

**REPORT OF THE VIRGINIA
DEPARTMENT OF TAXATION**

**Work Group to Assess Potential
Alternative Methods for the
Filing and Allocation of Bank
Franchise Tax Revenues Report
(Chapter 51, 2023)**

TO THE GENERAL ASSEMBLY OF VIRGINIA



SENATE DOCUMENT NO. 4

**COMMONWEALTH OF VIRGINIA
RICHMOND
2023**



COMMONWEALTH of VIRGINIA

Department of Taxation

November 29, 2023

Members of the Virginia General Assembly
1000 Bank Street Richmond, VA 23219

Dear Members of the Virginia General Assembly

During the 2023 Session, the General Assembly enacted House Bill 1896 and Senate Bill 1182, which directed the Department of Taxation to convene and facilitate a work group to examine potential alternative methods for the filing and allocation of bank franchise tax revenues for consideration in the 2024 Session of the General Assembly. The report of the work group is enclosed.

If you have any questions or comments regarding the work of the work group or the enclosed report, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Craig M. Burns".

Craig M. Burns
Tax Commissioner

C: The Honorable Stephen E. Cummings, Secretary of Finance

Work Group to Assess Potential Alternative Methods for the Filing and Allocation of Bank Franchise Tax Revenues

Report

Department of Taxation

December 1, 2023

Table of Contents

	Page
Executive Summary	3
Background	3
July 31, 2023 Meeting	5
Written Comments	6
Impact on Department of Taxation Regarding Centralized Payment Proposal	7
Conclusions & Findings	8
Appendix A: Legislative Mandate	9
Appendix B: Agenda	10
Appendix C: Comments Received Subsequent to Meeting	11
Appendix D: Comments Received in Response to Report	20
Appendix E: Estimate of Bank Franchise Tax Redistribution	23

Executive Summary

2023 House Bill 1896 and Senate Bill 1182 (2023 *Acts of Assembly*, Chapters 50 and 51) mandate electronic filing for the Bank Franchise Tax (“BFT”), provide an elective 60-day filing extension for BFT returns and schedules, and require the Department of Taxation (“the Department”) to create a secure online portal to receive returns and other required submissions for use by commissioners of the revenue and other assessing officers. All localities imposing a local Bank Franchise Tax are also required to provide electronic processes for banks to access real estate assessments. In addition, the 2023 legislation directed the Department to convene and facilitate a work group of stakeholders to examine potential alternative methods for the filing and allocation of Bank Franchise Tax revenues for consideration in the 2024 Session of the General Assembly.

As required by the 2023 legislation, the work group is comprised of representatives from the following organizations:

- Virginia Bankers Association,
- Virginia Association of Counties,
- Virginia Municipal League,
- Commissioners of Revenue Association of Virginia, and
- Other appropriate stakeholders.

The Department contacted the stakeholder groups identified in the legislation to notify them of the work group and to request that each stakeholder group appoint a representative to participate in the work group.

The meeting of the work group was held on July 31, 2023. Following the meeting, the Department solicited written comments to be provided by September 15, 2023. All comments received from the work group are attached. This is the final report of the work group.

Background

Bank Franchise Tax in Virginia

In Virginia, banks are subject to an annual Bank Franchise Tax under *Va. Code* § 58.1-1200 *et seq.* The Bank Franchise Tax is imposed on a bank’s net capital at the rate of \$1 per \$100. Additionally, cities, towns, and counties are authorized to impose a local Bank Franchise Tax on banks under *Va. Code* §§ 58.1-1208, 58.1-1209, and 58.1-1210, respectively. The local Bank Franchise Tax is an amount equal to 80 percent of the state tax. A credit against the state tax is allowed in the amount of the local taxes imposed. Therefore, banks pay a total Bank Franchise Tax of \$1 per \$100 on their net capital, effectively split 80 percent to localities and 20 percent to the state. Banks in multiple jurisdictions divide the Bank Franchise Tax among those jurisdictions based on the percentage of the bank’s total deposits held at the branches located in each jurisdiction.

There is currently an \$18 million cap on the Bank Franchise Tax that limits the maximum amount of tax paid by one taxpayer. If at least five banks pay this maximum amount for three

consecutive calendar years, the cap would be increased to \$20 million beginning in the calendar year immediately following the third consecutive year. After two years at \$20 million, the cap would be increased by three percent annually.

