

EXHIBIT NO. 1

City of Alexandria, Virginia

MEMORANDUM

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3-26-02

DATE: MARCH 6, 2002

TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

FROM: PHILIP SUNDERLAND, CITY MANAGER

SUBJECT: FOLLOW-UP REPORT ON THE CITY POLICY ON PENALTIES FOR LATE FILING AND LATE PAYMENTS OF TAXES

ISSUE: Follow-up report on the City policy on penalties for late filing and late payments of taxes.

RECOMMENDATION: That City Council receive this report, as well as the attached reports on Late Filing and Late Payment Penalties on City Taxes (Attachment 1).

DISCUSSION: During the February 12, 2002, City Council Meeting, Council discussed the City's policies on penalties for late filing and late tax payments. City Council requested that this item be re-docketed after additional data were collected, and after Council members had the opportunity to raise additional questions. This report contains the new data and responds to questions raised by Councilman Speck.

The questions and answers are listed below:

Question: What is the amount generated from business personal property tax for FY 2001, excluding the amount imposed on vehicles?

Answer: During Fiscal Year 2001, the City received approximately \$14.0 million in revenue from business personal property tax excluding any personal property tax revenue from taxes on business vehicles.

Question: Please provide an estimate for the costs (personnel and non-personnel) associated with the collection of business personal property tax, with a separate estimate for the costs of the late filing process.

Answer: To collect the \$14 million in business personal property taxes, the City spends approximately \$425,000 annually, consisting of approximately \$375,000 in personnel and \$50,000 in non-personnel expenses. These collection expenses amounted to approximately 3 percent of the revenues collected. The City does not

have a separate late filing process that can be costed out. Most of the late filings are found through the delinquent tax collection process. Included in the non-personnel costs were approximately \$3,500 in postage and mailing expense for mailing delinquent tax notices to businesses and approximately \$95,000 in personnel costs associated with the time staff spent in collecting delinquent business personal property taxes.

Question: Are penalties imposed on any late filing, regardless of how late? In other words, if someone is a day late, is the penalty the same as if that person is a month late?

Answer: Yes, a penalty is imposed on any late filing, regardless of how late. The same penalty applies if a taxpayer is one day late or one month late. This is the general practice in Virginia in regard to late filing as well as late payment of local taxes. This is also the general practice on imposition of late fees in the private sector. Only interest on delinquent taxes varies as it is calculated from the due date to the date paid. Of the 967 Alexandria businesses that filed their 2001 tax return late, 236 or 24 percent filed within thirty days. It is this group of “moderately late filers” (particularly “first time” late filers) for whom reducing the 10 percent penalty for late filing seems most appropriate (see the memorandum to City Council, dated January 29, 2002, which is part of Attachment 2).

Question: Of the 881 late filing penalties that were imposed in FY 2001, how many were “repeat offenders”?

Answer: The City had 561 businesses, or 64 percent of all businesses, who filed a late business personal property return for tax year 2001 and had filed a late business personal property tax return for a previous year as well. The late payment penalty for tax year 2001 on the 561 businesses amounted to approximately \$81,000. Many of the late returns were from businesses located through our tax enforcement programs, who (when discovered or pressed by the Finance Department) filed on a catch-up basis for several delinquent years at the same time. Many are also businesses who were aware of the deadline because they had been late the prior year, but still failed to file on time even though they had experienced the 10 percent late filing penalty the year before.

Question: Please provide a calculation of what the fines would have been if the penalty was the 10 percent/\$500 maximum option.

Answer: Staff estimates that changing the penalty to 10 percent with a maximum penalty of \$500 would reduce the late filing penalty revenues by \$140,000 from the current \$250,000 to \$110,000. The \$140,000 reduction would consist of reducing revenues by \$90,000 from businesses that do file returns in the current tax year, but they are late, and reducing revenue by \$50,000 from businesses that file

returns in a subsequent tax year and from businesses that do not file a return at all and pay the statutory bill which has a 10 percent late filing penalty included in it. A penalty cap of \$500 would discriminate against small businesses with smaller tax bills, and would benefit larger businesses which have larger tax bills. Larger businesses also probably have greater staff resources to prepare and submit the filings than do smaller businesses. Also, the 10 percent filing penalty is standard in Northern Virginia and throughout most of the state.

