



Date of Council Meeting: June 28, 2016

**TOWN OF LEESBURG
TOWN COUNCIL MEETING**

Subject: Business License Incentive Program

Staff Contact: Kaj Dentler, Town Manager
Barbara Notar, Town Attorney
Clark Case, Director of Finance and Administrative Services
Marantha Edwards, Director of Economic Development

Council Action Requested: Councilman Gemmill requested this item for Council consideration to establish a Business License Incentive Program. If enacted, the program would allow new businesses locating within corporate limits of the Town of Leesburg to be fully or partially exempt from Business, Professional & Occupational Licenses (BPOL) and Business Tangible Personal Property taxes for up to two years.

Staff Recommendation: Staff recommends additional analysis before taking any action, and also recommends to seek the advice of the Economic Development Commission (EDC) to further explore incentive programs.

Commission Recommendation: Not applicable.

Fiscal Impact: Based on Fiscal Year 2014 and Fiscal Year 2015 revenues, newly opened businesses within the past two years acquiring licenses is estimated to generate approximately \$300,000 annually in revenue. This consists of approximately \$200,000 in Business, Professional, and Occupational Licenses (BPOL) revenue, and approximately \$100,000 in business tangible personal property revenue.

Since some new business licenses are the result of name changes, relocations or consolidations, not all businesses receiving new licenses would be eligible for the proposed incentive. The estimated total BPOL revenue projected for Fiscal Year 2017 is \$3,400,000. The estimated total revenue from business tangible personal property for Fiscal Year 2017 is \$835,000.

Work Plan Impact: The resulting work plan impact will be determined by the nature of any policy approved by Council. Administering an incentive program may require additional processing and management by staff.

Executive Summary: In 2011, the General Assembly enacted enabling legislation authorizing localities to establish by ordinance a business license incentive program that exempts businesses that locate for the first time in the locality from Business, Professional, and Occupational Licenses (BPOL) and business tangible personal property taxes for up to two years. The applicable state code sections are included in Attachment 1.

The intent of the Business License Incentive Program is to attract new businesses to Leesburg. The rationale for any incentive program is that the value of the new businesses to the Town's

economy, in term of additional employment opportunities or other economic activity, offsets the cost of the incentive, in this case, lost BPOL and business tangible personal property tax revenue. In order to fully evaluate the efficacy of a proposed incentive program, Council needs to determine:

1. What types of businesses it desires to incentivize for locate in Leesburg.
2. If the proposed incentives will be effective in attracting these businesses to Leesburg.
3. If the value of the new businesses offsets the lost revenue.

Background: Leesburg currently has approximately 2,500 businesses. This number and the amount of Business, Professional, and Occupational Licenses (BPOL) and business tangible personal property tax revenue these businesses generate has remained relatively flat since Fiscal Year 2014 despite the fact that approximately 600 new business licenses are issued each year. This indicates that Leesburg experiences a 24% turnover in businesses annually. A majority of these businesses are home-based businesses with less than \$50,000 in annual gross receipts.

When a new business receives a license, it pays BPOL fees based on an estimate of expected gross receipts through the end of that calendar year. Thereafter, BPOL fees are due in May each year, based on the previous calendar year's gross receipts.

The majority of the new businesses in Leesburg report gross receipts of less than \$50,000 in their first year of operation. Over the last three years, approximately 65% of new businesses yielded less than \$50,000 in gross receipts in their first year, and accounted for roughly 3% of the total BPOL revenue generated by new businesses.

The current BPOL rates as adopted by the Town Council are included as Attachment 2. The Code of Virginia §58.1-3706 establishes the maximum rates that localities may impose. Under the Virginia Administrative Code 23VAC10-500-40, certain categories of businesses are exempted from BPOL taxation, including but not limited to manufacturers, publishers, banks subject to the bank franchise tax, and insurance companies subject to a state license tax.

The current vacancy rate for all types of office space in Leesburg is 10.1%, down from 15% during the second quarter of calendar year 2013, despite the addition of approximately 80,000 square feet of new office space. The drop in vacancy rates indicates that the Town is attracting new businesses and our existing businesses are expanding.

Business license incentive programs are not widely utilized in Virginia including the County of Loudoun. Fairfax County is currently the only jurisdiction in Northern Virginia known to offer exclusions and adjustments for BPOL fees to the following categories of businesses:

- **Software Development Companies:** Software sales, leases or licensing may be excluded from gross receipts by companies that design, develop or create computer software in Fairfax County.
- **Government computer hardware/software sellers:** The original cost (not resale price) of computer hardware or software sold under contract to a state or federal government

entity in the United States within two years of purchase may be deducted from gross receipts.