Banks located in a jurisdiction that imposes a local Bank Franchise Tax must file returns in duplicate with the commissioner of the revenue for the locality in which the principal office of the bank is located by March 1. The bank is also required to file applicable schedules with the assessing officer of every city, town, and county where a branch is located. The banks have until June 1 to pay the proper tax to each locality and to the Department.

Legislative History of 2023 House Bill 1896 and Senate Bill 1182

In addition to the provisions mentioned above, the introduced versions of House Bill 1896 and Senate Bill 1182 would have required the Comptroller to establish a special nonreverting fund known as the Local Bank Franchise Tax Fund and would have required the Department to collect all Bank Franchise Taxes and to transfer 80 percent of such revenues into the fund. The introduced versions of the bills would have required the Bank Franchise Tax to be apportioned and distributed to localities based upon the latest yearly estimate of the population provided by the Weldon Cooper Center for Public Service at the University of Virginia. Please see Appendix E, which the Department has prepared to show how such an approach is estimated to impact localities compared to current law.

The introduced versions of the bills would also have allowed any bank with at least \$40 billion of deposits in Virginia based on the June 30 Federal Deposit Insurance Corporation deposit market share report of the preceding year to elect to prepare and file its Bank Franchise Tax return electronically with the Department. Each bank making the election would have been required to notify the Department and the commissioner of the revenue or comparable assessing officer of the county, city, or town where the bank filed in the immediate previous year by January 1. Electing banks would have been required to file a copy of the real estate deduction schedules with the Department as well. Any bank that elects to file electronically would have been bound by that election for at least 10 years unless granted permission to do so by the Department. Permission would have been granted if the bank acquired another bank in the preceding year or if the bank has less than \$40 million of deposits in Virginia based on the June 30 Federal Deposit Insurance Corporation deposit market share report of the preceding year.

Substitute versions of the bills were offered while in committee of their respective houses that mandated electronic filing for the BFT, provided an elective 60-day filing extension for BFT returns and schedules, and required the Department to create a secure online portal to receive returns and other required submissions for use by commissioners of the revenue and other assessing officers. This version of the legislation also required all localities imposing a local BFT to provide electronic processes for banks to access real estate assessments. The substitute versions of House Bill 1896 and Senate Bill 1182 were ultimately passed into law.

Summary of Work Group

The Department contacted the relevant stakeholder groups identified in the legislation to notify them of the work group and to request that each stakeholder group appoint a representative to participate in the work group. The legislation required the work group to be comprised of the following:

- Virginia Bankers Association,
- Virginia Association of Counties,
- Virginia Municipal League,
- Commissioners of Revenue Association of Virginia, and
- Other appropriate stakeholders.

The Department asked each stakeholder group to appoint their own representative. The appointed representatives were:

- Virginia Bankers Association (VBA) – Matt Bruning, Executive Vice President for Government and Member Relations
- Virginia Association of Counties (VACO) – Katie Boyle, Director of Government Affairs; Alex Gottschalk, Deputy County Administrator for Mecklenburg County; and Dr. Jay Brown, Deputy County Administrator for Hanover County
- Virginia Municipal League (VML) – Joe Flores, Director of Fiscal Policy
- Commissioners of Revenue Association of Virginia (CORA) – Page Johnson, Commissioner of Revenue, City of Fairfax
- Other appropriate stakeholders

July 31, 2023 Meeting

The work group meeting was held on July 31, 2023. All work group participants were in attendance. Prior to the meeting, the Department gave all the work group participants an agenda with an outline of the topics to be discussed. See Appendix B.

At the beginning of the meeting, representatives from the Department provided an overview of the legislation and the work group mandate. Following the overview, each work group participant was given an opportunity to provide input on payment and distribution proposals as well as ways to modernize and simplify the Bank Franchise Tax. One proposal that was considered is the Department using the existing deposit formula or a new formula to distribute funds. The other proposal is for the banks continue to determine how much Bank Franchise Tax revenue each locality receives but the Department would collect the Bank Franchise Tax payments and pass it on to the localities without adjustment.

The representative from the VBA indicated that there is a division among its member banks where larger banks with presence in multiple jurisdictions are generally interested in a process with one centralized submission of BFT payments to the Department. In contrast, many smaller community banks still generally prefer to hand deliver checks to their localities.

