JLARC
JOINT LEGISLATIVE AUDIT
AND REVIEW COMMISSION

REPORT TO THE
GOVERNOR AND THE GENERAL ASSEMBLY OF VIRGINIA

Technical Report:
Impact of Changing the Basis of the BPOL Tax From Gross Receipts to Income

COMMISSION DRAFT — NOT APPROVED

COMMONWEALTH OF VIRGINIA
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October 15, 2013

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Commission Draft

This document is a commission draft of the JLARC technical report *Impact of Changing the Basis of the BPOL Tax From Gross Receipts to Income*. This draft has been assembled for discussion and factual review. Do not publish or release any material contained in this document because it is subject to additional verification and editorial review.

Joint Legislative Audit and Review Commission

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JLARC Technical Report:

Impact of Changing the Basis of the BPOL Tax From Gross Receipts to Income

Key Findings

- Changing the basis of the Business, Professional, and Occupational License (BPOL) tax from gross receipts to income could have reduced local revenue from the tax by about 95 percent, compared to actual 2012 collections.
- Using income as the basis for the BPOL tax would considerably reduce the tax burden of businesses that currently pay the tax, but to varying degrees. Retailers, unprofitable or low-profitability businesses, and large businesses would benefit from the largest reduction in taxes owed.
- To maintain revenue at 2012 levels, localities would have had to impose an average tax rate of approximately five percent, which would be an average tax increase of 40 percent on profitable businesses still subject to the tax.
- Changing the basis of the BPOL tax to income would make the tax more difficult for businesses to understand and comply with, and require more resources for local governments to administer.

Virginia's Appropriation Act of 2012-2014 directs the Joint Legislative Audit and Review Commission (JLARC) to study the fiscal impact of changing the basis of the local Business, Professional, and Occupational License (BPOL) tax from gross receipts to net income (Appendix A). An income-based tax could address some of the concerns raised by businesses about the BPOL tax, in particular its perceived lack of fairness towards businesses that are unprofitable or have low profit margins. The retail industry has been especially interested in reforming the BPOL tax because it has traditionally achieved low profitability.

Gross Receipts vs. Income

Gross receipts represent the revenue of a business before deductions for expenses such as cost of goods sold, personnel, and overhead. Sales are one form of gross receipts generated by businesses.

Income is the amount that remains after expenses such as cost of goods sold, personnel, and overhead have been subtracted from revenue sources, which include gross receipts.

There are statutes and regulations detailing how the BPOL tax is calculated using gross receipts, but there is minimal guidance as to how the tax would function under a net income basis. For purposes of this study, the term "net income" was operationalized as the amount of taxable income reported by businesses, and is referred to as "income" in this report. The results presented in this report are based primarily on an analysis of tax records for businesses that paid the BPOL tax in 2012 in a sample of ten localities that were selected to be representative of the Commonwealth as a whole. Whether businesses are characterized as profitable or unprofitable in this report is based on their reported taxable income, which may not be the same as the amount they earned on a cash or accounting basis. (See Appendix B for more information on the methodology used to conduct this study.)

BPOL TAX IS A LARGE SOURCE OF LOCAL REVENUE PAID BY A MINORITY OF THE BUSINESSES SUBJECT TO THE TAX

License Taxes Reviewed

The focus of this study is on license taxes included in Chapter 37 of Title 58.1 of the Code of Virginia, with the exception of severance taxes on gases and oil, and taxes on public service corporations.

Most localities rely on the BPOL tax for revenue. This tax not only raises significant revenue (more than $680 million in FY 2012), but it also allows local governments to diversify their mix of local revenue, which is heavily weighted toward real estate and property taxes. The bulk of the BPOL tax is paid by a concentrated number of businesses: five industry sectors are subject to the BPOL tax, and more than half of businesses in those sectors pay either no tax or a low minimum fee because of a small business exemption. Among those that pay BPOL taxes, certain categories of businesses pay significantly more than others.

BPOL Tax Is Imposed by Most Virginia Localities For the Privilege of Doing Business

The BPOL tax is assessed by cities, counties, and towns upon certain businesses in Virginia. These businesses must pay the tax to receive a license, which is required for them to operate. As of FY 2011, all 39 cities, 49 out of 95 counties, and 124 towns in Virginia reported imposing the BPOL tax (Appendix C). By statute, businesses in five industry sectors are subject to the BPOL tax.

The BPOL tax is assessed on the gross receipts of businesses at rates that vary among industry sectors up to a set maximum (Table 1). These maximum rates were determined based on the level

Table 1: Five Industry Sectors Are Subject to BPOL Tax up to Statutory Maximum Rate

Industry Sector	**Maximum Rate Assessed** (% of Gross Receipts)	**% of Localities Charging Maximum Rate**	**Average Rate Paid** (% of Gross Receipts)
Finance, real estate, and professional services	0.58%	4%	0.39%
Repair, personal, business, and all other services	0.36	17	0.26
Retail	0.20	31	0.17
Contracting	0.16	37	0.14
Wholesale	0.05 [a]	73	0.07 [b]

[a] Rate applied to gross purchases.
[b] Localities that taxed wholesale merchants on the basis of gross receipts before January 1, 1964 can continue do so, but these localities are prohibited from increasing the rates that were in place at the time.

Source: JLARC staff analysis of § 58.1-3706 and § 58.1-3716 of the Code of Virginia; Weldon Cooper Center for Public Service, *Virginia Local Tax Rates, 2012*.

Professional vs. Personal Services

Professional services are listed in the Virginia Administrative Code and include services rendered by architects, attorneys, accountants, physicians, etc. Personal services are also listed in the Administrative Code and include those rendered by beauty salons, house cleaners, personal care facilities, etc.

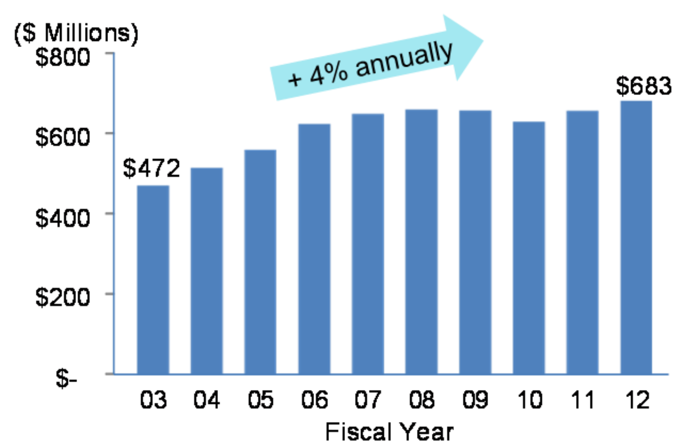
of profitability in each industry sector in the early 1970s, and have not been revised since they were put in place in 1978. Tax rates assessed on each industry sector can (and do) vary among localities as long as they do not exceed the maximum (Appendix C).

Many localities assess the BPOL tax on certain occupations in the form of a flat fee instead of an amount that varies based on gross receipts. For example, food peddlers and itinerant merchants typically pay a flat fee ranging from $50 to $500. Many localities (55 percent of cities and counties) offer an exclusion that exempts businesses with gross receipts below a certain threshold from being taxed at the standard rate. Instead, these businesses are subject to a low minimum fee or fully exempt from the BPOL tax.

Localities Collected Over $680 Million in BPOL Taxes in FY 2012

The BPOL tax is a significant source of revenue for many Virginia localities, amounting to $683 million in FY 2012. Over the past decade, BPOL tax collections have increased at an annualized rate of approximately four percent, which is lower than the average annual increases in individual and corporate income tax revenues of five and 13 percent, respectively (Figure 1).

Figure 1: BPOL Tax Revenue Has Increased by Four Percent Annually Over Past Decade, on Average



Source: JLARC staff analysis of data from the Virginia Department of Taxation.

BPOL taxes accounted for 4.3 percent of local revenue among localities that imposed the tax in FY 2012, on average. Reliance on BPOL tax revenue varies widely among localities, but it is especially high for towns because they have limited ability to raise revenue through other taxes, such as real estate and personal property taxes, which are also levied by the county where they are located (Table 2).

Table 2: BPOL Tax Is a Significant Source of Revenue for Localities, Particularly Towns

Locality Type	Average BPOL Tax Revenue as % of Local Revenue
City	5.2%
County	1.1
Town	9.5
Overall	4.3

Note: BPOL tax revenue as a percentage of local revenue applies to only those localities that levy the BPOL tax. Percentages include only those localities that are reported by the Virginia Auditor of Public Accounts.

Source: JLARC staff analysis of FY 2012 Virginia Auditor of Public Accounts Report: "Comparative Report of Local Government Revenues and Expenditures."

Majority of Businesses Were Covered by Exemption and Paid No or Minimal BPOL Tax

The precise number of businesses subject to the BPOL tax across Virginia is not known, but data on all businesses subject to the BPOL tax in ten localities (nearly 115,000 businesses) were examined in detail for this study. Of those, nearly 60 percent had gross receipts below the localities' threshold and consequently paid either no tax at all (12 percent) or a minimum fee (47 percent) ranging from $20 to $50 (Table 3). Less than 40 percent of businesses were subject to the BPOL tax rate. Overall, BPOL taxes represented approximately 5.2 percent of all State and local taxes applicable to businesses and collected in Virginia in FY 2011 (*Total State and Local Business Taxes*. Ernst & Young, 2012).

Table 3: Nearly 60 Percent of Businesses Were Below Threshold and Paid No Tax or Minimal Fee in Ten Localities Studied (2012)

Type of BPOL Tax / Fee	Number of Businesses	Percentage of Businesses
Below Threshold[a]	67,595	59%
Flat Rate[b]	2,871	3
Subject to Rate[c]	43,825	38
Total Businesses in Sample	114,291	100

[a] Minimum fee between $20 and $50 applied in 80 percent of cases, and no fee was charged in other 20 percent of cases.
[b] Flat rate fee is typically between $50 and $500.
[c] Rates depend on industry sector classification. See Appendix C for rates in each locality.