Question: Please provide a list of the 881 fines imposed on businesses for late filing for FY 2001.

Answer: Attachment 1 is a listing of the late filing penalties imposed on businesses for late filing for FY 2001. The listing contains 967 instead of 881 because, after the original late filing listing was prepared, additional businesses filed their 2001 business personal property tax return. As indicated below, 909 of the 967 taxpayers (or 94 percent) had a penalty of between \$5 and \$500; only 58 (or 6 percent) of the late filers had penalties greater than \$500. However, \$118,018 or 74 percent of the late filing revenue was derived from those 58 late filers. The following is a summary of the late filing penalty categorized by the size of the penalty:

Size	Number	Amount
Penalty of \$5,001 or more	7	\$56,926
Penalty between \$1,001 and \$5,000	23	42,057
Penalty between \$501, and \$1,000	28	19,035
Penalty between \$20 and \$500	373	36,375
Penalty between \$5 and \$20	<u>536</u>	<u>5,998</u>
Total	967	\$160,391*

*Does not include late filing penalties for prior years paid in FY 2001, nor statutory billing of late filing penalties. If these were included, the late filing revenue received in FY 2001 would total \$250,000.

At the City Council Meeting on February 26, 2002, the issue of whether the business personal property tax is an "outdated" tax was raised. While all personal property taxes in Virginia (individual and business) have their roots (dating back to the French and Indian War) in a property-based economy, these taxes are asset/wealth based and thereby have some equitable nature in their structure. Also, personal property taxes provide a necessary diversification in the City's revenue stream and have helped the City not to rely on too few revenue sources to finance necessary government services. The diversification helps keep the City's overall tax revenue

stream stable. The business personal property tax is also a very common state and local tax revenue source across the nation.

Finally, in the January 29, 2002, memorandum to City Council, we indicated that a “reminder of the date” postcard would be sent to City businesses between the time of the mailing of the 2002 business personal property tax filing forms and the May 1 filing date. It is hoped that this new reminder card will help businesses not forget to file by the due date. City staff will also request the Chamber of Commerce and business partnerships in the City to print, e-mail or otherwise communicate tax due date information to their members. After the due date, staff can then see if these outreach efforts were successful in reducing the number of late filings.

ATTACHMENTS:

- Attachment 1: Listing of late filing penalties imposed on businesses for tax year 2001
- Attachment 2: City Council Docket Item number 14, dated February 12, 2002

STAFF:

Mark Jinks, Assistant City Manager
Daniel A. Neckel, Director of Finance
Debbie Kidd, Chief, Revenue Division

2001 Active non-statutory BPP Accounts those have Late Filing Penalty with \$5 or More
Sorted by Filing Date and Late Filing Penalty Amount