The representative from VACO stated that they believe that any change to the distribution formula would be difficult in the 2024 Session. Since there would be counties that benefit from such a change and some that would not, VACO would like assurances that any new distribution formula would be fully vetted before being implemented.

The representative from VML stated that because of the large amount of revenue at stake and the Commonwealth's "checkered past" in terms of collecting and distributing funds back to localities, they were concerned that the Commonwealth may not remain committed to do what it is required by law. VML views the distribution formula proposed in the 2023 introduced legislation, while well intentioned, as still significantly problematic to its members, and any future ideas regarding changes to the distribution formula need to be carefully considered.

The representative from CORA agreed that the process of filing and paying the BFT could be improved on. According to CORA, the BFT has always been a local tax, but they recognize that the Commonwealth also has an interest in terms of its share of the revenue. Their preference would be for the BFT revenue to continue directly from the banks to the localities and not through the Department. They are also interested in changing from the current paper forms to online/electronic forms. They believe that the majority of localities are willing and able to accept payments electronically as well.

A representative from Powell Valley National Bank was in favor of streamlining the BFT process by allowing banks to do more online. He indicated that Powell Valley National Bank still hand delivers checks to local governments, but it was willing and able to change to submitting payments electronically. However, he indicated that the bank had some concern over moving away from the current distribution formula based on deposits because of its presence in localities with smaller populations that could receive less BFT revenue under a new distribution formula.

The Department informed the participants that it would examine the costs associated with implementing and administering a state level payment option. It closed the meeting by thanking the participants and encouraging them to submit written comments for inclusion in this report. See Appendix C for these written comments.

Written Comments

In their written comments, VACO and VML stated that their organizations would not be supportive of any proposals to divert the collection of Bank Franchise Taxes from local governments to the Department, even with the promised redistribution of funding to counties, cities, and towns in Virginia. One reason for withholding support that VML cited was the amount of the Bank Franchise Tax revenue that the Department would retain to pay for its administrative costs and the fact that such costs would increase over time. VML also stated that, since the funds collected on behalf of localities become part of Virginia's General Fund, localities would be "at the mercy" of state policymakers should Virginia's revenues run short.

In its written comments, Capital One indicated that it would like to explore the possibility of making a single BFT payment to the Department. Making a payment to a single payee would be more efficient, it reasoned, especially for those banks that have branches in multiple local

jurisdictions. It recognizes that such a proposal would create some amount of burden for the Department and change the current process of collecting the tax by localities. Capital One said that it is important to consider the burdens on the Department and localities in determining if such a change would be viable.

Alternatively, Capital One would like the possibility of allowing banks to make electronic payments to localities instead of remitting a paper check to be considered. As electronic payments are much easier for banks to administer, this idea would provide at least some administrative relief to banks. According to Capital One, this approach would likely be more efficient for localities as well.

The VBA stated in its written comments that it would also like to examine the possibility of an alternative centralized filing and remittance method for the Bank Franchise Tax. The VBA believes that such a method should be voluntary, whereby the bank would elect to file and remit payment either through the existing process or directly to the Department. The VBA feels such a process would provide greater efficiency and simplification for those institutions who choose the alternative centralized method, while retaining the existing option for banks to remit directly to the localities to which they pay. They are cognizant that adding this new option could require additional steps, including notice to localities and the Department when selecting the alternative method or a requirement to elect into the alternative method for a certain timeframe.

The Department circulated the draft report to the workgroup members for review. Following the circulation of the draft report, CORA provided written comments stating general agreement with the report but would like to make it clear that they feel the Bank Franchise Tax is chiefly a local tax and should continue to be administered at the local level. They feel that additional study is needed before any changes to the allocation/reallocation method of Bank Franchise Tax revenues. CORA suggested that the application of the American National Standards Institute ("ANSI"), Federal Information Processing Series ("FIPS"), and other standardized geographic codes ("geocoding") be explored as a way to address this issue. See Appendix D.

Impact on Department of Taxation Regarding Centralized Payment Proposal

Because several workgroup members were interested in a policy proposal to centralize remittance of BFT payments, the Department analyzed the potential impact of administering this change. The Department has determined that adopting a centralized payment and distribution method for the Bank Franchise Tax based upon the population-based proposal in the introduced version of House Bill 1896 and Senate Bill 1182 would result in estimated administrative costs to the Department of \$281,535 in Fiscal Year 2025 and \$15,000 in each fiscal year thereafter. If, instead, this centralized payment and distribution method were based upon the current allocation method on Schedule H of the Bank Franchise Tax return, this would result in estimated administrative costs to the Department of \$289,445 in Fiscal Year 2025 and \$15,000 in each fiscal year thereafter. In either case, these costs would be incurred for system updates to allow the Department to accept electronic payments and properly distribute them to localities. In addition, these costs assume a January 1, 2025 effective date.