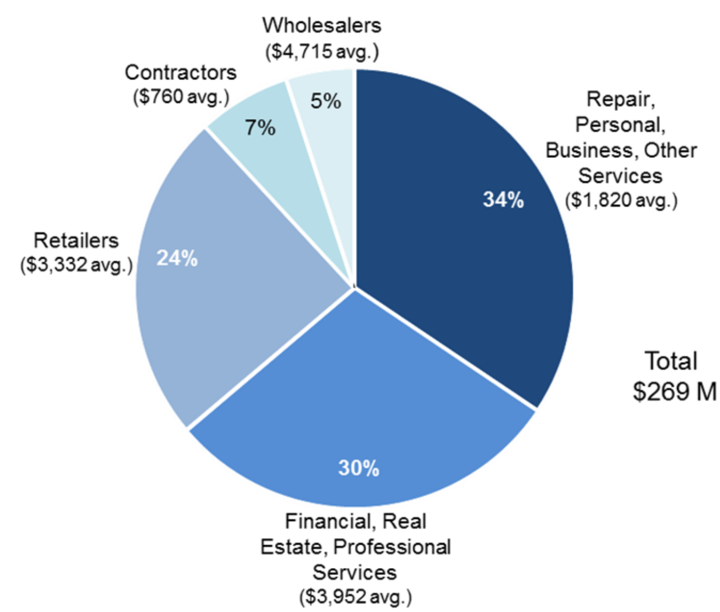
Note: Includes only businesses in ten localities examined.

Source: JLARC staff analysis of 2012 BPOL tax data from ten localities and 2011 State tax data from the Virginia Department of Taxation.

In total, businesses in the ten localities paid $269 million in BPOL taxes in 2012. The BPOL tax burden assumed by different categories of businesses varied greatly. Specifically,

- providers of repair, personal, and business services paid the largest share of BPOL taxes (34 percent), followed by providers of financial, real estate, and professional services (30 percent), and retailers (24 percent) (Figure 2);
- wholesalers collectively accounted for the smallest share of BPOL revenue but paid the highest average amount in BPOL taxes per business;
- businesses with gross receipts greater than $10 million paid the majority of BPOL taxes (59 percent) and the highest average amount per business ($81,467) (Figure 3); and
- businesses with less than $100,000 in gross receipts paid less than one percent of all BPOL taxes, or $37 on average.

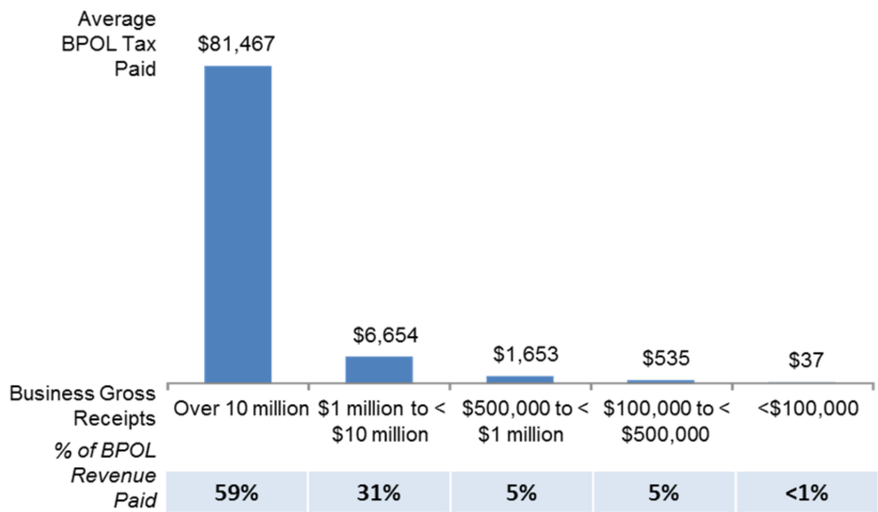
Figure 2: Three Industry Sectors Paid Vast Majority of BPOL Taxes Collected (2012)



Note: Includes only businesses in ten localities examined.
Figures may not add due to rounding.

Source: JLARC staff analysis of 2012 BPOL tax data from ten localities and 2011 State tax data from the Virginia Department of Taxation.

Figure 3: Businesses With Highest Volume of Gross Receipts Paid Highest BPOL Taxes, on Average (2012)



Note: Includes only businesses in ten localities examined.

Source: JLARC staff analysis of 2012 BPOL tax data from ten localities and 2011 State tax data from the Virginia Department of Taxation.

BPOL TAX HAS BEEN REVIEWED AND REVISED SEVERAL TIMES SINCE THE 1970S

Numerous legislative studies have reviewed options to reform or repeal the BPOL tax in order to address concerns raised by the business community. Several reforms were made, such as the adoption of industry-specific rates and more uniform practices across localities. However, the questions of fairness and equitability remain, in large part because no acceptable plan has been formulated to offset the fiscal impact of restructuring the BPOL tax.

Business Community Has Raised Concerns About BPOL Tax For Many Years

The business community has raised concerns about the BPOL tax over the past several decades (Table 4). Chief among them has been the perception of unfairness characterized by (1) businesses having to pay the BPOL tax even in years when they do not earn a profit, and (2) businesses with low profit margins being taxed at the same rate as their more profitable counterparts. The local government perspective is that businesses should help pay for local services, which they utilize whether or not they are profitable.

This difference of opinion reflects two competing theories of taxation, which were described in a report released by the Revenue Resources and Economic Commission in 1976. The first theory, which the business community has echoed, is that taxes should be related

Table 4: Business Community Has Raised Concerns Over the BPOL Tax in Several Prior Legislative Studies

Business Concern	Description
Unfair	The BPOL tax is imposed upon businesses even when they have lost money; and it doesn't take into account businesses' varying ability to pay.
Inequitable	Businesses that generate the same amount of sales (gross receipts) could have a different BPOL tax liability depending upon their industry sector or the locality where they are located; and many exemptions exist.
Inefficient	The BPOL tax may hinder economic growth; it distorts business location decisions; and it artificially reduces the availability of goods and services in localities with high BPOL tax rates because it discourages certain businesses from locating in those localities.
Complex	The rate categories defined by each locality may not be sufficiently clear for businesses to determine which one applies to them; and businesses that operate in more than one locality may have to file multiple returns using different rates.

Source: JLARC staff synthesis of reports issues by the Revenue Resources and Economic Commission; the Joint Subcommittee Studying the Business, Professional, and Occupational License Tax; the Commission on Virginia's State and Local Tax Structure for the 21st Century; and the Joint Subcommittee to Study and Revise Virginia's State Tax Code.

to businesses' ability to pay, such that businesses that earn more should pay more in taxes, and businesses that earn the same amount of income should pay the same amount in taxes. The second theory, advanced by many localities, is that taxes should be related to the share of public services a business consumes and to the government's cost of providing those services. For purposes of assessing taxes, net income can act as a proxy for businesses' ability to pay; gross receipts, which reflects the extent to which a business uses the local market, can act as a proxy for the amount in public benefits received.

The structure of Virginia's BPOL tax attempts to balance both principles. First, the rates are tied to the profitability of industry sectors, which addresses the varying ability of businesses to pay taxes. However, the rates fail to capture the variation in profitability within an industry sector and between businesses of different sizes. Moreover, the rates have not been updated in 35 years. Second, assessing the tax on gross receipts is an effort to tax businesses according to the share of public services they utilize. Because the current structure does not fully address the business community's concerns regarding fairness, the debate over the BPOL tax is yet unresolved.

Several Prior Legislative Studies Have Also Examined Business Concerns Over BPOL Tax

Several subcommittees and commissions of the Virginia General Assembly have reviewed the local BPOL tax over the past several decades, but none have been able to fully address the recurring concerns of the business community while maintaining revenue neutrality for local governments (Table 5). While many options for reforming the BPOL tax were examined as part of these studies, changing the BPOL tax basis to income was not considered. However, the advantages and disadvantages of income-based taxes more generally were assessed.

Restructuring the BPOL Tax Has Not Been Recommended in the Past Due to Fiscal Impact. While many reports acknowledged the desire to reform the structure of the BPOL tax, all concluded that major reform or repeal would not be prudent because of the negative impact these actions would have on local revenue. Businesses have generally supported the notion that localities should be made whole for revenues lost to BPOL reform, in part because major losses in local revenue could potentially lead to significant disruptions in local infrastructure and reduced local services (such as courts or fire protection) on which businesses rely to operate. Previous studies recognized that to achieve revenue neutrality, localities would likely have to increase other taxes that would be also paid either partly or entirely by businesses.

Table 5: Prior Legislative Studies That Reviewed BPOL Tax Did Not Recommend Major Reform or Repeal

Legislative Entity	Conclusion Reached
Revenue Resources and Economic Commission (1976-1978)	Did not recommend eliminating the BPOL tax, despite expressing a desire to do so, because there was no suitable source of replacement revenue unless a general tax increase was implemented.
Joint Subcommittee Studying the Business, Professional, And Occupational License Tax (1993-1994)	Did not recommend eliminating the BPOL tax because a comparable alternative revenue producer could not be created. The subcommittee decided to focus on the administration of the tax instead.
Commission on Virginia's State and Local Tax Structure for the 21st Century (2001)	Did not recommend repealing the BPOL tax because "these taxes serve as a vital source of local government revenue that is already too constrained."
Joint Subcommittee to Study and Revise Virginia's State Tax Code (2001-2003)	Examined the fiscal impact of imposing a net income tax on all businesses, but completed its work without making legislative recommendations.

Source: JLARC staff review of legislative reports pertaining to State and local taxation in Virginia.

Studies Found Benefits to Using Income-Based Tax But Identified Significant Challenges. Although prior legislative studies did not specifically consider the option of adopting an income-based BPOL tax, some considered the feasibility and wisdom of assessing an income-based tax to *replace* the BPOL tax. Many of their conclusions are applicable to an income-based BPOL tax. In particular, the Virginia Revenue Resources and Economic Commission identified several benefits but also raised concerns about replacing the gross receipts-based BPOL tax with an income-based tax in its 1976 report (Table 6).

Studies Resulted in Major Changes to Administration of BPOL Tax. Many recommendations were made and subsequently implemented to improve the administration of the BPOL tax. Major changes included

- the adoption of a classified gross receipts structure whereby maximum rates were established for each of five industry sectors based on their relative profitability (1978); and
- the passage of a model ordinance and uniform system of classification used by all localities that impose the BPOL tax; granting businesses the right to appeal tax assessments to the State Tax Commissioner; and establishing thresholds that provide exemptions for small businesses (1996).