2/15/02

Account Number	Year	Tax	Late Filing Penalty	Date Filed
B07117	2001	94,164.29	9,416.43	5/2/01
N00320	2001	4,395.32	439.53	5/2/01
J00517	2001	3,075.82	307.58	5/2/01
3536001	2001	2,369.82	236.98	5/2/01
M30412	2001	1,493.31	149.33	5/2/01
R18849	2001	1,378.97	137.90	5/2/01
C26900	2001	1,174.34	117.43	5/2/01
C22604	2001	947.77	94.78	5/2/01
3382101	2001	733.88	73.39	5/2/01
P03209	2001	370.88	37.09	5/2/01
3169901	2001	296.88	29.69	5/2/01
1437001	2001	233.99	23.40	5/2/01
W23291	2001	169.81	16.98	5/2/01
D21748	2001	133.43	13.34	5/2/01
2770701	2001	119.99	12.00	5/2/01
3339401	2001	118.61	11.86	5/2/01
2758702	2001	114.38	11.44	5/2/01
M40238	2001	113.57	11.36	5/2/01
3200201	2001	108.11	10.81	5/2/01
C16940	2001	34.20	10.00	5/2/01
S06604	2001	81.65	10.00	5/2/01
3255101	2001	85.36	10.00	5/2/01
3296701	2001	16.63	10.00	5/2/01
3335501	2001	83.32	10.00	5/2/01
2072402	2001	17,368.33	1,736.83	5/3/01
T16745	2001	13,409.25	1,340.93	5/3/01
T13689	2001	864.03	86.40	5/3/01
W01388	2001	342.48	34.25	5/3/01
3249801	2001	340.53	34.05	5/3/01
3083601	2001	91.15	10.00	5/3/01
B32483	2001	17.77	10.00	5/3/01
M21923	2001	96.24	10.00	5/3/01
3103501	2001	27,468.44	2,746.84	5/4/01
3229901	2001	4,265.83	426.58	5/4/01
Y02476	2001	2,104.34	210.43	5/4/01
3019901	2001	1,699.98	170.00	5/4/01
2991701	2001	1,648.68	164.87	5/4/01
3230302	2001	1,589.49	158.95	5/4/01
T02562	2001	1,190.49	119.05	5/4/01
3214901	2001	931.95	93.20	5/4/01
S37519	2001	599.54	59.95	5/4/01
A21996	2001	596.93	59.69	5/4/01
3316901	2001	395.06	39.51	5/4/01
D12425	2001	275.45	27.55	5/4/01
1883001	2001	266.62	26.66	5/4/01
3055701	2001	171.71	17.17	5/4/01
S35521	2001	169.81	16.98	5/4/01
3014201	2001	156.99	15.70	5/4/01
3344301	2001	147.35	14.74	5/4/01
I00323	2001	127.54	12.75	5/4/01
3111701	2001	116.85	11.69	5/4/01
1203901	2001	29.88	10.00	5/4/01
3346401	2001	52.25	10.00	5/4/01

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2001 Active non-statutory BPP Accounts those have Late Filing Penalty with \$5 or More.
Sorted by Filing Date and Late Filing Penalty Amount

Account Number	Year	Tax	Late Filing Penalty	Date Filed
3347601	2001	29.45	10.00	5/4/01
3000801	2001	67.02	10.00	5/4/01
E04754	2001	28.64	10.00	5/4/01
C23854	2001	31.02	10.00	5/4/01
3347701	2001	31.73	10.00	5/4/01
U01674	2001	40.95	10.00	5/4/01
3449801	2001	17.10	10.00	5/4/01
3384601	2001	20.90	10.00	5/4/01
3225501	2001	25.65	10.00	5/4/01
3114001	2001	15.39	10.00	5/4/01
S36328	2001	39.09	10.00	5/4/01
3088701	2001	12,490.55	1,249.06	5/5/01
S11614	2001	106.88	10.69	5/5/01
K00555	2001	100,018.09	10,001.81	5/7/01
S01931	2001	52,523.32	5,252.33	5/7/01
M04432	2001	12,646.31	1,264.63	5/7/01
F18521	2001	7,663.56	766.36	5/7/01
3438301	2001	7,488.71	748.87	5/7/01
3085401	2001	6,975.42	697.54	5/7/01
3311501	2001	6,362.82	636.28	5/7/01
2564302	2001	6,246.20	624.62	5/7/01
P04779	2001	5,510.19	551.02	5/7/01
M06600	2001	5,174.84	517.48	5/7/01
3389601	2001	4,696.14	469.61	5/7/01
N07533	2001	4,526.18	452.62	5/7/01
A09358	2001	4,221.14	422.11	5/7/01
2981301	2001	4,158.53	415.85	5/7/01
S33111	2001	3,888.97	388.90	5/7/01
2255002	2001	3,444.65	344.47	5/7/01
2255004	2001	2,838.51	283.85	5/7/01
C05664	2001	2,126.86	212.69	5/7/01
2781701	2001	975.84	97.58	5/7/01
3251801	2001	939.98	94.00	5/7/01
C25897	2001	909.06	90.91	5/7/01
B25936	2001	672.17	67.22	5/7/01
3286701	2001	607.29	60.73	5/7/01
C04247	2001	572.42	57.24	5/7/01
L13549	2001	365.56	36.56	5/7/01
3441401	2001	266.00	26.60	5/7/01
3467501	2001	218.50	21.85	5/7/01
3334201	2001	196.46	19.65	5/7/01
S22564	2001	51.16	10.00	5/7/01
E08935	2001	62.08	10.00	5/7/01
M36143	2001	11.88	10.00	5/7/01
M36176	2001	10.31	10.00	5/7/01
R20483	2001	19.38	10.00	5/7/01
P05822	2001	18.62	10.00	5/7/01
S06077	2001	60.99	10.00	5/7/01
S23507	2001	15.87	10.00	5/7/01
H18883	2001	28.03	10.00	5/7/01
2773201	2001	31.02	10.00	5/7/01
S36343	2001	29.02	10.00	5/7/01
S28492	2001	6,558.37	655.84	5/8/01