Conclusion & Findings

The work group mandated by 2023 Senate Bill 1182 and House Bill 1896 brought together different constituencies involved in the administration, collection, and remittance of the Bank Franchise Tax in Virginia. The Department is grateful to all that participated and provided input for this report. The work group identified the following areas of consensus:

1. Work group participants were generally supportive of the changes made by Senate Bill 1182 and House Bill 1896.
2. Although there was divergence on the issues of centralizing remittance of BFT payments and allocation of BFT revenues, the work group participants are generally supportive of efforts to modernize the Bank Franchise Tax.
3. Work group participants believe that a more in-depth examination of banking in Virginia is needed before significant changes are made in the allocation of BFT revenues.

APPENDIX A

CHAPTER 50

An Act to amend and reenact §§ 58.1-1206, 58.1-1207, and 58.1-1212 of the Code of Virginia, relating to bank franchise tax.

[H 1896]

Approved March 17, 2023

Be it enacted by the General Assembly of Virginia:

3. That the Department of Taxation shall convene a work group to assess potential alternative methods for the filing and allocation of bank franchise tax revenues for consideration in the 2024 Session of the General Assembly. At a minimum, the work group shall evaluate proposals to allow banks to submit their bank franchise tax payments to the Commonwealth, the formula used to redistribute funds to local governments, the impact of the new method of collecting and distributing funds on counties, cities, and towns, the timeline for implementation of any proposed changes, and the cost to the Commonwealth and local governments of implementing these changes. The work group shall include representatives from the Virginia Bankers Association, Virginia Association of Counties, Virginia Municipal League, and Commissioners of the Revenue Association of Virginia and other relevant stakeholders. The work group shall report its findings and recommendations to the General Assembly by December 1, 2023.

CHAPTER 51

An Act to amend and reenact §§ 58.1-1206, 58.1-1207, and 58.1-1212 of the Code of Virginia, relating to bank franchise tax.

[S 1182]

Approved March 17, 2023

Be it enacted by the General Assembly of Virginia:

3. That the Department of Taxation shall convene a work group to assess potential alternative methods for the filing and allocation of bank franchise tax revenues for consideration in the 2024 Session of the General Assembly. At a minimum, the work group shall evaluate proposals to allow banks to submit their bank franchise tax payments to the Commonwealth, the formula used to redistribute funds to local governments, the impact of the new method of collecting and distributing funds on counties, cities, and towns, the timeline for implementation of any proposed changes, and the cost to the Commonwealth and local governments of implementing these changes. The work group shall include representatives from the Virginia Bankers Association, Virginia Association of Counties, Virginia Municipal League, and Commissioners of the Revenue Association of Virginia and other relevant stakeholders. The work group shall report its findings and recommendations to the General Assembly by December 1, 2023.

APPENDIX B

Bank Franchise Tax Work Group
July 31, 2023 at 2 p.m.
1957 Westmoreland Street, Richmond, VA 23230

AGENDA

Introduction

- Welcome/Introductions

Legislation

- Review of House Bill 1896 and Senate Bill 1182

Statement of Purpose

- *The Department shall convene a work group to assess potential alternative methods for the filing and allocation of bank franchise tax revenues for consideration in the 2024 Session of the General Assembly.*

Overview: Work Group Road Map

- Written comments—September 15
- Draft Report—November 1
- Additional written comments—November 15
- Final Report—December 1

Open Forum: Input and Discussion

- Payment and Distribution Proposals
- Modernization and Simplification Proposals

Next Steps

- Written Comments Due by September 15, 2023
- Please send comments to James Ford at james.ford@tax.virginia.gov

Closing

- Ryan Cunningham, Virginia Department of Taxation

APPENDIX C: Comments Received Subsequent to Meeting

*Emails from work group participants not containing substantive information have been omitted

Virginia Association of Counties

Connecting County Governments since 1934



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Lancaster County

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Immediate Past President
Meg Bohmke
Stafford County

Executive Director
Dean A. Lynch, CAE

General Counsel
Phyllis A. Errico, Esq., CAE

VIA ELECTRONIC MAIL

September 11, 2023

James L.O. Ford
Policy Analyst, Policy Development Division
Department of Taxation
P.O. Box 27185
Richmond, VA 23261-7185

Dear Mr. Ford:

I write on behalf of the Virginia Association of Counties to offer preliminary comments for consideration as you and your colleagues prepare a draft report that responds to the directives in HB 1896 and SB 1182. We greatly appreciate the opportunity to participate in the workgroup convened in response to this legislation, and we look forward to further productive discussions with the Department and with industry representatives.

