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MEMORANDUM

DATE: November 9, 2006

TO: Fauquier County Board of Supervisors

FROM: Ross W. D'Urso, Commissioner of the Revenue

SUBJECT: BPOL work session follow up

At the previous work session, the Board reviewed the requested comparison to other jurisdictions of Fauquier County's rates and fees in the four major classifications of Business, Professional, and Occupational License tax (BPOL). Secondly, the Board reviewed the definitions of these classes of business.

As background, I am providing an update to the information discussed at the last work session. Attached are two tables, one that compares the rates charged by Fauquier County with both surrounding as well as selected comparable jurisdictions that impose the tax and a second table that summarizes the median rates and fees for all jurisdictions in the Commonwealth.

The second document lists the definitions of the classifications as defined in the Fauquier County Code as well as supporting law from Title 58.1 of the *Code of Virginia* where appropriate.

There was also discussion about whether a revenue neutral uniform tax rate could be developed to eliminate the differential among the categories. A preliminary estimate, based on the 2006 Business License tax base, indicates a 12 cent rate across the four categories.

As a cautionary note it should be understood that the 12 cent rate is based upon a high point in BPOL revenue of which 35% is comprised of revenue from the Contractor classification. It is anticipated that 2006 gross receipts will be significantly less in this classification. A uniform tax rate revision at this time would diminish the potential near term revenue growth in the BPOL tax even greater than maintaining the current rates. The uniform rate would in turn also shift the burden to the Contractor category since the current tax rate is 8.5 cents.

RWD:bds

Comparative data regarding BPOL tax rates and fees in surrounding and select comparable jurisdictions

Locality	Fee(s)	Minimum Tax	Contracting	Retail	Repair, Personal & Business Services	Financial Real Estate, Professionals and Consultants
Fauquier	N/A	N/A	$0.085	$0.10	$0.187	$0.2975
Fairfax	Varies	N/A	$0.11	$0.17	$0.19	$0.31
Loudoun	$30	N/A	$0.13	$0.17	$0.16R $0.23P $0.17B	$0.33
Warren	Varies	$10	$0.11	$0.14	$0.25	$0.39
Clarke	N/A	$30	N/A	N/A	N/A	N/A
Prince William	N/A	N/A	$0.13	$0.17	$0.21	$0.33
Albemarle	$50	N/A	$0.16	$0.20	$0.36	$0.58
Augusta	N/A	N/A	$0.16	$0.20	$0.30	$0.30
Frederick	Varies	N/A	$0.16	$0.20	$0.36	$0.58
Spotsylvania	N/A	N/A	$0.08	$0.10	$0.18	$0.29

Fairfax County fees as follows: $10,000-49,999=$30, $50,000-100,000=$50
Frederick County fees as follows: $4,000-14,999=30; $15-99,999=$50.
Warren County Fees as follows $0-4,000 =0, $4,001-10,000=$10, $10,001-25,000=$30, 25,001-50,000=$50, $50,001 & over =tax rate

Statewide Statistics comparing median rates for Cities, Counties and Towns (2005)

Item	Cities	Counties	Towns	State Maximums	Fauquier County
License fee					
Median	$42.50	$30	$30		
Number of localities	12	26	34		
Gross receipts tax rate					
Contracting					
Median	$0.16	$0.13	$0.12	$0.16	$0.085
Number of localities	39	40	108		
Retail					
Median	$0.20	$0.15	$0.15	$0.20	$0.10
Number of localities	39	39	108		
Repair, personal & business services.					
Median	$0.36	$0.20	$0.18	$0.36	$0.187
Number of localities	39	38	108		
Financial, real estate & professional		.			
Median	$0.58	$0.32	$0.22	$0.58	$0.2975
Number of localities	39	40	107		

BPOL Classification definitions

Contractor shall have the meaning prescribed in section 58.1-3714.B of the Code of Virginia, 1950, as amended, whether such work is done or offered to be done by day labor, general contract or subcontract.