Table 6: Prior Legislative Studies Cited Advantages and Disadvantages of Income-Based Taxes

Advantages	Disadvantages
Better reflection of businesses' ability to pay	Narrower base of taxpayers because many businesses show no profit in any given year
Greater equitability across and within each industry sector, and between businesses of differing sizes	Shift in tax burden onto profitable taxpayers
Reduced competition between localities and increased availability of certain activities or services in some localities	Higher tax rate imposed upon businesses subject to the tax in order to offset the reduction in tax base
Fewer complaints and appeals over industry classification if a single rate were applied to all industries	Considerable administrative problems, especially if State tax definitions are not used to implement the tax
	Greater volatility in tax revenue because income-based taxes are unstable
	Revenue decreases coinciding with economic downturns

Source: JLARC staff synthesis of reports issues by the Revenue Resources and Economic Commission; the Joint Subcommittee Studying the Business, Professional, and Occupational License Tax; the Commission on Virginia's State and Local Tax Structure for the 21st Century; and the Joint Subcommittee to Study and Revise Virginia's State Tax Code.

CHANGING BASIS TO INCOME COULD REDUCE BPOL TAX REVENUE BY UP TO 95 PERCENT, USING CURRENT RATES

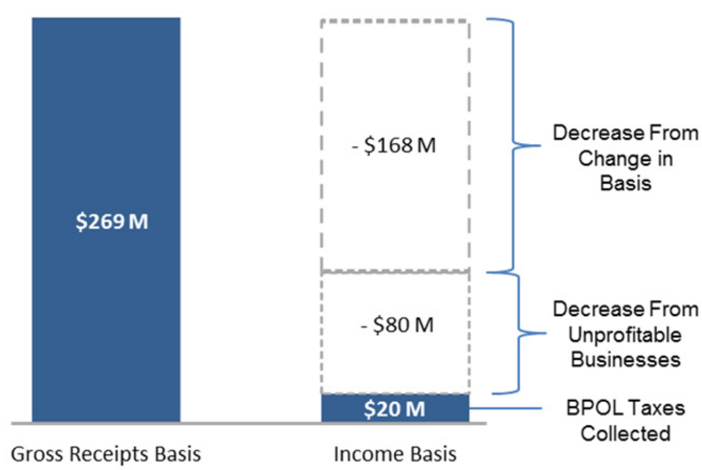
Changing the BPOL tax basis from gross receipts to income would lower local tax revenue for two primary reasons:

- the basis on which to assess the BPOL tax would be lower, because business income is a fraction of gross receipts; and
- there would be fewer businesses from which to collect the BPOL tax, because unprofitable businesses would no longer have to pay it.

BPOL Tax Revenue of Localities Would Drastically Decrease at Current Tax Rates

For the ten localities analyzed for this study, BPOL tax revenue would have been approximately 93 percent lower, on average, if income had been the BPOL tax basis in 2012 (Figure 4). The smaller taxable basis is the primary reason for the difference, accounting for approximately two-thirds of the BPOL tax reduction, while the loss of taxes previously paid by unprofitable businesses accounts for the remaining one-third. In 2011, 36 percent of all BPOL taxpayers in the ten localities examined for this study reported a loss on their federal income tax returns.

Figure 4: BPOL Tax Revenue Would Decline Mostly Because of Smaller Tax Basis



Note: Includes only businesses in ten localities examined.
Figures do not add due to rounding.

Source: JLARC staff analysis of 2012 BPOL tax data from ten localities and 2011 State tax data from the Virginia Department of Taxation.

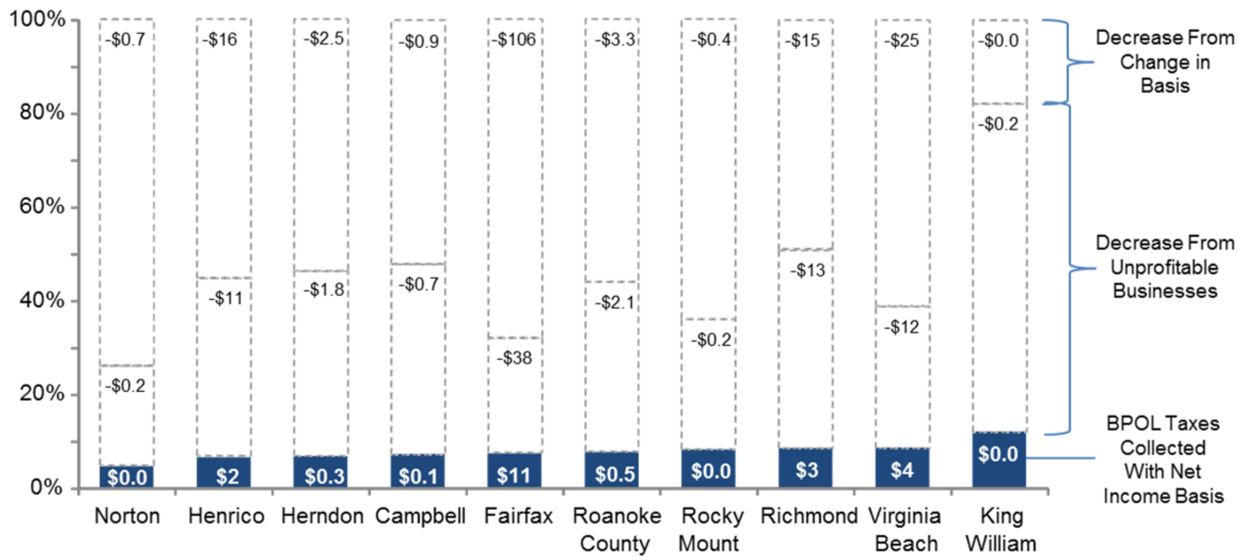
The proportion of BPOL tax revenue lost varies somewhat among localities, ranging from a high of 95 percent in the city of Norton to a low of 88 percent in King William County (Figure 5). Localities that would experience the sharpest decrease in BPOL taxes are those that have:

- high concentrations of businesses in sectors with low profit margins, such as retail and wholesale industries; or
- fewer large, highly profitable businesses, which tend to be rural or less densely populated localities.

The extent to which the decrease in BPOL tax revenue would be attributable to unprofitable businesses (versus a lower taxable basis) varies greatly among localities. For example, nearly 80 percent of the reduction in BPOL tax revenue that would be experienced in King William would likely occur because unprofitable businesses would no longer pay the tax. Only 20 percent of the lost BPOL tax revenue in the city of Norton would be attributable to unprofitable businesses.

Results from the analysis of the ten Virginia localities sampled were used to estimate the potential statewide impact of changing the BPOL tax basis to income. Across Virginia, BPOL tax revenue could have decreased by up to 95 percent using an income-based BPOL tax. Collectively, localities that impose a BPOL tax would

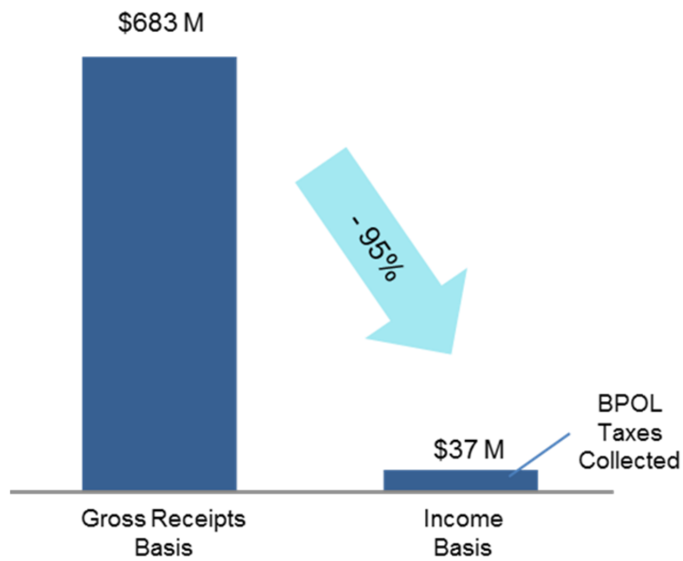
Figure 5: Localities Could Lose an Average of 93 Percent of BPOL Tax Revenue Using Income Basis and Current Tax Rates (2012, $ Millions)



Source: JLARC staff analysis of 2012 BPOL tax data from ten localities and 2011 State tax data from the Virginia Department of Taxation.

have collected only $37 million in FY 2012, compared to their actual revenue collections of $683 million using gross receipts (Figure 6). This decrease would represent a 4.1 percent reduction in the total local revenue of localities that levy a BPOL tax.

Figure 6: Statewide Revenue Could Have Decreased by 95 Percent Using Income Basis and Current Tax Rates (FY 2012)



Source: JLARC staff analysis of 2012 BPOL tax data from ten localities and 2011 State tax data from the Virginia Department of Taxation. JLARC staff analysis of FY 2012 Virginia Auditor of Public Accounts Report: "Comparative Report of Local Government Revenues and Expenditures."

BPOL Tax Liability of Businesses Would Be Reduced Substantially, Especially For Retailers and Wholesalers

Businesses subject to the BPOL tax could have experienced an average reduction of 90 percent in their BPOL liability if the tax basis had been income in 2012 (Figure 7). However, certain categories of businesses would have benefited more than others.