Filing of bank franchise tax returns: As you know, the 2023 legislation required development of a secure online portal for electronic filing, for use by Commissioners of the Revenue (or other assessing officers) to accept returns and certify and transmit returns to the Department. We believe this effort would be a worthy project for additional focused discussions among industry representatives, the Department, and local Commissioners/assessing officers so that an application can be developed that meets the needs of industry as well as local governments and the Department. If the January 1, 2025, deadline in HB 1896/SB 1182 is not feasible due to the delay in receiving the funds that were expected to be appropriated during the 2023 General Assembly to support this effort, we would be glad to work with the Department and the industry, as well as our local government partners, to request an extension to allow sufficient time to develop and launch a successful product, as well as time to educate all users of the portal to ensure a smooth transition to the electronic filing process.

Payment of bank franchise taxes: We strongly support payments continuing to be made directly to local governments, which are the primary beneficiaries of this tax.

Alternative methods of allocation of revenues: As discussed at our July meeting, development of a new methodology for allocation of bank franchise tax revenues is a much larger issue, and we would suggest that more information is needed before proceeding on a transition away from the current method of allocating revenues. Local governments need to fully understand potential consequences in order to evaluate any proposals for alternative allocation methods. Several specific areas that we believe would require further exploration include the following:

- One point that has been made in support of moving away from the current system is that with the increasing use of online banking, banks' customers are not necessarily

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using local bank branches, but the tax is still based on deposits in banks' physical locations. Are banks currently able to track depositors' locations? What happens when a depositor moves? If an account is opened or used at an out of state physical branch by a Virginian, is that account attributed to a Virginia-based location? If the tax were to move toward an allocation methodology that was based upon where customers are located, how would state/local tax administrators be able to verify such an allocation?

- Along the same lines of considering the tax in light of modern patterns of banking, should those banks that serve customers in Virginia, but have no physical presence in Virginia, be subject to bank franchise tax on those deposits that are attributable to Virginia customers?
- For any alternative allocation method, we would need to fully understand the impact on localities that would lose funding as well as those that would benefit.

We thank you and your colleagues for your consideration, and we look forward to continuing to work with the Department, the industry, and our local government partners on these important issues.

Sincerely,



Dean A. Lynch, CAE
Executive Director

cc: **Members, Virginia Association of Counties Board of Directors**
The Honorable J.B. "Jamie" Timberlake II, President, Commissioners of the Revenue Association of Virginia
The Honorable Page Johnson, Commissioner of the Revenue, City of Fairfax
The Honorable Blythe Scott, Commissioner of the Revenue, City of Norfolk
Jay Doshi, Director, Department of Tax Administration, Fairfax County
Joe Flores, Director of Fiscal Policy, Virginia Municipal League



BETTER COMMUNITIES THROUGH SOUND GOVERNMENT

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Mr. James L.O. Ford
Policy Analyst
Policy Development Division
Virginia Department of Taxation
P.O. Box 27185
Richmond, VA 23261-7185

Dear Mr. Ford,

Thank you for allowing the Virginia Municipal League (VML) to participate in the **Bank Franchise Tax Work Group** "to assess potential alternative methods for the filing and allocation of bank franchise tax revenues." The first meeting of the workgroup was informative, and VML appreciates the opportunity to offer our perspective on any proposed changes to the collection and distribution of bank franchise fee revenues.

As we stated at the initial meeting of the work group, it will be very difficult, if not impossible, for VML to support any proposals to divert the collection of bank franchise fee taxes from local governments to the Commonwealth even with the promised redistribution of funding to counties, cities, and towns in Virginia.