- **Nonprofits:** Except for unrelated business income, the income of charitable nonprofit organizations may be excluded from gross receipts

Loudoun County Economic Development offers other incentives to targeted industries based on specific criteria, at the discretion and approval of the Loudoun County Board of Supervisors. These incentives, which are not limited to businesses locating for the first time in Loudoun County, are based on real estate and business tangible personal property taxes, not BPOL fees. The current targeted industries are:

- Information, Communications and Technology
- Aerospace
- Airport-Related/Air Cargo
- Federal Government Contracting
- Life Sciences
- Advanced Manufacturing
- Energy/Green Technologies
- Destination Retail

Attachments: Attachment 1: State Codes §58.1-3703.D, §58.1-3506.45, and 23VAC10-500-40
Attachment 2: Business, Professional & Occupational License tax rate sheet

STATE CODES:

BPOL Incentive Authority:

VA CODE 58.1-3703

"D. Any county, city or town may establish by ordinance a business license incentive program for "qualifying businesses." For purposes of this subsection, a "qualifying business" is a business that locates for the first time in the locality adopting such ordinance. A business shall not be deemed to locate in such locality for the first time based on merger, acquisition, similar business combination, name change, or a change in business form. Any incentive established pursuant to this subsection may extend for a period not to exceed two years from the date the business locates in such locality. The business license incentive program may include (i) an exemption, in whole or in part, of license taxes for any qualifying business; (ii) a refund or rebate, in whole or in part, of license taxes paid by a qualifying business; or (iii) other relief from license taxes for a qualifying business not prohibited by state or federal law."

Business Personal Property Tax Incentive Authority:

VA CODE 58.1-3506

"A. The items of property set forth below are each declared to be a separate class of property and shall constitute a classification for local taxation separate from other classifications of tangible personal property provided in this chapter:

"45. If a locality has adopted an ordinance pursuant to subsection D of § 58.1-3703, tangible personal property of a business that qualifies under such ordinance for the first two tax years in which the business is subject to tax upon its personal property pursuant to this chapter. If a locality has not adopted such ordinance, this classification shall apply to the tangible personal property for such first two tax years of a business that otherwise meets the requirements of subsection D of § 58.1-3703."

LICENSE CATEGORIES AND RATE SHEET

GROSS RECEIPT TAX RATES:

Category	Rate
Amusements	0.25%
Builders and Developers	0.10%
Business Service Occupations	0.20%
Coin Operated Amusement Machines	0.10%
Contractors	0.10%
Health Professionals	0.20%
Hotel/Motels, Motor Lodges and Rooming Houses	0.23%
Massage Therapy Locations	0.20%
Merchants Placing Vending Machines	0.10%
Money Lenders	0.16%
Personal Service Occupations	0.20%
Professional Specialized Occupations/Businesses	0.20%
Public Utilities (Except Cable TV)	0.50%
Repair Service Occupations	0.15%
Retail Merchants	0.10%
Wholesale Merchants	0.075%

FLAT TAX RATES:

Category	Rate
Alcoholic Beverages - ABC	
Retail "on" premises wine and beer license	\$ 37.50
Retail "off" premises wine and beer license	\$ 37.50
Retail "on" premises beer license	\$ 25.00
Retail "on" and "off" premises wine and beer license	\$ 75.00
Private non-profit club operating restaurant	\$350.00
Brewery License	\$500.00
Mixed Beverage Licenses (Restaurants):	
50 - 100 seats	\$200.00
101 - 150 seats	\$350.00
Over 150 seats	\$500.00
Coin Operated Amusement Machines:	
1 - 5 machines	\$100.00
6 - 9 machines	\$150.00
Over 10 machines	\$200.00
Building/Savings and Loan Associations	\$ 50.00
Cable Television Companies	\$ 25.00
Fortune Tellers	\$500.00
Home Occupation Permits	\$ 30.00
Massage Therapy Permits	\$ 25.00
Peddlers and Itinerant Vendors	\$250.00

Virginia Administrative Code

Title 23. Taxation

Agency 10. Department of Taxation

Chapter 500. Business, Professional and Occupational License Tax Regulations

23VAC10-500-40. Exemptions from the Bpol Tax.