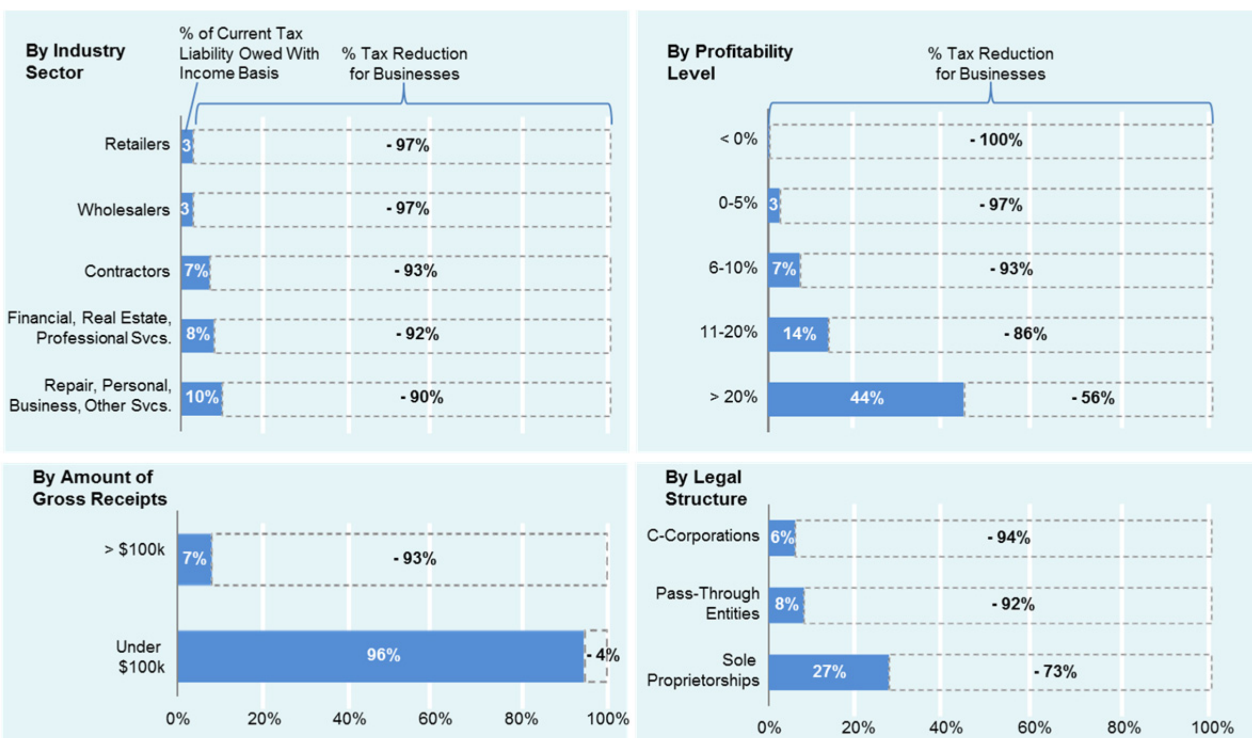
- Retailers and wholesalers would have experienced an average reduction of 97 percent in their tax liability (or approximately $3,200 per retailer and $4,600 per wholesaler).
- The tax liability of providers of repair, personal, or business services would have decreased by 90 percent (or approximately $1,600 per business, on average).
- Businesses with profit margins below five percent would have experienced a tax reduction of at least 97 percent, but businesses whose profitability exceeds 20 percent would have experienced only a 56 percent decrease in tax liability, on average.

- Small businesses that generated less than $100,000 in gross receipts would have experienced only a slight reduction (four percent or $1) in their tax liability.
- C-corporations would have experienced an average 94 percent ($7,500) reduction in BPOL tax, and sole proprietorships would have experienced only a 73 percent ($100 less) reduction, on average.

Future Fiscal Impact of Changes to BPOL Tax Basis Difficult to Predict Due to High Income Volatility

The fiscal impact estimated in this report relies on the financial performance of businesses in 2011 and cannot be used as a forecast for future years. The fiscal impact would vary annually as companies' profitability changes. For example, a similar analysis using data from 2009 would likely show a more negative fiscal impact on local revenues because businesses were generally less profitable that year due to the economic recession. Conversely, conducting this analysis using 2012 data would likely show a less

Figure 7: Certain Categories of Businesses Could Experience Greater Tax Reductions Than Others Using Income Basis (2012)



Note: Includes only businesses in ten localities examined.

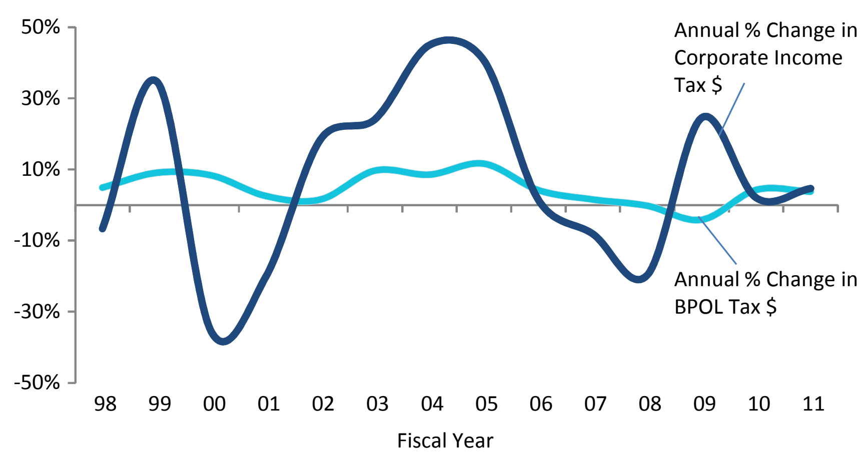
Source: JLARC staff analysis of 2012 BPOL tax data from ten localities and 2011 State tax data from the Virginia Department of Taxation.

negative impact on local revenue because of the economic recovery occurring at the time.

Income-based taxes tend to be much more volatile sources of revenue than taxes assessed on gross receipts. Income tends to fluctuate substantially because businesses must often bear fixed costs that cannot be reduced to fully compensate for a decline in sales or gross receipts. As a result, the proportional change in profitability and income can be greater than the corresponding change in sales or gross receipts. Moreover, the profitability of a few large businesses can have a substantial impact on the amount of taxes collected, particularly by a small locality. For example, just three businesses accounted for at least five percent of BPOL revenues collected in each of the ten localities examined for this study, and for as much as 40 percent in one locality.

Volatility can make it more challenging for government entities to predict future revenues, as well as for businesses to forecast their tax liability and after-tax profits. The difference in volatility between an income-based and a gross receipts-based tax can be illustrated by comparing the annual percentage change in BPOL tax revenue to the change in corporate income tax revenue collected in Virginia over time (Figure 8).

Figure 8: Income Taxes Are a More Volatile Source of Revenue than Gross Receipts Taxes



Source: Virginia Department of Taxation.

BPOL TAX RATE OVER FIVE PERCENT WOULD HAVE BEEN NEEDED TO MAINTAIN LOCAL REVENUES AT 2012 LEVELS

In order to raise the same amount of BPOL tax revenue in 2012 by taxing business income rather than gross receipts, the ten localities examined in detail for this study would have had to increase their BPOL tax rate to five percent, on average. This represents an average increase of 40 percent over the tax liability of businesses that reported a profit, and would therefore remain subject to the BPOL tax.

There appears to be broad agreement that changes to the BPOL tax should be revenue neutral for localities. Because adopting net income as the BPOL tax basis lowers the amount that can be taxed as well as the number of businesses subject to the tax, increasing the BPOL tax rate is the only mechanism available to maintain local revenue levels, barring more fundamental changes to the tax system.

BPOL Tax Rate Would Have to Vary Among Localities and Over Time to Achieve Revenue Neutrality

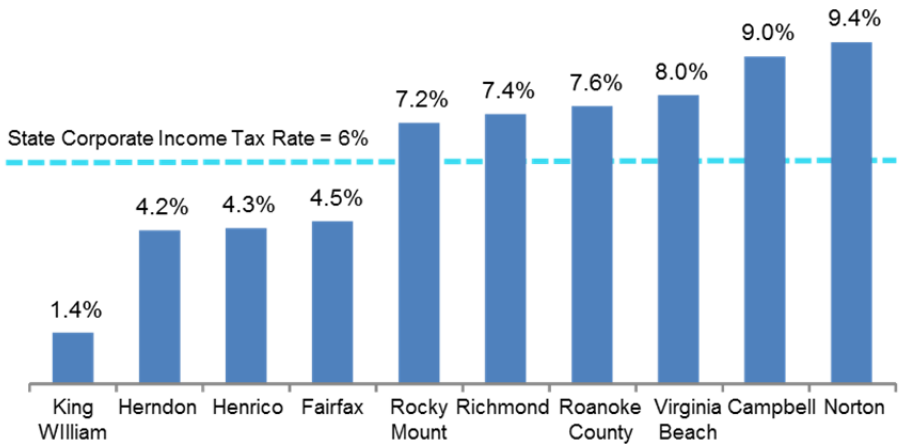
The BPOL tax rate needed to maintain revenues at their 2012 levels would have to differ among localities. A single, statewide BPOL tax rate would not enable individual localities to achieve revenue neutrality because localities currently impose different rates and would therefore need to implement tax increases of different magnitudes in order to maintain their current revenue levels. Each locality has a different mix of industry sectors and businesses with different levels of profitability. For example, a locality with many businesses in industry sectors that tend to have lower profit margins (such as retail) would have to impose a higher BPOL tax rate to achieve revenue neutrality. BPOL tax rates in each locality may also need to be updated more frequently due to the highly volatile nature of business income.

Within each locality, a single rate could be applied to all industries if the tax were assessed on business income, whereas each industry sector is generally taxed at a different rate under the current BPOL structure. Rate differentials were adopted to reflect differences in profitability among industry sectors. By taxing profitability directly, this accommodation would no longer be required.

Localities Could Maintain BPOL Revenue Levels by Increasing Tax Liability of Profitable Businesses by 42 Percent, on Average

If the BPOL tax basis were changed, an average rate of 5.1 percent would have been needed to achieve revenue neutrality in 2012 for the ten localities examined for this review. The rate would have ranged from a low of 1.4 percent in King William County to a high of 9.4 percent in the city of Norton based on 2011 data (Figure 9). In six of the ten localities, the BPOL tax rate would have had to exceed the State's corporate income tax rate of six percent in order to achieve revenue neutrality. Compared to the effective tax rate paid today, these new rates would represent an average increase in tax liability of 42 percent for businesses that reported earning a profit. The increase in tax liability would be approximately 40 percent in most of these ten localities, with the exception of Campbell County (51 percent) and the town of Rocky Mount (63 percent).

Figure 9: BPOL Tax Rate Needed For Revenue Neutrality Would Exceed Corporate Income Tax Rate in Majority of Localities



Note: Includes only businesses in ten localities examined.

Source: JLARC staff analysis of 2012 BPOL tax data from ten localities and 2011 State tax data from the Virginia Department of Taxation.