58.1-3714(B):

For the purpose of license taxation pursuant to § 58.1-3703, the term "contractor" means any person, firm or corporation:

1. Accepting or offering to accept orders or contracts for doing any work on or in any building or structure, requiring the use of paint, stone, brick, mortar, wood, cement, structural iron or steel, sheet iron, galvanized iron, metallic piping, tin, lead, or other metal or any other building material;

2. Accepting or offering to accept contracts to do any paving, curbing or other work on sidewalks, streets, alleys, or highways, or public or private property, using asphalt, brick, stone, cement, concrete, wood or any composition;

3. Accepting or offering to accept an order for or contract to excavate earth, rock, or other material for foundation or any other purpose or for cutting, trimming or maintaining rights-of-way;

4. Accepting or offering to accept an order or contract to construct any sewer of stone, brick, terra cotta or other material;

5. Accepting or offering to accept orders or contracts for doing any work on or in any building or premises involving the erecting, installing, altering, repairing, servicing, or maintaining electric wiring, devices or appliances permanently connected to such wiring, or the erecting, repairing or maintaining of lines for the transmission or distribution of electric light and power; or

6. Engaging in the business of plumbing and steam fitting.

Retailer* or *retail merchant shall mean any person or merchant who sells goods, wares and merchandise for use or consumption by the purchaser or for any purpose other than resale by the purchaser, but does not include sales at wholesale to institutional, commercial and industrial users.

Personal services shall mean rendering for compensation any repair, personal, business or other services not specifically classified as "financial, real estate or professional service" under this article, or rendered in any other business or occupation not specifically classified in this article unless exempted from local license tax by Title 58.1 of the Code of Virginia, 1950, as amended.

Professional services means services performed by architects, attorneys-at-law, certified public accountants, dentists, engineers, land surveyors, surgeons, veterinarians, and practitioners of the healing arts (the arts and sciences dealing with the prevention, diagnosis, treatment and cure or alleviation of human physical or mental ailments, conditions, diseases, pain or infirmities) and such occupations, and no others, as the Virginia Department of Taxation may list in the BPOL guidelines promulgated pursuant to section 58.1-3701 of the Code of Virginia, 1950, as amended. The word "profession" implies attainments in professional knowledge as a distinguished from mere skill, and the application of knowledge to uses for other than personal profit.

Consultants and specialized occupations means other than professionals and professional services as defined under this section, every person conducting or engaging in any consulting or specialized occupation or business are illustrated as, but are not limited to, persons who provide or operate:
Accounting services: Appraisers (other than real estate) bookkeeping or tax preparation, Actuary, Analysts: business financial, marketing research or operations, Arborist, Artist, Blue printer, Brokers: stock or investment, Business operations management, Chemists, Commercial inventory, valuation service, Commission merchant, Consultant: business, engineering, financial, labor, tax or transportation, Counselors: family or financial, Designers: landscape, fashion or graphic, Estimators, measurers or assayers, Insurance claims adjusters, Investment advisory services, Labor arbitrators, Language translators or interpreters, Lecturers, Producers: motion picture, television or radio, Property management services, Public stenographers and recorders, , Sculptors, Title abstract companies, Writers or editors

Financial services means the buying, selling, handling, managing, investing, and providing of advice regarding money, credit, securities and other investments and shall include the service for compensation by a credit agency, an investment company, a broker or dealer in securities and commodities or a security or commodity exchange, unless such service is otherwise provided for in this chapter.
For the purposes of this definition:

Broker shall mean an agent of a buyer or a seller who buys or sells stocks, bonds, commodities, or services, usually on a commission basis.

Commodity shall mean staples such as wool, cotton, etc. which are traded on a commodity exchange and on which there is trading in futures.

Dealer for purposes of this article shall mean any person engaged in the business of buying and selling securities for his own account, but does not include a bank, or any person insofar as he buys or sells securities for his own account, either individually or in some fiduciary capacity, but not as part of a regular business.

Security for purposes of this chapter shall have the same meaning as in the Securities Act (section 13.1-501 et seq.) of the Code of Virginia, 1950, as amended, or in similar laws of the United States regulating the sale of securities.
Those engaged in rendering financial services include, but without limitation, the following:
Buying installment receivables, Chattel mortgage financing, Consumer financing, Credit card services, Credit unions (subject to section 58.1-3730 of the Code of Virginia, 1950, as amended), Factors, Financing accounts receivable, Industrial loan companies (subject to section 58.1-3730.1 of the Code of Virginia, 1950, as amended), Installment financing, Inventory financing, Loan or mortgage brokers, Loan or mortgage companies, Safety deposit box companies, Savings institutions (subject to section 58.1-3730 of the Code of Virginia, 1950, as amended), Security and commodity brokers and services, Stockbroker, Working capital financing

Real estate services shall mean rendering a service for compensation as lessor, buyer, seller, agent or broker and providing a real estate service, unless the service is otherwise specifically provided for in this article, and such services include, but are not limited to, the following:
Appraisers of real estate, Escrow agents, real estate, Fiduciaries, real estate, Lessors of real property, Real estate agents, brokers and managers, Real estate selling agents, Rental agents for real estate, Real estate settlement services