A. Section 58.1-3703 C of the Code of Virginia prohibits local taxation of certain privileges that would otherwise be taxable. Those privileges are detailed in § 58.1-3703 C of the Code of Virginia. Localities may not impose a license tax or fee on certain persons and privileges that include, but are not limited to, the following:

1. Certain public service corporations and motor carriers, common carriers, and other carriers of passengers or property formerly certified by the Interstate Commerce Commission or presently registered for insurance purposes with the Surface Transportation Board of the United States Department of Transportation, Federal Highway Administration;
2. The privilege of selling farm or domestic products or nursery products, or the planting of nursery products, as an incident to the sale thereof, outside of the regular market houses and sheds of such county, city or town, provided such products are grown or produced by the person offering them for sale;
3. The privilege of printing or publishing any newspaper, magazine, newsletter or other publication issued daily or regularly at average intervals not exceeding three months, provided the publication's subscription sales are exempt from state sales tax, or the privilege or right of operating or conducting any radio or television broadcasting station or service;
4. Manufacturers for the privilege of manufacturing and selling goods, wares and merchandise at wholesale at the place of manufacture;
5. Persons severing minerals from the earth for the privilege of selling the severed mineral at wholesale at the place of severance, except as provided in §§ 58.1-3712 and 58.1-3713 of the Code of Virginia;
6. A wholesaler for the privilege of selling goods, wares and merchandise to other persons for resale unless such wholesaler has a definite place of business or store in such county, city or town;
7. The privilege of renting, as the owner of such property, real property (except in certain grandfathered localities) other than hotels, motels, motor lodges, auto courts, tourist courts, travel trailer parks, lodging houses, rooming houses and boardinghouses;
8. Certain transactions of an entity that is a member of an affiliated group of entities with other members of the same affiliated group (See 23VAC10-500-10 and 23VAC10-500-50);
9. Any insurance company subject to taxation under Chapter 25 (§ 58.1-2500 et seq.) of

Title 58.1 of the Code of Virginia or on any agent of such company;

10. Any bank or trust company subject to taxation under Chapter 12 (§ 58.1-1200 et seq.) of Title 58.1 of the Code of Virginia;

11. Certain nonprofit and charitable nonprofit organizations, which are defined separately in 23VAC10-500-10. As the kinds and sources of funds flowing to either nonprofit or charitable nonprofit organizations are different for purposes of the exemption from the BPOL tax;

12. Any venture capital fund or other investment fund, except commissions and fees of such funds;

13. On total assessments paid by condominium unit owners for common expenses; and

14. On or measured by receipts of a qualifying transportation facility directly or indirectly owned or title to which is held by the Commonwealth or any political subdivision thereof or by the United States as described in § 58.1-3606.1 of the Code of Virginia and developed and/or operated pursuant to a concession under the Public-Private Transportation Act of 1995 (§ 56-556 et seq. of the Code of Virginia) or similar federal law.

B. See also, e.g., §§ 58.1-3703 B, 58.1-3712 through 58.1-3713.4, 58.1-3717 through 58.1-3721, and 58.1-3724 through 58.1-3730 of the Code of Virginia, which discuss specific types of businesses that are exempt from the local license tax. See also §§ 58.1-3714, 58.1-3715, and 58.1-3716 of the Code of Virginia. Also § 58.1-3731 of the Code of Virginia discusses BPOL taxes on specific types of public service companies.

Statutory Authority

§ 58.1-3701 of the Code of Virginia.

Historical Notes

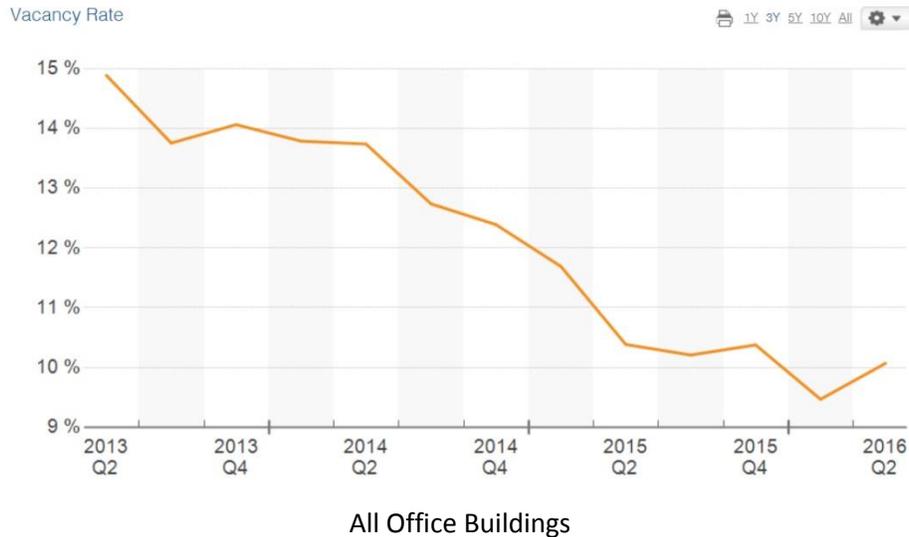
Derived from Virginia Register Volume 24, Issue 23, eff. October 6, 2008.