2001 Active non-statutory BPP Accounts those have Late Filing Penalty with \$5 or More
Sorted by Filing Date and Late Filing Penalty Amount

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Account Number	Year	Tax	Late Filing Penalty	Date Filed
I00003	2001	6,280.31	628.03	5/8/01
J10493	2001	5,248.56	524.86	5/8/01
N02278	2001	4,260.61	426.06	5/8/01
M02934	2001	1,516.49	151.65	5/8/01
J12238	2001	754.87	75.49	5/8/01
K02433	2001	726.23	72.62	5/8/01
A21210	2001	467.83	46.78	5/8/01
2912601	2001	156.04	15.60	5/8/01
2792501	2001	41.33	10.00	5/8/01
R12873	2001	80.23	10.00	5/8/01
2773401	2001	20.14	10.00	5/8/01
O05962	2001	26.70	10.00	5/8/01
R01305	2001	28.26	10.00	5/8/01
3241401	2001	20.71	10.00	5/8/01
H16948	2001	7,104.81	710.48	5/9/01
2850301	2001	433.20	43.32	5/9/01
2786501	2001	372.64	37.26	5/9/01
3467901	2001	276.93	27.69	5/9/01
H27865	2001	256.07	25.61	5/9/01
3552501	2001	254.46	25.45	5/9/01
N06980	2001	154.23	15.42	5/9/01
J04291	2001	113.15	11.32	5/9/01
3047301	2001	56.43	10.00	5/9/01
3355001	2001	61.75	10.00	5/9/01
3214201	2001	36.58	10.00	5/9/01
3321301	2001	3,542.79	354.28	5/10/01
S29359	2001	1,219.14	121.91	5/10/01
3336201	2001	1,121.52	112.15	5/10/01
C05773	2001	314.83	31.48	5/10/01
3106501	2001	108.97	10.90	5/10/01
2855801	2001	101.94	10.19	5/10/01
E07070	2001	13.82	10.00	5/10/01
V04767	2001	104,133.83	10,413.38	5/11/01
V07667	2001	9,724.39	972.44	5/11/01
T06059	2001	4,181.76	418.18	5/11/01
P13417	2001	2,372.96	237.30	5/11/01
3634601	2001	180.36	18.04	5/11/01
3191901	2001	104.50	10.45	5/11/01
3340701	2001	23.13	10.00	5/11/01
D21015	2001	17,947.21	1,794.72	5/14/01
3290901	2001	10,501.92	1,050.19	5/14/01
3465001	2001	1,038.83	103.88	5/14/01
3161301	2001	231.47	23.15	5/14/01
U01555	2001	219.45	21.95	5/14/01
3241701	2001	166.49	16.65	5/14/01
A12225	2001	53.58	10.00	5/14/01
N05826	2001	46.08	10.00	5/14/01
3107901	2001	44.13	10.00	5/14/01
B26081	2001	36,448.03	3,644.80	5/15/01
I01333	2001	1,983.79	198.38	5/15/01
W20629	2001	1,402.39	140.24	5/15/01
3512101	2001	893.67	89.37	5/15/01
M22351	2001	608.24	60.82	5/15/01

