

**CITY OF CHARLOTTESVILLE, VIRGINIA
CITY COUNCIL AGENDA**



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| Agenda Date: | August 16, 2021 |
| Action Required: | Approval of Refund of Business License Tax Payments |
| Presenter: | Todd Divers, Commissioner of the Revenue |
| Staff Contacts: | Jason Vandever, City Treasurer Todd Divers, Commissioner of the Revenue |
| Title: | Refund of Business License Tax to NONPROFIT ENTITY |

Background:

Nonprofit Entity reported to the Commissioner of Revenue that its two locations in the City of Charlottesville are nonprofit organizations, and are, therefore, exempt from the business license tax requirements. Nonprofit Entity provided proof of its nonprofit status and has requested a refund of all business license taxes paid to the City in error.

Both locations in the City of Charlottesville are owned by the same nonprofit entity. Each location reported and paid the business license tax for the years they have been active in the City of Charlottesville. Location #1 has requested refunds for all open tax years, 2017 through 2021. Location #2 has requested refunds for 2019, 2020 and 2021. City is required to refund business license taxes paid in error with interest per Code of Virginia 58.1-3703.1 (A) (2) (e). Total refund amount is \$63,009.25.

In summary, Virginia Code 58.1-3703 (C) (18) (a) provides that no city, county, or town can levy a license tax on the gross receipts of nonprofit organizations who are described in IRS 501(C) (3). In addition, Code of Virginia 58.1-3703.1 (A) (2) (e) states: "Interest shall be paid on the refund of any BPOL tax 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 58.1-3916." Nonprofit Entity has provided Commissioner of Revenue with proof that it is such an organization. Code of Charlottesville 30-6b requires City Council approval for refunds greater than \$2,500. Refund amount is \$63,009.25.

Discussion:

§58.1-3703(C)(18) (a) provides:

No county, city, or town shall impose a license fee or levy any license tax: (a) On or measured by receipts of a nonprofit organization described in Internal Revenue Code § 501(c)(3) or 501(c)(19) ...

City Code requires Council approval for any tax refunds resulting from an erroneous assessment in excess of \$2,500 (City Code Sec. 30-6b). Payment of interest is also required in accordance with Section 14-12(g) of the Charlottesville City Code.

Per City Code Sec. 30-6(b), the Commissioner of the Revenue has provided to the City Attorney information necessary to enable her to consent to the determination of the Commissioner of the Revenue that the tax paid by the nonprofit entity was erroneous and should therefore be refunded. The refund has therefore been approved for presentment to Council by the City Attorney, Commissioner of the Revenue, and City Treasurer.

Alignment with City Council's Vision and Strategic Plan:

n/a

Budgetary Impact:

The refund will reduce current year Business License Tax revenue (GL 410150) by \$54,795.34 and Interest Revenue (GL 400120) by \$8,213.91.

Recommendation:

Approval of the tax refund.

Alternatives:

n/a

Attachments:

Interest Calculation
Council Resolution

Refund Interest Calculation - Account X

| Payment | Paid Date | Today | Months | Rate | Payment Amount | Annualized Interest | Tax Refund | Interest Refund |
|---------|-----------|-----------|--------|------|----------------|---------------------|--------------|-----------------|
| 2017 BL | 3/1/2017 | 8/16/2021 | 53 | 8% | \$ 5,364.25 | \$ 429.14 | \$ 5,364.25 | \$ 1,895.37 |
| 2018 BL | 3/1/2018 | 8/16/2021 | 41 | 8% | \$ 6,918.94 | \$ 553.52 | \$ 6,918.94 | \$ 1,891.18 |
| 2019 BL | 3/1/2019 | 8/16/2021 | 29 | 8% | \$ 7,248.01 | \$ 579.84 | \$ 7,248.01 | \$ 1,401.28 |
| 2020 BL | 3/2/2020 | 8/16/2021 | 17 | 8% | \$ 7,376.03 | \$ 590.08 | \$ 7,376.03 | \$ 835.95 |
| 2021 BL | 3/1/2021 | 8/16/2021 | 5 | 8% | \$ 6,879.29 | \$ 550.34 | \$ 6,879.29 | \$ 229.31 |
| | | | | | | | \$ 33,786.52 | \$ 6,253.09 |

Refund Interest Calculation - Account Y

| Payment | Paid Date | Today | Months | Rate | Payment Amount | Annualized Interest | Tax Refund | Interest Refund |
|---------|------------|-----------|--------|------|----------------|---------------------|--------------|-----------------|
| 2019 BL | 3/1/2019 | 8/16/2021 | 29 | 8% | \$ 5,800.00 | \$ 464.00 | \$ 5,800.00 | \$ 1,121.33 |
| 2020 BL | 10/13/2020 | 8/16/2021 | 10 | 8% | \$ 9,976.00 | \$ 798.08 | \$ 9,976.00 | \$ 665.07 |
| 2021 BL | 3/1/2021 | 8/16/2021 | 5 | 8% | \$ 5,232.82 | \$ 418.63 | \$ 5,232.82 | \$ 174.43 |
| | | | | | | | \$ 21,008.82 | \$ 1,960.83 |

RESOLUTION
AUTHORIZING REFUND TO TAXPAYING ENTITY OF BUSINESS
LICENSE TAXES PAID FOR 2017, 2018, 2019, 2020, AND 2021

WHEREAS, the Commissioner of the Revenue has determined that a local 501(c)(3) nonprofit entity was incorrectly assessed for and paid 2017, 2018, 2019, 2020, and 2021 Charlottesville business license tax on gross receipts that were exempt from local business license taxation ; and

WHEREAS, the Commissioner of the Revenue has certified that a refund of taxes paid is due in the amount of \$63,009.25; and

WHEREAS, City Code Section 30-6(b) requires City Council approval for any tax refund exceeding \$2,500.00; now, therefore,

BE IT RESOLVED by the Council for the City of Charlottesville, Virginia, that the City Council hereby authorizes the City Treasurer to issue a refund of \$63,009.25, payable to 501(c)(3) NONPROFIT ENTITY..