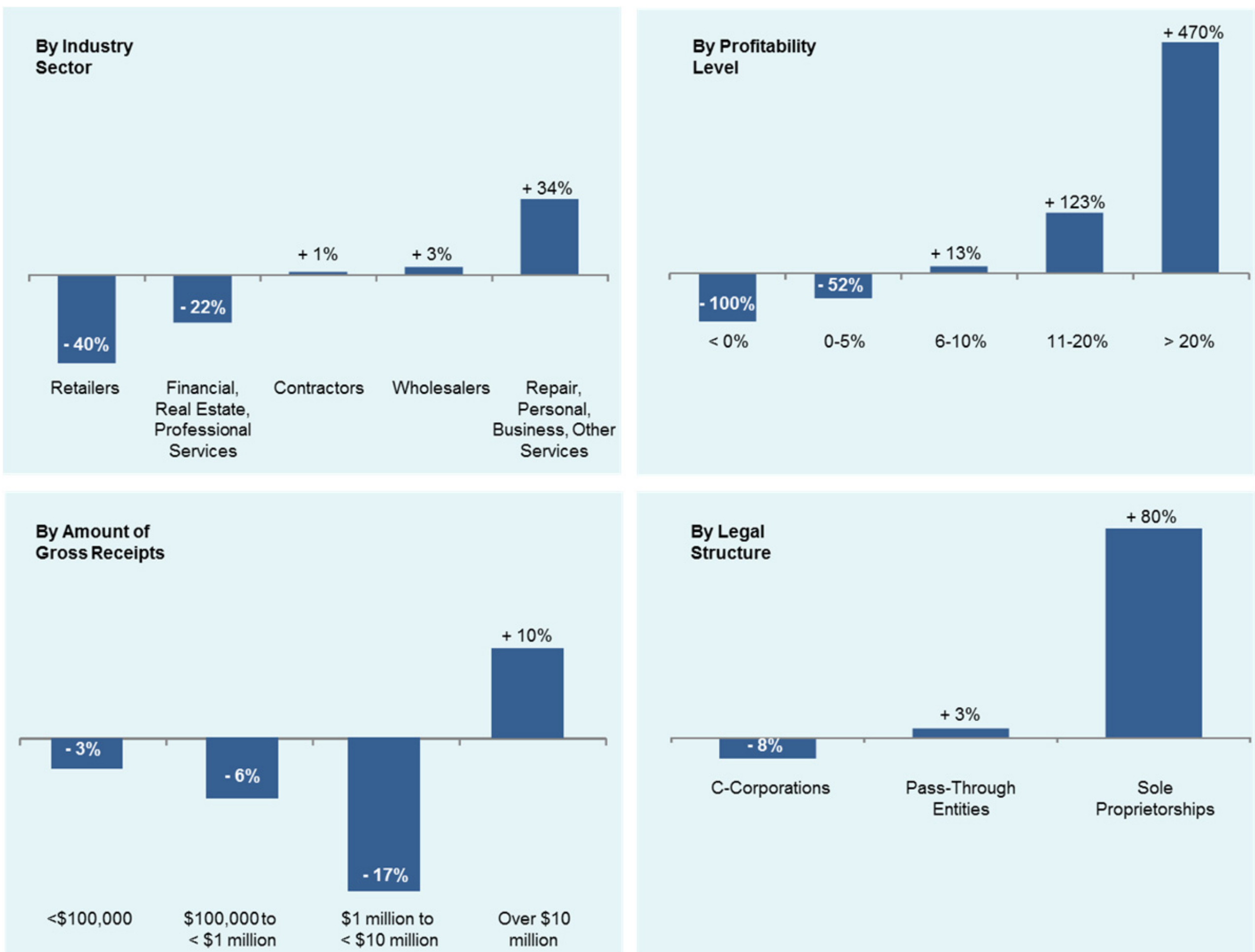
Retailers Would Experience Greatest BPOL Tax Reduction Even if Rates Increased

If localities were to increase their BPOL tax rates to achieve revenue neutrality, certain categories of businesses would still pay lower taxes than they did when the tax was assessed on gross receipts. However, the reduction in these businesses' tax liability would have to be offset by an increase in the tax liability of businesses in other categories. Retailers would have experienced the highest reduction in their tax liability (40 percent or $1,343, on average), based on 2011 data. In contrast, providers of personal services would have faced a higher tax burden (34 percent or $619, on average).

More than one-third of businesses reported a loss on their federal income tax returns and these businesses would no longer pay the BPOL tax if it were assessed on their income. In order for localities to achieve revenue neutrality, profitable businesses would have to pay more to make up the lost tax revenue from unprofitable businesses. Highly profitable businesses (with profit margins greater than 20 percent) would have paid nearly five times more if the BPOL tax basis were changed from gross receipts to income in 2012 (Figure 10). The reduction in BPOL taxes would have accrued primarily to businesses with low profit margins (below five percent), in addition to those that are unprofitable.

Large businesses with gross receipts in excess of $10 million would have faced a ten percent increase in their BPOL tax liability, while smaller businesses would have experienced either a reduction or almost no change in taxes. C-corporations would have experienced a moderate reduction in tax liability (eight percent or $600 on average), while sole proprietors would have faced an increase in taxes of 80 percent ($128) in their BPOL tax liability, on average.

Figure 10: Certain Categories of Businesses Could Experience Tax Reductions Offset by Tax Increases For Other Businesses if Taxed on Income Basis (2012)



Note: Includes only businesses in ten localities examined.

Source: JLARC staff analysis of 2012 BPOL tax data from ten localities and 2011 State tax data from the Virginia Department of Taxation.

CHANGING BPOL TAX BASIS WOULD ADD SIGNIFICANT COMPLEXITY AND ADMINISTRATIVE BURDEN

Implementing an income-based BPOL tax would be challenging and would greatly increase the complexity and administrative burden associated with the tax for localities and businesses alike. Although the degree of difficulty in implementing and administering the tax would depend upon how it is designed, businesses and administering agencies would have to learn about an entirely new tax system as well as process and review a greater volume of complex financial information.

Using Income Reported on Tax Returns Could Be Simpler to Implement But Could Create New Inequities and Timing Challenges

To alleviate implementation challenges, the income basis of the BPOL tax would have to be rooted in federal and State tax forms and definitions, which are already well established and defined. Consistent with prior legislative studies, JLARC staff documented a broad consensus among business representatives, members of the Virginia Society of Certified Public Accountants, and staff from the Department of Taxation that using existing tax rules would help standardize calculations and reduce confusion.

There is recognition among the same group of tax and industry experts that the income that businesses report on tax forms is not a perfect proxy for net income. Using such figures could even create new and potentially substantial inequities. For example, businesses that are organized differently but are otherwise identical could show different income amounts on their income tax return because C-corporations, pass-through entities (such as LLCs), and sole proprietors can each deduct different items. For example, sole proprietors cannot deduct their own salary as an expense, whereas C-corporations can deduct the salaries of all their employees. Attempting to remedy these disparities by allowing adjustments to the income reported on tax forms would add complexity to the process of filing and processing BPOL tax returns.

Using taxable income as the basis for calculating businesses' BPOL tax liability could also lead to significant timing challenges. The most recent taxable income information would not be available in time to meet the current BPOL tax filing due date of March 1 because the filing deadline for income tax returns is May 1 in Virginia. Moreover, many businesses receive a six-month filing extension and therefore do not submit an income tax return until October. As a result, taxable income from the prior tax year would have to be used to calculate the current year's BPOL tax liability, or the BPOL due date would have to be delayed until at least October, after most income tax returns have been filed, which is in the following fiscal year.

Income Is Not Calculated at Local Level and Would Require Business Allocations

One of the greatest challenges of implementing an income-based BPOL tax is that there is no direct method for estimating how much income a business earned in a given locality. Unless they have only one location, businesses typically do not maintain accounting records that calculate the net income earned by each establishment or each locality where they operate. The same applies to the income reported on tax returns, which reflects either nationwide income, as on federal income tax returns, or Virginia income, as on State income tax returns. As a result, the available measures of income for each business would need to be allocated to each locality using a formula, which further adds to the complexity of the process and, in turn, the cost of administering the tax.

Implementing More Refined Process Would Be Complex and Burdensome For Localities and Businesses

Some other states and localities that impose a license tax based on income require businesses to complete a pro-forma tax return that builds upon information reported on their income tax returns, applies an allocation factor, and allows for a variety of adjustments. Adopting a similar approach would require each business subject to the BPOL tax to complete an entirely new tax form for each locality where they are subject to the BPOL tax, and possibly supply supporting documentation. In addition, businesses may have to spend more time keeping up with each locality's BPOL structure if tax rates are updated frequently in order to mitigate the impact of income volatility. In interviews, Certified Public Accountants indicated that this would place an undue administrative burden on businesses, especially small ones, and result in additional costs.

Localities would then have to process the forms and periodically validate the accuracy of all the figures reported. With the current system, only one figure –annual gross receipts– has to be reported by each business, along with an exclusion amount in some limited instances. Commissioners of the Revenue and assessing officials indicated that additional personnel with more training would likely be needed to perform these new administrative and audit functions.

Simpler Alternative Could Be Considered

To avoid the complexity and administrative burden associated with changing the basis of the BPOL tax, localities could retain gross receipts as the basis for BPOL and exercise their option to exempt unprofitable businesses. This would address one of the primary concerns voiced by businesses, which is that they are required to pay the BPOL tax even in years when they do not earn a profit. Implementation would be simpler than shifting to an income-based tax if businesses had only to submit a copy of their federal income tax return to demonstrate they experienced a tax loss. Although the fiscal impact would have been lower, localities would still have experienced a revenue loss of $209 million in 2012 (31 percent of total BPOL revenue) as a result of this exemption if current BPOL tax rates had been in effect. The tax reduction of $209 million would have accrued entirely to businesses that reported no profit, most of which are large and/or C-corporations. Localities could achieve revenue neutrality by increasing their tax rates if they do not currently charge the maximum allowable, but the statutory caps would have to be raised in order for many other localities to collect the same amount in BPOL tax revenue.

REVISING CURRENT TAX RATES COULD PARTLY ADDRESS BUSINESS CONCERNS AND MAINTAIN SIMPLICITY

In light of the substantial reduction in local revenue and implementation challenges that would occur if the BPOL tax basis were changed from gross receipts to income, the State could consider alternatives that have lesser ramifications and still address major business concerns. In particular, the tax rates imposed upon each industry sector could be updated to reflect the current economic climate. Broader changes to the BPOL tax –such as repealing or limiting existing tax preferences for selected industry sectors– or comprehensive tax reform –such as replacing the BPOL tax with another tax– were not considered because they are beyond the mandate of this study.

The maximum BPOL tax rates that are in place for each industry sector have not been revised since their adoption in 1978, but the significant changes that have occurred in the US and global economy have almost certainly caused shifts in the profit margins of many industries. Further, the analyses performed for this study suggest that certain industries, such as the retail and professional services sectors, have been taxed at a disproportionate level given their current profit margins. To address these issues, maximum tax rates could be revised to reflect current differences in profitability across industry sectors, and a provision could be adopted to update rates at prescribed intervals.

