

INTRODUCED: January 25, 2021

AN ORDINANCE No. 2021-020

To amend City Code §§ 26-880, concerning beginner businesses, occupations or professions, and 26-891, concerning the time of assessment and payment, penalties and interest, and rates of interest for license taxes, for the purpose of establishing a due date of March 1 of each license tax year instead of January 1 of each license tax year for business license taxes.

Patron – Mayor Stoney

Approved as to form and legality
by the City Attorney

PUBLIC HEARING: FEB 22 2021 AT 6 P.M.

THE CITY OF RICHMOND HEREBY ORDAINS:

§ 1. That sections 26-880 and 26-891 of the Code of the City of Richmond (2020) be and are hereby **amended** and reordained as follows:

Sec. 26-880. Beginners.

(a) Every person beginning a business, occupation or profession that is subject to a tax equal to an entry fee and a percentage of the gross receipts of the business shall estimate the amount of the gross receipts of the business that such person will receive between the date of beginning business and the end of the then-current license tax year. The license tax on every such person beginning business shall be a sum equal to the entry fee and the percentage of that

AYES: 9 NOES: 0 ABSTAIN: _____

ADOPTED: FEB 22 2021 REJECTED: _____ STRICKEN: _____

estimate prescribed by the particular section of this article applicable to such business, occupation or profession.

(b) Every person whose business, occupation or profession is subject to a license fee or a tax equal to a percentage of the gross receipts of the business, occupation or profession and who was licensed for only a part of the next preceding license tax year shall estimate the amount of the gross receipts of the business, occupation or profession that such person will receive during the then-current license tax year, and the license tax on every such taxpayer shall be as provided in Section 26-871.

(c) Every person beginning a business, occupation or profession that is subject to a license fee or a tax equal to a percentage of a basis other than gross receipts of the business shall estimate the amount of the applicable tax base for the period between the date of beginning business and the end of the then-current license tax year, and the tax for that year shall be as provided in Section 26-871.

(d) Every person whose business, occupation or profession is subject to a license fee or a tax equal to a percentage of a basis other than the gross receipts of the business and who was assessable for only a part of the then-next-preceding license tax year shall estimate the amount of the applicable tax base for the then-current license tax year, and the license tax on every such taxpayer shall be as provided in Section 26-871.

(e) Every estimate made in accordance with Subsections (a) through (d) of this section shall be subject to correction by the Director of Finance at the close of the license tax year so that the final correct tax shall be computed upon the basis of the actual amount of the applicable tax base at the end of the license tax year.

(f) A penalty of ten percent shall be prescribed on any underestimated amount when the estimate by a taxpayer is less than 80 percent of the actual gross receipts or purchases, as applicable, for the first partial year and first complete calendar year of a taxpayer's new business. However, a taxpayer in the first or second year of business shall be entitled to adjust the amounts previously estimated for gross receipts or purchases and pay without penalty any resulting sums owed, if such payment is received no later than March 1 following the license year.

(g) A taxpayer in the first or second year of business shall adjust the amounts previously estimated for gross receipts or purchases and pay any resulting sums owed in accordance with the due date set forth in Section 26-891(a). No penalty shall be assessed on an adjustment of estimated tax liability to actual liability at the conclusion of a base year, provided the additional taxes are remitted by March 1 of the tax year immediately succeeding the tax year for which the taxes were originally estimated.

Sec. 26-891. Time of assessment and payment; penalties and interest; rates of interest.

(a) Except as otherwise provided, every license tax assessable under this article shall be assessable on the first day of the license tax year and shall be due and payable on [~~the first day~~] March 1 of the license tax year. The following penalty may be imposed upon the failure to file an application or the failure to pay the tax by the appropriate due date: ten percent of the tax, or \$10.00, whichever is greater. In no case shall the penalty exceed the amount of the tax. Only the late payment penalty shall be imposed unless the assessing official determines that the taxpayer has a history of noncompliance. If an assessment of additional tax is made by the assessing official, if the application and, if applicable, the return were made in good faith and the understatement of the tax was not due to any fraud or reckless or intentional disregard of the law by the taxpayer, there shall be no late payment penalty assessed with the additional tax. If

any assessment of tax by the assessing official is not paid within 30 days, the Treasurer or other collecting official may impose a ten percent late payment penalty. If the failure to file or pay was not the fault of the taxpayer, the penalties shall not be imposed, or if imposed, shall be abated by the official who assessed them. In order to demonstrate lack of fault, the taxpayer must show that he acted responsibly and that the failure was due to events beyond his control.

(b) Interest shall be charged on the late payment of the tax from the due date until the date paid without regard to fault or other reason for the late payment at the rate allowed by Code of Virginia, § 58.1-3916. Whenever an assessment of additional or omitted tax by the assessing official is found to be erroneous, all interest and penalty charged and collected on the amount of the assessment found to be erroneous shall be refunded, together with interest on the refund from the date of payment or the due date, whichever is later. Interest shall be paid on the refund of any tax paid under this article from the date of payment or due date, whichever is later, whether attributable to an amended return or other reason. Interest on any refund shall be paid at the same rate charged under Code of Virginia, § 58.1-3916.

