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HOUSE BILL NO. 2507

Offered January 23, 1995

A BILL to amend and reenact §§ 58.1-3705, 58.1-3706, and 58.1-3732 of the Code of Virginia, relating to business, professional and occupational license tax.

Patron—Dillard

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-3705, 58.1-3706, and 58.1-3732 of the Code of Virginia are amended and reenacted as follows:

§ 58.1-3705. License tax shall be uniform.

Whenever any county, city or town levies a license tax, the basis for such tax, whether it be gross net receipts or otherwise, shall be the same for all persons engaged in the same business, trade, occupation or calling.

§ 58.1-3706. Limitation on rate of license taxes.

A. Except as specifically provided in this section, no local license tax imposed pursuant to the provisions of this chapter, except §§ 58.1-3712, 58.1-3712.1 and 58.1-3713, or any other provision of this title or any charter, shall be greater than thirty dollars or the rate set forth below for the class of enterprise listed, whichever is higher:

1. For contracting, and persons constructing for their own account for sale, sixteen cents per \$100 of gross net receipts;

2. For retail sales, twenty cents per \$100 of gross net receipts;

3. For financial, real estate and professional services, fifty-eight cents per \$100 of gross net receipts; and

4. For repair, personal and business services, and all other businesses and occupations not specifically listed or excepted in this section, thirty-six cents per \$100 of gross net receipts. The rate limitations prescribed in this section shall not be applicable to license taxes on (i) wholesalers, which shall be governed by § 58.1-3716; (ii) public service companies, which shall be governed by § 58.1-3731; (iii) carnivals, circuses and speedways, which shall be governed by § 58.1-3728; (iv) fortune-tellers, which shall be governed by § 58.1-3726; (v) massage parlors; (vi) itinerant merchants or peddlers, which shall be governed by § 58.1-3717; (vii) permanent coliseums, arenas, or auditoriums having a maximum capacity in excess of 10,000 persons and open to the public, which shall be governed by § 58.1-3729; (viii) savings and loan associations, which shall be governed by § 58.1-3730; (ix) photographers, which shall be governed by § 58.1-3727; and (x) direct sellers, which shall be governed by § 58.1-3719.1.

B. Any county, city or town which had, on January 1, 1978, a license tax rate, for any of the categories listed in subsection A, higher than the maximum prescribed in subsection A may maintain a higher rate in such category, but no higher than the rate applicable on January 1, 1978, subject to the following conditions:

1. A locality may not increase a rate on any category which is at or above the maximum prescribed for such category in subsection A.

2. If a locality increases the rate on a category which is below the maximum, it shall apply all revenue generated by such increase to reduce the rate on a category or categories which are above such maximum.

3. A locality shall lower rates on categories which are above the maximums prescribed in subsection A for any tax year after 1982 if it receives more revenue in tax year 1981, or any tax year thereafter, than the revenue base for such year. The revenue base for tax year 1981 shall be the amount of revenue received from all categories in tax year 1980, plus one-third of the amount, if any, by which such revenue received in tax year 1981 exceeds the revenue received for tax year 1980. The revenue base for each tax year after 1981 shall be the revenue base of the preceding tax year plus one-third of the increase in the revenues of the subsequent tax year over the revenue base of the preceding tax year. If in any tax year the amount of revenues received from all categories exceeds the revenue base for such year, the rates shall be adjusted as follows: The revenues of those categories with rates at or below the maximum shall be subtracted from the revenue base for such year. The resulting amount shall be allocated to the category or categories with rates above the maximum in a manner determined by the locality, and divided by the gross net receipts of such category for the tax year. The resulting rate or rates shall be applicable to such category or categories for the second tax year following the year whose revenue was used to make the calculation.

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60 C. Any person engaged in the short-term rental business as defined in § 58.1-3510 shall be classified
61 in the category of retail sales for license tax rate purposes.

62 D. 1. Any person, firm, or corporation designated as the principal or prime contractor receiving
63 identifiable federal appropriations for research and development services as defined in § 31.205-18 (a) of
64 the Federal Acquisition Regulation in the areas of (i) computer and electronic systems, (ii) computer
65 software, (iii) applied sciences, (iv) economic and social sciences, and (v) electronic and physical
66 sciences shall be subject to a license tax rate not to exceed three cents per \$100 of such federal funds
67 received in payment of such contracts upon documentation provided by such person, firm or corporation
68 to the local commissioner of revenue or finance officer confirming the applicability of this subsection.

69 2. Any gross receipts properly reported to a Virginia locality, classified for license tax purposes by
70 that locality in accordance with subdivision 1 of this subsection, and on which a license tax is due and
71 paid, or which gross receipts defined by subdivision 1 of this subsection are properly reported to but
72 exempted by a Virginia locality from taxation, shall not be subject to local license taxation by any other
73 locality in the Commonwealth.

74 3. Notwithstanding the provisions of subsection D 1 above, in any county operating under the county
75 manager plan of government, the following shall govern the taxation of the licensees described in
76 subsection D 1. Persons, firms, or corporations designated as the principal or prime contractors receiving
77 identifiable federal appropriations for research and development services as defined in § 31.205-18 (a) of
78 the Federal Acquisition Regulation in the areas of (i) computer and electronic systems, (ii) computer
79 software, (iii) applied sciences, (iv) economic and social sciences, and (v) electronic and physical
80 sciences may be separately classified by any such county and subject to tax at a license tax rate not to
81 exceed the limits set forth in subsections A through C above as to such federal funds received in
82 payment of such contracts upon documentation provided by such persons, firms, or corporations to the
83 local commissioner of revenue or finance officer confirming the applicability of this subsection.

84 § 58.1-3732. Limitation on "net receipts."

85 ~~Gross~~ *Net* receipts for license tax purposes shall not include any amount paid to the United States,
86 the Commonwealth or any county, city or town for the Virginia retail sales or use tax, for any local
87 sales tax or any local excise tax on cigarettes, for any federal or state excise taxes on motor fuels, or
88 any amount paid for computer hardware and software that are sold to a United States federal or state
89 government entity provided that such property was purchased within two years of the sale to said entity
90 by the original purchaser who shall have been contractually obligated at the time of purchase to resell
91 such property to a state or federal government entity. This exclusion shall not occur until the time of
92 resale and shall apply to only the original cost of the property and not to its resale price, and the
93 exclusion shall not apply to any of the tangible personal property which was the subject of the original
94 resale contract if it is not resold to a state or federal government entity in accordance with the original
95 contract obligation.

96 *In addition, net receipts shall not include expenses and deductions allowed on the federal income tax*
97 *return for a business.*