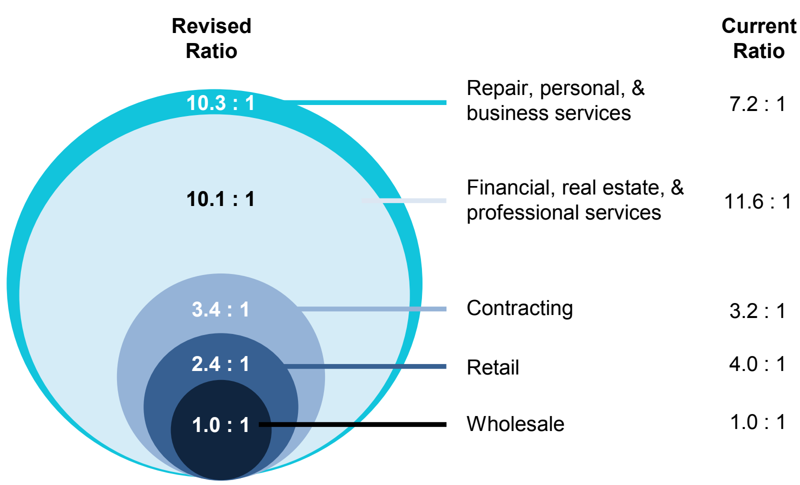
This alternative would improve equitability between industry sectors while avoiding the added complexity and administrative burden of instituting an income-based tax. Businesses that are in different industries but otherwise identical would pay the same BPOL tax amount given their profitability. While this would hold true on average, it would vary for those individual businesses whose profitability is very different from their industry average.

This approach would also not address business concerns over paying taxes when they are unprofitable.

Because not all localities tax industry sectors at the maximum allowable rate, rates would need to be set relative to one another in order to achieve equitability. For example, if the profitability of retailers were half that of contractors, then the retailers' BPOL tax rate could be set at half that of contractors in all localities, regardless of the actual rate. For localities to remain revenue neutral, the tax rate would have to increase for certain industry sectors and decrease for others.

Based on the estimated profitability of businesses in 2011 in the ten localities examined for this study, the following relative ratios would have to be applied to industry tax rates to reflect every industry sector's current level of profitability (Figure 11). For example, a locality could set the tax rate of retailers at 2.4 times the rate of wholesalers. The major differences between current and revised rates would positively affect retailers (whose current maximum tax rate is set at 4 times the rate of wholesalers) and providers of financial, real estate, and professional services, and negatively affect providers of repair, personal, and business services.

Figure 11: Relative Profitability Ratios Among Industry Sectors as of 2012, Based on Sample of 10 Virginia Localities



Note: Ratios are based on statutory maximum rates in 2012.

Source: JLARC staff analysis of 2012 BPOL tax data from ten localities and 2011 State tax data from the Virginia Department of Taxation.

This approach would not address inequities within industry sectors. It would be possible to use a more granular classification that relies on industry subsectors rather than major sectors (e.g., by dividing the retailer category into more specific industry categories such as grocery, clothing, and jewelry retailers). However, overly detailed business classifications could create confusion and disagreements. According to Commissioners of the Revenue, one of the most common complaints from businesses is over their industry classification, which affects the rate at which they are taxed. Many classification disputes arise because businesses engage in multiple activities that may be in different classifications. Creating additional classifications could lead to an increased number of complaints and appeals that would be burdensome for both businesses and localities.

Appendix A Study Mandate

Item 31 F, 2012-2014 Appropriation Act

F.1 JLARC is hereby directed to study the impact of restructuring the local Business, Professional, and Occupational License ("BPOL") Tax such that the basis of the tax is changed from gross receipts to net income. All local tax officials are hereby directed to provide any assistance required by JLARC in the course of the study. If requested by JLARC, all local tax officials are authorized to require businesses subject to the BPOL tax in their locality to calculate and report back to the locality their net income for the timeframe requested, notwithstanding the requirements of § 58.1-3700 et seq. of the Code of Virginia.

2. JLARC shall complete its study and submit a final report by November 1, 2013.

3. The Department of Taxation shall cooperate as requested by JLARC in the performance of its duties under this authority. All agencies of the Commonwealth shall provide assistance for this study, upon request.

Appendix B Research Activities and Methods

Key research activities for this study included:

- quantitative analysis of 2012 BPOL tax data from 10 Virginia localities, 2011 State tax data from the Virginia Department of Taxation, and FY 2012 local tax revenue data from the Virginia Auditor of Public Accounts;
- interviews with staff from the Virginia Department of Taxation, local Commissioners of the Revenue and assessing officials, representatives from the Virginia Association of Public Accountants, business trade associations, the Virginia Association of Counties, and the Virginia Municipal League;
- reviews of State documents and of the research literature.

QUANTITATIVE ANALYSIS

JLARC staff obtained BPOL tax data on each business subject to the tax in 2012 in ten Virginia localities. Several criteria were used to select a sample of localities that collectively represented most localities that levy the BPOL tax in Virginia (Table B-1). The ten localities selected accounted for 39 percent of all BPOL tax revenue collected in FY 2012.

Table B-1: Multiple Criteria Were Used to Select a Sample of Representative Localities That Impose the BPOL Tax in Virginia

Local Criteria	Localities Selected
Locality type (county, city, town)	Campbell County
Region	Fairfax County
Local BPOL revenue collected (FY12)	Town of Herndon
BPOL as % of total local revenue (FY12)	Henrico County
Locality population (2011)	King William County
Population density (urban, suburban, rural) (2011)	City of Norton
Number of businesses in locality (2010)	City of Richmond
Amount in local business gross receipts (2010)	Roanoke County
	Town of Rocky Mount
	City of Virginia Beach

Source: JLARC staff analysis of socio-economic characteristics of Virginia localities.

The BPOL tax data obtained from localities was matched with corresponding 2011 State and federal income tax returns provided by the Virginia Department of Taxation in order to obtain each business' federal gross receipts, income, and other descriptive information. A profit margin was calculated based on the income and gross receipts reported on federal income tax returns for each business that paid the BPOL tax in 2012 and either (1) had federal income tax data available electronically, or (2) was part of a random sample for which JLARC staff obtained records manually. Each business' profit margin was applied to the gross receipts they reported in each of the ten localities sampled in order to calculate their income in that locality. For businesses that did not have electronic federal income tax returns or that were not part of the randomly selected sample, JLARC staff used the industry-level average profit margins from businesses for which federal tax returns *were* available.

Current BPOL tax rates were applied to each business' local income to estimate their tax liability under an income-based BPOL tax and to calculate the difference from the actual amount collected in 2012. In addition, a break-even BPOL tax rate was calculated for each locality. This is the rate that each locality would need to impose on income in order to collect the same amount in revenue as they would if gross receipts were the BPOL tax basis. (See online technical appendix for more details regarding this analysis.)

STAKEHOLDER INTERVIEWS

JLARC staff conducted numerous interviews with various stakeholders over the course of the study. The purpose of these interviews was to gather background information on the BPOL tax, gain a greater understanding of the State and federal income tax forms, and learn about the challenges and opportunities that currently exist with the BPOL tax. Interviews for this study were conducted with the following agencies and organizations:

- Virginia Department of Taxation;
- local Commissioners of the Revenue and assessing officials, including representatives from the Commissioners of the Revenue Association of Virginia;
- business associations such as the Virginia Retail Federation and the Virginia Chamber of Commerce;
- subject matter experts including representatives from the Virginia Society of Certified Public Accountants; and
- local government groups such as the Virginia Association of Counties and the Virginia Municipal League.

REVIEW OF STATE DOCUMENTS AND RESEARCH LITERATURE

JLARC staff reviewed the research literature in several areas related to the BPOL tax and other State and local taxes:

- legislative reports regarding State and local taxation in Virginia including those produced by the Revenue Resources and Economic Commission; the Joint Subcommittee Studying the Business, Professional, and Occupational License Tax; the Commission on Virginia's State and Local Tax Structure for the 21st Century; and the Joint Subcommittee to Study and Revise Virginia's State Tax Code;

- Chapter 37 of Title 58.1 of the Code of Virginia and BPOL guidelines (23 VAC 10-500-10 et seq.);

- information about the practices of others states administering a license tax based on income;

- literature investigating the principles, applications, and theories of State and local taxation.

Appendix C Localities Imposing BPOL Tax and Corresponding Tax Rates

Table C-1: BPOL Tax Rates by Industry Sector (per $100)

Cities

Locality	Contracting	Retail	Repair, Personal, & business services	Financial, real estate, & professional services	Wholesale (gross receipts or gross purchases)
Alexandria	$0.16	$0.20	$0.35	$0.35/ $0.58 PR	$0.05 P
Bedford	$0.10	$0.125	$0.25*	$0.50	$0.10 P
Bristol	$0.16	$0.20	$0.20	$0.20/$0.50 F	Varies P
Buena Vista	$0.16	$0.20	$0.36	$0.58	$0.05 P
Charlottesville	$0.16	$0.20	$0.36 PE $0.30 RP	$0.58 RE $0.50 F	$0.25/0.16 P
Chesapeake	$0.16	$0.20	$0.36[a]	$0.58[b]	$0.12 P
Colonial Heights	$0.15	$0.20	$0.35	$0.57	$0.05 P
Covington	$0.16	$0.20	$0.36	$0.58	$0.12 GR
Danville	$0.16	$0.20	$0.36	$0.58	$0.15 P
Emporia	$0.16	$0.20	$0.36	$0.58	$0.05 P
Fairfax	$0.16	$0.20	$0.27*	$0.40	$0.05 P
Falls Church	$0.16	$0.19	$0.36*	$0.52	$0.08 GR
Franklin	$0.15	$0.20	$0.30*	$0.58	$0.10 P
Fredericksburg	$0.16	$0.20	$0.36	$0.58	$0.05 P
Galax	$0.16	$0.20	$0.20	$0.58	$0.05 P
Hampton	$0.16	$0.20	$0.36*	$0.58	$0.15 P
Harrisonburg	$0.16	$0.20	$0.20	$0.58	$0.17 GR
Hopewell	$0.16	$0.20	$0.36*	$0.58	$0.25 GR
Lexington	$0.16	$0.20	$0.36	$0.58	$0.05 P
Lynchburg	$0.16	$0.20	$0.36	$0.58	>$100K=$0.28 P
Manassas	$0.10	$0.12	$0.22*	$0.33/ $0.35 F	$0.05 GR
Manassas Park	$0.10	$0.15	$0.18	$0.35	>$10K=$0.05 P
Martinsville	$0.10	$0.20	$0.36*	$0.58	$0.05 P
Newport News	$0.15	$0.20	$0.36	$0.58	>$10K=$0.20 P
Norfolk	$0.16	$0.20	$0.36	$0.58	$0.15 P
Norton	$0.16	$0.20	$0.36	$0.50	$0.25 P
Petersburg	$0.16	$0.20	$0.32*	$0.58	$0.25 P[c]
Poquoson	$0.16	$0.20	$0.36	$0.58	$0.05 P
Portsmouth	$0.16	$0.20	$0.36	$0.58	$0.15 P
Radford	$0.125	$0.135	$0.14	$0.365	$0.07 P
Richmond	$0.19	$0.20	$0.36	$0.58	$0.22 P
Roanoke	$0.16	$0.20	$0.36	$0.58	$0.26 P
Salem	$0.16	$0.20	$0.36	$0.58	$0.13 P
Staunton	$0.16	$0.20	$0.36*	$0.40	$0.50 P[d]
Suffolk	$0.16	$0.20	$0.36	$0.58	$0.09 P
Virginia Beach	$0.16	$0.20	$0.36	$0.58	$0.12 P
Waynesboro	$0.16	$0.20	$0.36	$0.58	$0.15 P
Williamsburg	$0.16	$0.20	$0.36*	$0.58	$0.05 GR
Winchester	$0.16	$0.20	$0.36*	$0.58	$0.20 P