June 2016 Leesburg Office Market Statistics

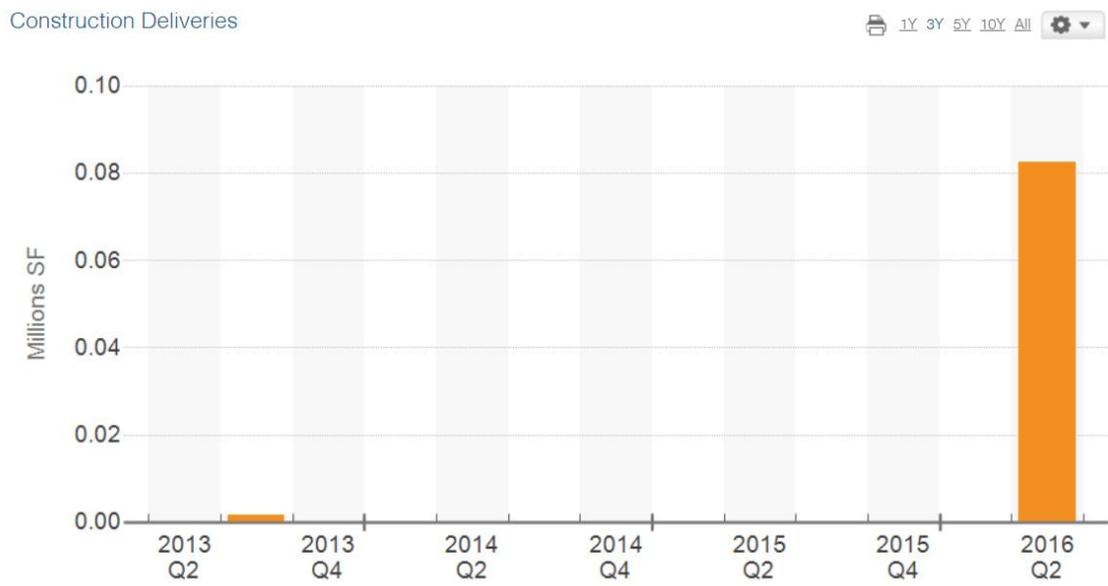
1. Current Inventory

	All Office	Class A Multi-Tenant
# of Buildings	219	9
Rentable Building Area (sq ft)	2,396,893	487,641
% Vacant	10.1%	16.6%
% Leased	91.3%	88.7%
% Available	12.3%	21.4%

2. Historic Vacancy Rates



3. New Construction Deliveries



Data from CoStar, June 20, 2016

PRESENTED June 28, 2016

RESOLUTION NO. 2016-XXX

ADOPTED June 28, 2016

A RESOLUTION: INITIATE TOWN COUNCIL TO ADOPT BY ORDINANCE A BUSINESS LICENCSE INCENTIVE PROGRAM TO EXEMPT NEW BUSINESSES FROM BUSINESS TAXES

WHEREAS, Councilman Gemmill requested Council consideration to establish a Business License Incentive Program allowing new businesses to be fully or partially exempt from Business, Professional & Occupational (BPOL) and Business Tangible Personal Property taxes for up to two years; and

WHEREAS, the General Assembly in 2011 enacted enabling legislation authorizing localities to establish by ordinance a business license incentive program that exempts businesses that locate for the first time in the locality from BPOL and business tangible personal property taxes for up to two years.

THEREFORE, RESOLVED by the Council of the Town of Leesburg in Virginia to initiate staff to conduct additional analysis and seek the advice of the Economic Development Commission (EDC) to further explore incentive programs.

PASSED this ____ day of June, 2016.

David S. Butler, Mayor
Town of Leesburg

ATTEST: _____

Clerk of Council