(c) No interest shall accrue on an adjustment of estimated tax liability to actual liability at the conclusion of a base year, provided the additional taxes are remitted by March 1 of the tax year following the tax year for which the taxes were originally estimated.

(d) No interest shall be paid on a refund or charged on a late payment, if such adjustment occurs, provided the refund or the late payment is made not more than 30 days from the date of the payment that created the refund or the due date of the tax, whichever is later.

(e) Every person beginning business shall pay the license tax at once. If such license tax is not paid within 30 days from the beginning of business, the license tax shall be subject to

penalty and interest, as prescribed in this section, from the 31st day after the date of beginning business until the date of payment.

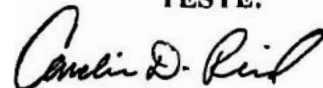
(f) If any assessment of tax by the assessing official is not paid within 30 days, the Collector may impose a ten percent late payment penalty. The penalties shall not be imposed or if imposed shall be abated by the official who assessed them, if the failure to file or pay was not the fault of the taxpayer. In order to demonstrate lack of fault, the taxpayer must show that the taxpayer acted responsibly and that the failure was due to events beyond the taxpayer's control.

(g) The Director of Finance may grant an extension of time in which to file an application for a license, for reasonable cause. The extension may be conditioned upon the timely payment of a reasonable estimate of the appropriate tax. The tax is then subject to adjustment to the correct tax at the end of the extension, together with interest from the due date until the date paid and, if the estimate submitted with the extension is found to be unreasonable under the circumstances, with a penalty of ten percent of the portion paid after the due date.

§ 2. This ordinance shall be in force and effect on upon adoption.

A TRUE COPY:

TESTE:



Carolin D. Reed
City Clerk



CITY OF RICHMOND

INTRACITY CORRESPONDENCE

O&R REQUEST

DATE: December 21, 2020 **EDITION:** 1

TO: The Honorable Members of City Council

THROUGH: The Honorable Levar M. Stoney, Mayor *[Signature]*

THROUGH: Lincoln Saunders, Acting Chief Administrative Officer *[Signature]*

FROM: John B. Wack, Director of Finance *[Signature]*

RE: Amendment to City Code regarding Due Date of Business Professional Occupational License and Adjustments

ORD. OR RES. No. _____

PURPOSE: This O&R request is for the preparation of the following ordinances:

- (1) To amend Richmond City Code section 26-891(a) to make business license taxes due and payable on March 1st of each license tax year.
- (2) To clarify Richmond City Code section 26-880 to provide a due date consistent with Richmond City Code section 26-891(a) for the payment of sums due as a result of adjustments to amounts previously estimated for gross receipts or purchases.

REASON: Richmond City Code section 26-891(a) currently provides that license taxes are due and payable on the first day of the license tax year, January 1st; however, license taxes are due and payable on March 1st of each license tax year. Richmond City Code section 26-880 does not explicitly state a due date for the payment of sums due as a result of adjustments to amounts previously estimated for gross receipts or purchases. The Department of Finance desires to bring clarity to this section by including an explicit reference to the due date provided for in Richmond City Code section 26-891(a).

RECOMMENDATION: The City Administration recommends adoption.

BACKGROUND: A license tax is levied on every person engaged in a business, profession or occupation in the City, unless otherwise exempted by law. The license tax is assessed on January 1st and due and payable on March 1st of each license tax year.

Generally, the license tax is based on gross receipts for the prior year. However, pursuant to Richmond City Code § 26-880 *et seq.*, the City requires an estimate of the gross receipts to be received for the first partial and the subsequent first full calendar year of operation. Although the first two years of operation require an estimate of the gross receipts, in reality, the tax is based on the actual gross receipts, since the tax is adjusted at the end of each tax year to reflect the actual gross receipts received for that license tax year. Payment of sums due as a result of adjustments to amounts previously estimated for gross receipts or purchases are due March 1st of the license tax year.

FISCAL IMPACT / COST: None

FISCAL IMPLICATIONS: None

BUDGET AMENDMENT NECESSARY: No

REVENUE TO CITY: No change

DESIRED EFFECTIVE DATE: Upon adoption

REQUESTED INTRODUCTION DATE: January 25, 2021

CITY COUNCIL PUBLIC HEARING DATE: February 8, 2021

REQUESTED AGENDA: Consent

RECOMMENDED COUNCIL COMMITTEE: Finance and Economic Development

CONSIDERATION BY OTHER GOVERNMENTAL ENTITIES: None

AFFECTED AGENCIES: Department of Finance

RELATIONSHIP TO EXISTING ORD. OR RES: Amendments to Richmond City Code section 26-891(a) and Richmond City Code section 26-880

REQUIRED CHANGES TO WORK PROGRAM(S): Modifies work plan within Business License & Assessment Unit within Finance

ATTACHMENTS: None

STAFF: John Wack, Director of Finance 646-5776
Valerie Weatherless, Operations Manager for Revenue & Treasury 646-5195