Counties

Locality	Contracting	Retail	Repair, Personal, & business services	Financial, real estate, & professional services	Wholesale (gross receipts or gross purchases)
Albemarle	$0.16	$0.20	$0.36	$0.58	$0.05 P
Alleghany	$0.08	$0.10	$0.18 RP, PE	$0.29 F, RE	$0.05 P
Amelia	$0.16	$0.05	$0.09	$0.15	$0.05 GR
Amherst	$0.13	N/A	$0.31*	$0.50	N/A
Arlington	$0.16	$0.20	$0.35	$0.36	>$100K=$0.08 GR
Augusta	$0.16	$0.20	$0.30*	$0.30	$0.05 GR
Botetourt	$0.08	$0.10	$0.18	$0.29	$0.05 P
Campbell	$0.16	$0.20	$0.35	$0.50	$0.05 P
Caroline	$0.12	$0.15	$0.19	$0.49	$0.05 P
Chesterfield	$0.14	$0.19	$0.20	$0.20	$0.10 P
Cumberland	$0.05	$0.05	$0.05	$0.10	$0.05 GR
Dinwiddie	$0.14	$0.16	$0.30	$0.45	$0.05 GR
Fairfax	$0.11	$0.17	$0.19	$0.31	$0.04 P
Fauquier	$0.085	$0.10	$0.187	$0.2975	$0.04 P
Frederick	$0.16	$0.20	$0.36	$0.58	$0.05 P
Gloucester	$0.10	$0.10[e]	$0.10	$0.12	$0.05 P
Goochland	$0.10	$0.05	$0.10/ $0.05 RP	$0.15	$0.02 P
Greene	$0.12	$0.15	$0.27	$0.44	$0.04 P
Greensville	$0.16	$0.16	$0.30	$0.40	$0.05 P
Halifax	$0.08	$0.10	$0.18	$0.29	$0.02 GR
Hanover	$0.10	N/A	N/A	N/A	N/A
Henrico	$0.15	$0.20	$0.20	$0.20	Varies P[f]
Henry[g]	$0.025	$0.15	$0.15	$0.25	$0.05 P
Isle of Wight	$0.10	$0.12	$0.20	$0.35	$0.05 P
James City	$0.16	$0.20	$0.36	$0.58	$0.05 P
King George	$0.12	$0.10	$0.10	$0.25	$0.05 P
King William	$0.16	$0.20	$0.26	$0.48	$0.05 GR
Loudoun	$0.13	$0.17	$0.16 R/ $0.23 PE $0.17 B	$0.33	$0.05 P
Louisa	$0.16	N/A	N/A	N/A	N/A
Mathews	$0.05	$0.15	$0.05*	$0.15	$0.05 GR
Middlesex	$0.05	$0.07	$0.12	$0.19	$0.02 P
New Kent	$0.12	$0.15	$0.27	$0.44	$0.04 GR
Nottoway	$0.04	$0.05	$0.09	$0.15	$0.02 P
Page	$0.10	$0.10	$0.20	$0.30	$0.05 GR
Prince George	$0.16	$0.15	$0.20	$0.20	N/A
Prince William	$0.13	$0.17	$0.21	$0.33	> $100K = $0.05 F
Pulaski	$0.14	$0.20	$0.15	$0.07	$0.05 P
Roanoke	$0.16	$0.20	$0.36	$0.58 F, RE	$0.05 P
Rockbridge	$0.10	$0.13	$0.23	$0.38	$0.05 GR
Southampton	$0.10	N/A	$0.25*	$0.58	$0.05 P
Spotsylvania	$0.08	$0.10	$0.18*	$0.29	$0.02 P
Surry	$0.10	$0.15	$0.20*	$0.30	$0.05 GR
Warren	$0.11	$0.14	$0.25*	$0.39	$0.03 P
York	$0.16	$0.20	$0.36*	$0.58	$0.05 P

Towns

Locality	Contracting	Retail	Repair, Personal, & business services	Financial, real estate, & professional services	Wholesale (gross receipts or gross purchases)
Abingdon	$0.10	$0.20	$0.18	$0.20	$0.05 P
Alberta	$0.18	$0.10	$0.18	$0.30	$0.08 GR
Altavista	$0.06	$0.085	$0.12	$0.085	$0.04 GR
Amherst	$0.16	$0.10	$0.31	$0.50	$0.04 GR
Appalachia	$0.15	$0.20	$0.36	$0.40	$0.25 P
Appomattox	$0.10	$0.10	$0.10	$0.10	$0.05 GR
Ashland	$0.07	$0.07	$0.07*	$0.07	N/A
Big Stone Gap	$0.16	$0.20	$0.20	$0.40	$0.13 P
Blacksburg	$0.10	$0.20	$0.23	$0.37	$0.05 P
Blackstone	$0.11	$0.11	$0.20	$0.20	$0.05 P
Bluefield	$0.15	$0.16	$0.21	$0.41	$0.05 P
Boones Mill	$0.16	$0.25[h]	$0.15	$0.25	N/A
Boydton	$0.12	$0.12	$0.12	$0.12	$0.05 GR
Bridgewater	$0.12	$0.15	$0.15	$0.435	$0.05 P
Broadway	$0.08	$0.08	$0.08	$0.20	$0.03 P
Brodnax	$0.16	$0.20	$0.25	$0.25	N/A
Brookneal	$0.13	$0.13	$0.13	$0.13	$0.05 P
Buchanan	$0.10	$0.10	$0.10	$0.15	$0.05 GR
Capron	$0.05	$0.03	$0.03 RP, PE	$0.05	$0.03 P
Cedar Bluff	$0.15	$0.15	$0.15	$0.15	$0.05 P
Chase City	$0.14	$0.14	$0.22	$0.30	$0.05 P
Chatham	$0.16	$0.20	$0.20	$0.20	$0.05 GR
Chilhowie	$0.155	$0.155	$0.155	$0.155	$0.05 P
Chincoteague[i]	$0.13	$0.13	$0.13	$0.13	$0.05 P
Christiansburg	$0.13	$0.15	$0.28	$0.39	$0.05 P
Claremont	$0.08	$0.15	$0.15	$0.15	$0.05 GR
Clarksville	$0.16	$0.15	$0.17/ $0.22 RP	$0.32/$0.27 F	$0.05 GR
Clifton Forge	$0.15	$0.19	$0.34	$0.55	$0.24 GR
Clintwood	$0.15	$0.15	$0.15	$0.20	$0.10 P
Coeburn	$0.16	$0.15	$0.20	$0.20	$0.13 GR
Colonial Beach	$0.16	$0.20	$0.36	$0.58	N/A
Courtland	$0.02	$0.02	$0.02	$0.55	$0.02 GR
Crewe	$0.15	$0.15	N/A	N/A	$0.15 GR
Culpeper	$0.10	$0.13	$0.23	$0.36	$0.05 P
Damascus	$0.20	$0.20	$0.20	$0.20	$0.05 P
Dayton	$0.12	$0.15	$0.20*	$0.30	$0.05 P
Dillwyn	$0.08	$0.08	$0.08	$0.08	$0.05 P
Dublin	$0.14	$0.16	$0.07	$0.15	$0.05 P
Dumfries	$0.122	$0.155	$0.21 RP, PE	$0.32 F, RE	$0.05 GR
Edinburg	$0.13[j]	$0.13[j]	$0.13[j]	$0.15	$0.05 GR
Farmville	$0.16	$0.20	$0.36	$0.45	$0.20 P
Fincastle	$0.06	$0.08	$0.14	$0.23	$0.04 P
Floyd	$0.10	$0.12	$0.23	$0.23	$0.05 GR
Front Royal	$0.08	$0.12	$0.20	$0.36	$0.08 GR
Glade Spring	$0.16	$0.20	$0.22	$0.25	$0.13 GR
Glen Lyn	$0.10	$0.10	$0.10	$0.10	N/A
Gordonsville	$0.16	$0.20	$0.36	$0.40	$0.05 P
Gretna	$0.13	$0.13	$0.13	$0.13	$0.13 GR
Grundy	$0.20	$0.20	$0.20	$0.20	$0.05 GR
Halifax	$0.10	$0.10	$0.10	$0.10	$0.10 GR
Hamilton	$0.09	$0.17	$0.23	$0.33	$0.05 P
Haymarket	$0.15	$0.10	$0.10	$0.30	$0.05 P
Haysi	$0.16	$0.20	$0.20	$0.30	$0.05 P
Herndon	$0.13	$0.13	$0.21	$0.40	$0.05 P
Hillsville[k]	$0.15	$0.15	$0.15	$0.15	$0.05 P

