



ARLINGTON COUNTY, VIRGINIA

**County Board Agenda Item
Meeting of February 21, 2009**

DATE: February 1, 2009

SUBJECT: Authorize a public hearing on March 26, 2009, on proposed revisions to the County Code to exempt businesses grossing less than \$10,000 per year and not owning significant business personal property from the requirement to file for a business license.

C. M. RECOMMENDATION:

Authorize a public hearing on March 26, 2009, on proposed revisions to Chapter 11 of the County Code to exempt businesses grossing less than \$10,000 per year and not owning significant business personal property from the requirement to file for a business license.

ISSUE: Whether the County's Business, Professional and Occupational License (BPOL) ordinance should be amended to exempt businesses grossing less than \$10,000 per year and not owning significant business property from the requirement to file for a business license.

SUMMARY: Under state law no license fee or tax can be imposed on businesses with gross receipts of less than \$10,000. The current county code, however, requires all businesses, including those grossing nothing, to file for and obtain a BPOL license.

Each zero revenue filing not only represents a burden on very small businesses, but also represents a burden on the resources of the offices of the Commissioner of Revenue and the Treasurer. Each license account has to be set up in the computer system. Each year paperwork is generated for renewal of the license and mailed in hard copy to the licensee.

When small business filers forget to file a return after the first year they are often automatically assessed a statutory fee and penalty, which has to be manually relieved (reversed) when the taxpayer (who actually owes nothing) finally comes in after receiving a notice from the Treasurer.

The Commissioner of Revenue believes that requiring a business license filing by businesses that generate no revenue is both a burden on small business and a drain on county resources.

County Manager: _____

County Attorney: _____

Staff: Ray Warren, Commissioner of Revenue

BACKGROUND: Arlington County currently has 5,443 BPOL fillers with reported gross receipts of less than \$10,000. Some of these may be first year filers who may gross more than \$10,000 the following year. Of that number, 3,404 report “no receipts” and another 173 report exactly \$10,000. Some of the first group, and probably most of the last group, are doing first-year estimates. But some of the first group are not first-time filers. They are no longer collecting receipts but must continue to file because they filed in the past and have not formally closed their businesses. And at least 1,866 filers are reporting exact receipts between zero and less than \$10,000. These 1,866 filers are mostly not first-year filers.

Even among those businesses with estimated receipts below \$10,000 for their first year, many will never exceed that amount. Thus, at the very least, the County has around 2,000 no revenue BPOL filers, perhaps many more. Each one has an account that must be set up and monitored. Each account generates postage and printing costs.

State law allows the County Board to exempt those grossing less than \$100,000 from the license requirements of the BPOL tax. This grant of power is broad enough to allow the Board to exempt at any level below \$100,000. Fairfax County current exempts filers grossing less than \$10,000 per year from filing for a BPOL license. Prince William County does not impose any kind of license filing requirement or fee for businesses grossing less than \$100,000 other than contractors. By contrast, the City of Alexandria’s ordinance is comparable to the requirement that Arlington currently has in place. Thus, this proposed change may bolster Arlington’s reputation as a hospitable environment for small businesses and start-ups.

The Commissioner of Revenue proposes exempting Arlington businesses that grosses less than \$10,000 per year and which have business tangibles liability of less than \$15.00 from filing. The Commissioner of Revenue would keep the BPOL filing requirement for businesses having business tangible liabilities of greater than \$15.00 but grossing less than \$10,000 per year for two reasons:

- 1) The business tangibles must be assessed in any event when greater than \$15.00 in tax liability is generated (approximately \$300 in value at current tax rates). So the additional paperwork of adding a BPOL license is not that great as the COR accounting system groups BT and BPOL accounts by taxpayer.
- 2) The county may want a database of licensed businesses which have significant business tangibles even if the businesses do not generate enough receipts to pay a business license fee. The license requirement will ensure that businesses with significant business tangibles liability are identified for health, safety and demographic purposes.

DISCUSSION: The change would eliminate the need for several thousand low revenue filers who do not have significant business tangibles liability to file for a non-revenue producing business license each year. Examples of businesses likely to benefit include waiters who work for caterers part time (as contractors, not employees), operators of small home businesses, and businesses that have not formally closed but which are not active at this time.

The Commissioner and Treasurer would be relieved of the necessity of generating paperwork for businesses that produce no revenue for the county. The offices would also be freed from the responsibility of relieving penalties that automatically accrue when non-revenue filers fail to renew their non revenue producing license each year.

Moreover, because the Commissioner of Revenue is able to monitor businesses' activities effectively through information shared by the Virginia Department of Taxation, eliminating the requirement that these businesses file returns is not expected to have any material impact on taxpayer compliance.

FISCAL IMPACT: This change is not expected to have a material impact on revenue or expenses. The increased staff efficiency will allow the Commissioner of Revenue's office to better monitor BPOL revenue producing accounts through desk audits and field inspections.

Attachment A

AN ORDINANCE TO AMEND CHAPTER 11 (LICENSES) OF THE ARLINGTON COUNTY CODE RELATING TO THE REQUIREMENT FOR FILING FOR A BUSINESS LICENSE WHEN GROSS REVENUES DO NOT EQUAL OR EXCEED \$10,000.

BE IT ORDAINED that Chapter 11-5 of the Arlington County Code is amended as follows:

§ 11-5. Procedure for filing business license tax returns; reconciliation of records and monthly reports.

- (a) Except as provided by subsection (b) below, Every person engaging in business under the provisions of this chapter shall file an annual business license tax return with the commissioner of the revenue as prescribed in sections 11-8 and 11-10 of this chapter. The commissioner of the revenue shall furnish business license tax return forms which shall be properly and fully executed by the taxpayer and contain such information as may be required by the commissioner of the revenue. The commissioner of the revenue shall assess the license taxes and fees required by this chapter.
- (b) Notwithstanding the provisions of this Article, a person shall not be required to file a business license application for an license year when the gross receipts attributed to the person's definite place of business are \$10,000 or less unless the business is also subject to taxation of business tangibles personal property taxation in an amount greater than \$15.00. In cases where a person engaged in a business, profession or occupation grosses \$10,000 or less but is subject to business tangibles taxation of greater than \$15.00, said person shall file a return even if gross receipts do not exceed \$10,000.
- (bc) No business license under this chapter shall be issued until the applicant has produced satisfactory evidence that all delinquent business license, personal property, meals, transient occupancy, severance and admissions taxes owed by the business to Arlington County have been paid which have been properly assessed against the applicant by Arlington County.
- (ed) The commissioner of the revenue and the county treasurer shall reconcile monthly their records with respect to license tax returns filed with the commissioner of the revenue and license tax and fee payments received by the commissioner of the revenue and the county treasurer, and a combined report thereon shall be submitted monthly to the county manager or his designee. (Ord. No. 96-17, 12-7-96; Ord. No. 04-17, 7-10-04)