Localities have been down this road before, notably with the Communications Sales and Use Tax, where the state assumed responsibility for collecting local tax revenues. The state then determines how much local tax revenue it will retain to pay for its administrative costs – a cost that increases over time. Further, since the funds collected on behalf of localities become part of the state's general fund, localities are at the mercy of state policymakers should the Commonwealth's revenues run short.

When a concrete proposal is put forward modifying current practice as it relates to bank franchise fees, we will review the proposal carefully to understand the potential impact on localities. That said, it is unlikely we will be able to offer our support.

While it will be challenging for VML to support changes to the collection and distribution of bank franchise fee revenues, modernizing our current systems to allow greater access for banks is something we may be able to support. As we stated in the meeting, however, smaller localities may not have the resources to upgrade their internal systems, so any recommended improvements should be mindful of that potential constraint.

P.O. Box 12164
Richmond, VA 23241

804/649-8471
www.vml.org



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VML Voice Podcast

Finally, it is important to recognize that banking has changed considerably since the introduction of the bank franchise fee. Without question, online banking and the consolidation of banks has resulted in significant shifts in revenue collected at the local level. While we only touched on this issue at the initial meeting, it should be considered for further exploration to fully understand the banking landscape before significant changes are made.

Thank you again for the opportunity to weigh in on this issue.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "K. Joseph Flores". The signature is fluid and cursive, written over a white background.

K. Joseph Flores

CC:

Michelle Gowdy, Executive Director, VML

P.O. Box 12164
Richmond, VA 23241

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Michael F. Carchia
Sr. Director and Assoc. Tax Counsel
Global Tax

Capital One Services, LLC
1680 Capital One Drive
McLean, Virginia 22102

September 15, 2023

Mr. James Ford
Policy Analyst
Virginia Department of Taxation
P.O. Box 27185
Richmond, Virginia 23261-7185

Dear Mr. Ford,

Capital One Financial Corporation and its subsidiaries, including Capital One, N.A. (collectively, "Capital One"), are headquartered in McLean, Virginia. Capital One has more than 22,000 employees in Virginia, most located in two primary corporate campuses, one in Goochland County and the other in McLean. In addition, Capital One has 26 branches in Virginia, primarily located in the northern Virginia area.

Capital One supported the administrative changes made in House Bill 1896 and Senate Bill 1182. These changes, including the 60 day extension to file the return and the ability to file electronically, will ease the administrative burden for banks filing the Bank Franchise Tax ("BFT").

Capital One would like to explore the possibility of taking another step to further reduce the burden. Making a payment to a single payee would be much more efficient for banks, especially those that have branches in multiple local jurisdictions. Capital One currently pays the local component of the BFT via checks mailed to each locality. A single check (or electronic payment) to the Department of Taxation would be much more efficient for larger banks, and possibly more efficient for localities.

Capital One appreciates that this process would create some amount of burden on the Department of Taxation and change the current process of collecting the tax by localities. Capital One would be interested in understanding those burdens and determining if a single payee system is viable.

In the alternative, Capital One would like to investigate allowing banks to make electronic payments to localities rather than printing and mailing checks. This would at least provide some administrative relief for banks. Electronic payments are much easier for banks to administer and should be more efficient for localities as well.

Thank you for the opportunity to participate in the Work Group and to provide these comments. I look forward to working with you in the future. If you have any questions, you can contact me at 703-720-3144 or email at Michael.carchia@capitalone.com.

Sincerely,

Michael F. Carchia

Michael F. Carchia
Sr. Director and Associate Tax Counsel
Capital One

VIRGINIA BANKERS ASSOCIATION

4490 Cox Road
Glen Allen, Virginia 23060

September 15, 2023

James Ford
Senior Tax Policy Analyst
Virginia Department of Taxation
PO Box 1115
Richmond, Virginia 23218

Re: Bank Franchise Tax Work Group

Dear James:

The Virginia Bankers Association (“VBA”) represents banks of all sizes and charters and has served as the organized voice for Virginia’s \$615 billion banking industry and its 42 thousand employees since 1893. We appreciate the opportunity to participate in and comment on the Bank Franchise Tax Work Group efforts as laid out in HB 1896 and SB 1182 from the 2023 Virginia General Assembly. The VBA welcomes the Department of Taxation (Tax) convening this Work Group to examine potential alternative filing and allocation methods and modernization and simplification options.