Honaker	$0.10	$0.10	$0.10	$0.10	$0.10 GR
Hurt	$0.10	$0.15	$0.22	$0.15	$0.05 P
Independence	Varies[l]	$0.15	$0.15	$0.20	$0.15 GR
Iron Gate	$0.15	$0.15	$0.15	$0.15	$0.15 GR
Kenbridge	$0.10	$0.12	$0.20	$0.25	$0.05 P
Keysville	$0.04	$0.04	$0.04	$0.04	$0.02 P
Kilmarnock	$0.12	$0.12	$0.12/$0.18 PE	$0.35	$0.02 P
La Crosse	$0.10	$0.10	$0.10	$0.15	$0.03 P
Lawrenceville	$0.08	$0.10	$0.18	$0.30	$0.08 GR
Lebanon	N/A	$0.10	$0.10	$0.25	$0.05 GR
Leesburg	$0.10	$0.10	$0.20/$0.15 RP	$0.20	$0.08 GR
Louisa	$0.16	$0.175	$0.175	$0.175	$0.05 GR
Lovettsville	$0.17	$0.17	$0.17	$0.17	$0.05 GR
Luray	$0.10	$0.12	$0.25*	$0.25	$0.05 P
Marion	$0.16	$0.20	$0.20	$0.40	$0.05 P
McKenney	$0.06	$0.06	$0.06	$0.06	$0.06 P
Middleburg	$0.12	$0.15	$0.22	$0.23	$0.05 GR
Middletown	$0.16	$0.20	$0.20	$0.20	$0.05 GR
Mineral	$0.14	$0.14	$0.14	$0.14	$0.14 GR
Narrows	$0.17	$0.28	$0.20	$0.215	N/A
New Market	$0.10	$0.10	$0.10	$0.10	$0.05 P
Occoquan	$0.16	$0.20	$0.20	$0.33	$0.05 P
Parksley	$0.05	$0.08	$0.10	$0.12	$0.05 GR
Pearisburg	$0.16	$0.20	$0.36	$0.28	$0.05 GR
Pembroke	$0.16	$0.20	$0.30	$0.58	$0.15 GR
Pennington Gap	$0.15	$0.15	$0.15	$0.15	$0.13 GR
Pound	$0.08	$0.10	$0.18	$0.25	$0.05 GR
Pulaski	$0.16	$0.16	$0.20	$0.40	$0.13 GR[m]
Purcellville	$0.14	$0.17	$0.17	$0.17	$0.05 P
Remington	$0.10	$0.10	$0.14	$0.10	$0.05 GR
Rich Creek	$0.16	$0.15	$0.20	$0.20	$0.10 GR
Rocky Mount	$0.16	$0.13	$0.30	$0.50	$0.05 P
Round Hill	$0.16	$0.16	$0.24/$0.16 RP	$0.24	$0.05 GR
Rural Retreat	$0.10	$0.10	$0.10	$0.10	$0.05 GR
Saint Paul	$0.16	$0.17	$0.17	$0.30	$0.13 GR
Saltville	$0.08	$0.20	$0.18	$0.29	N/A
Shenandoah	$0.16	$0.20	$0.36	$0.35	$0.05 GR
Smithfield[n]	$0.10	$0.12	$0.20	$0.35	$0.05 P
South Boston	$0.08	$0.10	$0.18	$0.29	$0.10 P
South Hill	$0.16	$0.14	$0.30	$0.40	$0.05 P
Stanley	$0.10	$0.17	$0.25	$0.25	$0.05 GR
Stephens City	$0.15	$0.15	$0.15	$0.15	$0.05 GR
Strasburg	$0.11	$0.13	$0.13	$0.19	$0.05 P
Surry	$0.10	$0.10	$0.15	$0.25	$0.03 P
Tappahanock	$0.15	$0.20[o]	$0.35	$0.54	$0.05 GR
Tazewell	$0.15	$0.15	$0.15, RP, PE	$0.15 F, RE	$0.15 GR
The Plains	$0.14	$0.14	$0.14	$0.14	$0.14 GR
Timberville	$0.13	$0.13	$0.13	$0.35	$0.06 P
Urbanna	N/A	N/A	N/A	N/A	N/A
Victoria	$0.16	$0.15	$0.20	$0.20	$0.05 GR
Vienna	$0.12	$0.17	$0.22	$0.52	$0.10 GR
Vinton	$0.16	$0.20	$0.30*	$0.35	$0.05 GR
Virgilina	N/A	N/A	N/A	N/A	$0.04 GR
Warrenton	$0.085	$0.10	$0.187	$0.2975	$0.04 GR
Warsaw	$0.07	$0.08[p]	$0.15	$0.07 F $0.15 RE $0.19 PR	$0.05 P
Waverly	$0.10	$0.12	$0.18	$0.40	$0.05 P
Windsor	< $1.5M=$0.10 ≥ $1.5M=$0.08	< $1.5M=$0.12 ≥ $1.5M=$0.08	< $1.5M=$0.20 ≥ $1.5M=$0.133	< $1.5M=$0.35 ≥ $1.5M=$0.223	$0.05 P
Wise	$0.15	$0.20	$0.20	$0.25	$0.05 P
Woodstock	$0.10	$0.13	$0.13	$0.18	$0.05 GR
Wytheville	$0.13	$0.17	$0.25	$0.35	$0.05 P

N/A Not applicable.

* An asterisk indicates that the locality applies the tax rate of this category on its mail-order based businesses. Otherwise, mail-order based businesses are taxed in the retail category or they are not taxed.

[a] In the city of Chesapeake for gross receipts exceeding $500,000, the tax rate is $0.30/$100.

[b] In the city of Chesapeake the rate for P and RE is always $0.58/$100. F is charged a rate of $0.58/$100 on the first $1M gross receipts. For receipts greater than $1M, the rate is $0.12/$100.

[c] The city of Petersburg uses a tier structure for its wholesale rate. If purchases are less than $100,000 the rate is $0.25/$100. For purchases from $100,001 to $200,000 the rate is $0.15/$100. For purchases over $200,000 the rate is $0.10/$100.

[d] The city of Staunton uses a minimum tax/tier structure combination. For purchases up to $10,000 there is a $100 minimum tax. For purchases between $10,001 and $50,000 the tax is $100 plus a rate of $0.50/$100 for those purchases exceeding the first $10,000. For purchases above $50,000, the tax is $300 plus a rate of $0.12/$100 for those purchases exceeding $50,000.

[e] In Gloucester County, retail businesses are taxed at $0.10/$100 on the first $200,000 in gross receipts. Receipts over that are taxed at $0.20/$100.

[f] Henrico County uses a minimum tax/tiered rate combination. For gross purchases up to $10,000, the tax is $25. For more than 10K to $5M the rate is $0.20/$100. For greater than $5M to $15M, the rate is $0.15/$100. For greater than $15M to $25M, the rate is $0.10/$100. For greater than $25M to $50M, the rate is $0.05/$100. For greater than $50M to $100M, the rate is $0.025/$100. Any gross purchases over $100M are taxed at $0.0125/$100.

[g] Henry County charges a tax of $30 on gross receipts (purchases for wholesale businesses) up to $100,000. Amounts over $100,000 are subject to the given category tax.

[i] The town of Independence assigns a flat tax based on the amount of gross receipts using the following schedule: $1K-$5K: $5; $5,001-$10K: $10; $10,001-$20K: $15; $20,001-$50K: $20; $50,001-$100K: $50; $100,001-$150K: $100; $150,001-$300K: $150; over $300K: $250.

[m] The town of Pulaski charges a tiered rate of $0.013/$100 for the first $2 million of gross receipts, $0.05/$100 for the next million, and $0.01/$100 for any receipts above $3 million.

[n] In the town of Smithfield, the contracting rate is $0.10 per $100 up to $1.5M. Add an additional $0.0666 per $100 for gross receipts over $1.5M. The retail rate is $0.12 per $100 up to $1.5M in gross receipts. Add an additional $0.08 per $100 for gross receipts over $1.5M. The repair, business, and personal rate is $0.20 per $100 up to $1.5M. Add an additional $0.133 per $100 for gross receipts over $1.5M. The financial, real estate, and professional rate is $0.35 per $100 up to $1.5M. Add an additional $0.233 per $100 for gross receipts over $1.5M.

[o] The town of Tappahannock charges $0.15/$100 tax rate for mail order receipts.

[p] The town of Warsaw uses a tier structure to assess the retail tax. For receipts less than $1M the rate is $0.08/$100. For receipts between $1M and $3M the rate is $0.06/$100. For receipts between $3M and $5M the rate is $0.05/$100. For receipts over $5M the rate is $0.03/$100.

Key to abbreviations:

B: Business Service	MO: Mail Order	R: Retail
C: Contractors	M: Millions	RE: Real Estate
F: Financial	P: Based on Purchases for Sale	RP: Repair
GR: Based on Gross Receipts	PE: Personal Service	W: Wholesale
K: Thousands	PR: Professional	

Source: Weldon Cooper Center for Public Service at the University of Virginia, Virginia Local Tax Rates 2012. 31st Edition. Section 14. Business, Professional, and Occupational License Tax, 2012.

Appendix D

Agency Responses

As part of an extensive validation process, State agencies and other entities involved in a JLARC assessment are given the opportunity to comment on an exposure draft of the report. JLARC staff provided an exposure draft of this report to the following State agencies and entities:

- Virginia Department of Taxation, and
- Commissioners of the Revenue Association of Virginia.

Appropriate technical corrections resulting from their comments have been made in this version of the report. This appendix includes a letter received from the Virginia Department of Taxation.

OCT 07 2013

COMMONWEALTH *of* VIRGINIA

Department of Taxation

October 7, 2013

Mr. Hal E. Greer, Director
Joint Legislative Audit and Review Commission
General Assembly Building, Suite 1100
Richmond, Virginia 23219

Dear ~~Mr. Greer~~ Hal:

Thank you for the opportunity to review your draft of: Technical Report: Impact of Changing the Basis of the BPOL Tax From Gross Receipts to Income. We were impressed with the thoroughness and depth of the report and believe it will assist in any discussions of the BPOL tax issue. I understand that your staff has already received the few technical comments we had.

While I appreciate the opportunity to speak to the Commission when the report is presented, I do not have any comments to make beyond our technical concerns. If you or your staff have any questions or concerns, please do not hesitate to contact me.

Sincerely,

Craig M. Burns
Tax Commissioner

cc: The Honorable Richard D. Brown, Secretary of Finance

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Joint Legislative Audit and Review Commission
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