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2001 Active non-statutory BPP Accounts those have Late Filing Penalty with \$5 or More
Sorted by Filing Date and Late Filing Penalty Amount

Account Number	Year	Tax	Late Filing Penalty	Date Filed
3432301	2001	549.72	54.97	5/15/01
2783701	2001	265.15	26.52	5/15/01
C21564	2001	227.76	22.78	5/15/01
2824401	2001	206.44	20.64	5/15/01
3512201	2001	116.76	11.68	5/15/01
W11800	2001	22.42	10.00	5/15/01
3173501	2001	46.31	10.00	5/15/01
C27463	2001	34.77	10.00	5/15/01
S35059	2001	79.66	10.00	5/15/01
3339101	2001	65.31	10.00	5/15/01
3475601	2001	63.37	10.00	5/15/01
1216802	2001	53.44	10.00	5/15/01
H28532	2001	1,269.68	126.97	5/16/01
J06197	2001	450.11	45.01	5/16/01
2275301	2001	305.14	30.51	5/16/01
R04272	2001	156.32	15.63	5/16/01
O03965	2001	101.32	10.13	5/16/01
2804501	2001	47.55	10.00	5/16/01
P11493	2001	28.50	10.00	5/16/01
2819801	2001	68.50	10.00	5/16/01
B23967	2001	90.35	10.00	5/16/01
D09812	2001	38.62	10.00	5/16/01
3130401	2001	53.20	10.00	5/16/01
J04561	2001	5,678.06	567.81	5/17/01
3270301	2001	2,452.57	245.26	5/17/01
M04671	2001	53.20	10.00	5/17/01
3328801	2001	6.79	6.79	5/17/01
A01996	2001	1,902.04	190.20	5/18/01
3159101	2001	1,327.01	132.70	5/18/01
2865601	2001	1,042.77	104.28	5/18/01
W19599	2001	1,015.46	101.55	5/18/01
L11215	2001	567.44	56.74	5/18/01
3420701	2001	562.35	56.24	5/18/01
A08120	2001	419.14	41.91	5/18/01
3066001	2001	184.68	18.47	5/18/01
3023101	2001	77.66	10.00	5/18/01
3543001	2001	78.00	10.00	5/18/01
J10096	2001	14.25	10.00	5/18/01
2788201	2001	5,441.70	544.17	5/19/01
N03284	2001	9,277.89	927.79	5/21/01
R13364	2001	2,732.11	273.21	5/21/01
3483301	2001	20.14	10.00	5/21/01
3176601	2001	67.36	10.00	5/21/01
N07578	2001	16.25	10.00	5/21/01
3557201	2001	98.80	10.00	5/21/01
2877101	2001	17.10	10.00	5/21/01
3465901	2001	1,304.21	130.42	5/22/01
3465601	2001	915.04	91.50	5/22/01
3465801	2001	264.91	26.49	5/22/01
E05821	2001	38.48	10.00	5/22/01
A11696	2001	4,005.91	400.59	5/23/01
3045401	2001	801.33	80.13	5/23/01
3137701	2001	450.02	45.00	5/23/01

2001 Active non-statutory BPP Accounts those have Late Filing Penalty with \$5 or More
Sorted by Filing Date and Late Filing Penalty Amount