The changes to the Virginia Bank Franchise Tax adopted in the last session represent the most significant attempt at modernizing the tax filing process in at least the last two decades. The ability for banks to file returns electronically through a secure portal, avail themselves of a 60-day filing extension and access necessary local land assessment record online will bring greater efficiency. The VBA remains supportive of the required appropriations to Tax to ensure the development of the portal and implementation of these changes.

As contemplated in the introduced version of HB 1896 and SB 1182, the VBA is interested in examining the potential for an alternative centralized filing and remittance method for the bank franchise tax. Such a method should be voluntary, whereby the bank would elect to file and remit payment either through the existing process or directly to Tax. Such a process would provide greater efficiency and simplification for those institutions who choose the alternative centralized method, while retaining the existing option for banks to remit directly to the localities to which they pay. We understand adding this new option could require additional steps, including notice to localities and Tax when selecting the alternative method or a requirement to elect into the alternative method for a certain timeframe. We believe those are acceptable trade-offs. As contemplated in the introduced version of the bills, there could be benefit from piloting this alternative option for the largest franchise tax payers. We would be interested in Tax’s assessment of how different demarcations – the introduced bill and discussed substitute contemplated certain deposit thresholds – would impact making the alternative method available.

Page 2

While the introduced versions contemplated a revised allocation method of the local portion of the tax for those electing the alternative centralized method, the VBA does not have a position on whether to alter the existing allocation and apportionment approach. We recognize that the current methodology that ties deposits to physical branch locations may be imprecise with the growth in online and mobile banking. However, it does mirror existing bank regulatory reporting requirements thereby making it a familiar calculation. While customer location allocation could be a future alternative, not all banks can accurately report that data. Additionally, it could raise issues with banks located near our state's borders regarding the interplay of neighboring states' taxation calculation methodologies. The use of population distribution for the local portion of the tax revenues contemplated in the introduced bills served as a potential proxy for a more customer-specific method, but we recognize the difficulties in utilizing that approach with respect to the current allocation to Virginia towns. We would be interested in whether Tax can solve for that challenge in the data and what impact it would have.

We will continue to determine if further potential modernization and simplification changes arise for examination by Tax and will provide comment and feedback throughout the process if and when any are identified.

Thank you for the opportunity to provide comments and participate in the ongoing efforts of the Work Group. If you have any questions, please feel free to contact me at 804-819-4704 or mbruning@vabankers.org.

Sincerely,



Matthew J Bruning
EVP, Government & Member Relations

APPENDIX D: Comments Received in Response to Draft Report

*Emails from work group participants not containing substantive information have been omitted

COMMISSIONER OF THE REVENUE ASSOCIATION

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IMMEDIATE PAST PRESIDENT

November 3, 2023

Mr. James O. Ford
Policy Analyst
Policy Development Division
Virginia Department of Taxation
P.O. Box 27185
Richmond, VA 23261-7185

Dear Mr. Ford,

On behalf of the Commissioner of the Revenue Association of Virginia, please accept these comments on the *draft* report of the Bank Franchise Tax Work Group, published on November 1, 2023.

We believe the draft report generally incorporates our issues and concerns. However, we would like to make clear that we feel the Virginia Bank Franchise Tax is chiefly a local tax and should continue to be administered at the local level. With this in mind, we fully support the transition to electronic filing and administration of this tax.

We feel that additional study is needed before any changes to the allocation/reallocation method of Bank Franchise Tax revenues are warranted. Specifically, we feel the application of the American National Standards Institute (ANSI), Federal Information Processing Series (FIPS), and/or other standardized geographic codes (i.e. geocoding) should be explored and perhaps employed to address this critical issue.

We have been honored to have been asked to participate in the Virginia Bank Franchise Tax Work Group with other valued stakeholders, and we thank you and your colleagues for your diligence and hard work on this important subject.

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Office: 540-667-1815 E-mail: ann.burkholder@winchesterva.gov
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Page 2 – Mr. James O. Ford
Virginia Department of Taxation
November 3, 2023

Please incorporate these comments into the final report of the Virginia Bank Franchise Tax Work Group.

Sincerely,

A handwritten signature in black ink, appearing to read 'W. Johnson, II', with several horizontal and vertical strokes crossing through the name.

