input of business, industry, and local government representatives in order to determine whether the current business classifications and tax rates reflect today's economy. The study would recommend i) business classifications or industry groupings that are functionally related and fairly reflect the modern business world and ii) maximum tax rates that would ensure the tax is fairly imposed among such classifications or groupings. The Department would be required to complete its meetings by November 30, 2012 and submit its findings and recommendations no later than the first day of the 2013 General Assembly Session.

Legislation enacted in the 2011 Session of the General Assembly, House Bill 1500 (*Acts of Assembly* 2011, Chapter 890), directed 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, 2013.

The effective date of this resolution is not specified.

6. **Budget amendment necessary:** No.

7. **Fiscal Impact Estimates are:** Not available. (See Line 8.)

### 8. **Fiscal implications:**

This resolution would have no impact on state or local revenues. Based on similar studies, the Department estimates that conducting this study would require some diversion of efforts from other functions.

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

Department of Taxation  
Localities imposing 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.

JLARC Study

Legislation enacted in the 2011 Session of the General Assembly, House Bill 1500 (*Acts of Assembly* 2011, Chapter 890), directed 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, 2013. The Department is directed to cooperate as requested by JLARC in the performance of the study.

Proposal

This resolution would direct the Department of Taxation to conduct a study of the BPOL Tax with the input of business, industry, and local government representatives in order to

determine whether the current business classifications and tax rates reflect today's economy. The study would recommend i) business classifications or industry groupings that are functionally related and fairly reflect the modern business world and ii) maximum tax rates that would ensure the tax is fairly imposed among such classifications or groupings. The Department would be required to complete its meetings by November 30, 2012 and submit its findings and recommendations no later than the first day of the 2013 General Assembly Session.

It is possible that the study required by this bill would overlap with the study currently being conducted by JLARC.

The effective date of this resolution is not specified.

#### Similar Legislation

**House Bill 10** would provide that localities may not impose the BPOL tax or fee at a rate higher than the rate imposed by the locality for license year 2011.

**House Bill 24** would provide that localities that did not impose the BPOL tax for license year 2011 may impose the BPOL tax on the Virginia taxable income of a business, but may not impose the BPOL tax on gross receipts. However, the BPOL tax on certain public service corporations would continue to be required to be imposed on gross receipts.

**Senate Bill 154** would provide that localities may incorporate or adopt by reference the provisions in *Va. Code* § 58.1-3703.1(A) setting forth the limitations and requirements of the BPOL tax in order to meet the requirement that ordinances levying a license tax must include provisions substantially similar to *Va. Code* § 58.1-3703.1(A).

cc : Secretary of Finance

Date: 1/28/2012 AM  
DLAS File Name: HJ4F161