William P. Johnson, II
Legislative Committee, Co-chair
Commissioner of the Revenue Association of Virginia

Cc: Ann T. Burkholder, President & the Executive Committee, Commissioner of the Revenue Association of Virginia

APPENDIX E: Estimates of Bank Franchise Tax Redistribution

Table 1: Summary of Estimated Impact to Localities**

Estimated Impact to the Locality	# of Cities & Counties	Revenue Impact	# with No Prior BFT
> \$400,000	10	\$8,469,810	0
\$200,000 to \$400,000	21	\$5,644,678	1
\$100,000 to \$200,000	31	\$4,378,509	8
-\$100,000 to \$100,000	55	\$1,441,042	7
-\$400,000 to -\$100,000	9	-\$1,331,157	0
<-\$400,000	7	-\$18,602,881	0
Grand Total	133	\$0	16

Table 2: Localities Estimated to Lose \$100,000 or More*

City or County	Locality Type	Towns in County
Hanover	County & Town	Ashland
Culpeper	County & Town	Culpeper Town
Roanoke City	City	
Winchester	City	
Colonial Heights	City	
Henrico	County & Town	
Fauquier	County & Town	Warrenton
Caroline	County & Town	Bowling Green
Portsmouth	City	
Fredericksburg	City	
Charlottesville	City	
Goochland	County & Town	
Fairfax City	City	
Norfolk	City	
Fairfax	County & Town	Herndon, Vienna
Richmond City	City	
Grand Total		-\$19,934,038

*Localities not reflected in Table 2 or Table 3 are estimated to have a revenue loss or gain of no more than \$100,000.

Table 3: Localities Estimated to Gain \$100,000 or More*

City or County	Locality Type	Towns In County
Prince William	County & Town	Dumfries
Loudoun	County & Town	Leesburg, Lovettsville, Middleburg, Purcellville
Chesterfield	County & Town	
Stafford	County & Town	
Hampton	City	
Frederick	County & Town	
Rockingham	County & Town	Bridgewater, Broadway, Grottoes
Augusta	County & Town	
Pittsylvania	County & Town	
Chesapeake	City	
Campbell	County & Town	Altavista, Brookneal
Henry	County & Town	
Washington	County & Town	Abingdon, Damascus
Newport News	City	
Roanoke	County & Town	Vinton
Prince George	County & Town	
Franklin	County & Town	Rocky Mount
Shenandoah	County & Town	Mount Jackson, New Market, Woodstock
Danville	City	
Isle Of Wight	County & Town	Smithfield
Botetourt	County & Town	
Louisa	County & Town	Louisa Town, Mineral
Wise	County & Town	Big Stone Gap, Coeburn, Wise Town
Bedford	County & Town	Bedford
Alexandria	City	
Powhatan	County & Town	
Tazewell	County & Town	Bluefield, Richlands
Spotsylvania	County & Town	
Dinwiddie	County & Town	
Halifax	County & Town	South Boston
Carroll	County & Town	Hillsville
Smyth	County & Town	Chilhowie, Marion, Saltville
York	County & Town	
Russell	County & Town	Lebanon
New Kent	County & Town	
Suffolk	City	
Virginia Beach	City	
Mecklenburg	County & Town	Clarksville, South Hill
Lee	County & Town	
Gloucester	County & Town	

Table 3: Localities Estimated to Gain \$100,000 or More*

City or County	Locality Type	Towns In County
Page	County & Town	
Scott	County & Town	
Amherst	County & Town	Amherst Town
Buchanan	County & Town	
Petersburg	City	
Southampton	County & Town	
Manassas Park	City	
Brunswick	County & Town	
Prince Edward	County & Town	Farmville
Nottoway	County & Town	
Hopewell	City	
Buckingham	County & Town	
Rockbridge	County & Town	
Florence	County & Town	
Alleghany	County & Town	
Pulaski	County & Town	Dublin, Pulaski Town
Grayson	County & Town	Fries
Accomack	County & Town	Chincoteague, Onley
Patrick	County & Town	Stuart
Giles	County & Town	Pearisburg
Wythe	County & Town	Wytheville
Clarke	County & Town	Berryville
Grand Total		\$18,492,997

*Localities not reflected in Table 2 or Table 3 are estimated to have a revenue loss or gain of no more than \$100,000.

** Reflects estimated impact to individual localities if Bank Franchise Tax revenues were apportioned and distributed to localities based upon the latest yearly estimate of the population provided by the Weldon Cooper Center for Public Service at the University of Virginia, as originally set forth in the introduced versions of 2023 House Bill 1896 and Senate Bill 1182.