2/15/02

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Account Number	Year	Tax	Late Filing Penalty	Date Filed
3393501	2001	299.63	29.96	5/23/01
3322601	2001	234.41	23.44	5/23/01
J08752	2001	127.30	12.73	5/23/01
S39193	2001	70.35	10.00	5/23/01
3378701	2001	32.02	10.00	5/23/01
1743701	2001	14.01	10.00	5/23/01
3185201	2001	3,016.82	301.68	5/24/01
M06517	2001	1,265.92	126.59	5/24/01
C29377	2001	302.86	30.29	5/24/01
A01251	2001	180.60	18.06	5/24/01
3462001	2001	7,631.40	763.14	5/25/01
S34366	2001	1,248.49	124.85	5/25/01
M26306	2001	24.18	10.00	5/26/01
M21977	2001	76.47	10.00	5/28/01
I01598	2001	23,252.58	2,325.26	5/29/01
I02928	2001	2,917.40	291.74	5/29/01
3560201	2001	272.32	27.23	5/29/01
R04271	2001	257.64	25.76	5/29/01
E05723	2001	198.93	19.89	5/29/01
M31778	2001	83.84	10.00	5/29/01
3100301	2001	296.40	29.64	5/30/01
2593201	2001	57.71	10.00	5/30/01
E00888	2001	1,462.67	146.27	5/31/01
3087001	2001	151.76	15.18	5/31/01
H24548	2001	175.04	17.50	6/1/01
S34925	2001	17.86	10.00	6/1/01
B19051	2001	59.66	10.00	6/4/01
H00608	2001	295.74	29.57	6/5/01
C16941	2001	108.49	10.85	6/5/01
3202101	2001	33.63	10.00	6/5/01
M28750	2001	91.49	10.00	6/5/01
3226501	2001	20.90	10.00	6/6/01
H22355	2001	52.87	10.00	6/6/01
3563801	2001	19.00	10.00	6/6/01
N04762	2001	556.27	55.63	6/7/01
3272501	2001	394.96	39.50	6/7/01
3574701	2001	323.14	32.31	6/7/01
1898502	2001	125.73	12.57	6/7/01
3212201	2001	27.65	10.00	6/7/01
U01802	2001	55.72	10.00	6/7/01
O06757	2001	925.30	92.53	6/8/01
3076601	2001	12.11	10.00	6/8/01
S29082	2001	116.71	11.67	6/9/01
3276101	2001	186.91	18.69	6/11/01
I02438	2001	1,464.09	146.41	6/12/01
A13975	2001	937.32	93.73	6/12/01
3278801	2001	156.75	15.68	6/12/01
3199501	2001	23.37	10.00	6/12/01
3425601	2001	2,384.93	238.49	6/13/01
3533401	2001	2,331.06	233.11	6/13/01
3573001	2001	445.74	44.57	6/13/01
3049701	2001	122.17	12.22	6/13/01
A18758	2001	24.84	10.00	6/13/01

Business Personal Property
2001 Active non-statutory BPP Accounts those have Late Filing Penalty with \$5 or More
 Sorted by Filing Date and Late Filing Penalty Amount

Account Number	Year	Tax	Late Filing Penalty	Date Filed
J12214	2001	16.77	10.00	6/13/01
3221501	2001	47.03	10.00	6/13/01
2798701	2001	79.33	10.00	6/13/01
2903501	2001	412.87	41.29	6/14/01
C06647	2001	308.47	30.85	6/14/01
3134801	2001	139.13	13.91	6/14/01
2830201	2001	56.24	10.00	6/14/01
1219002	2001	11.40	10.00	6/14/01
3567201	2001	38.00	10.00	6/14/01
3574201	2001	1,738.17	173.82	6/15/01
3032201	2001	298.02	29.80	6/15/01
3568601	2001	123.50	12.35	6/15/01
3384401	2001	111.72	11.17	6/18/01
G20718	2001	21.90	10.00	6/18/01
S33204	2001	66.60	10.00	6/18/01
M40220	2001	4,034.94	403.49	6/19/01
I01759	2001	1,839.30	183.93	6/20/01
T16741	2001	242.63	24.26	6/20/01
H27939	2001	34.01	10.00	6/20/01
3489301	2001	12,729.95	1,273.00	6/21/01
3409801	2001	1,199.99	120.00	6/21/01
S35336	2001	29.31	10.00	6/21/01
3571201	2001	55.58	10.00	6/21/01
B32872	2001	5.46	5.46	6/21/01
3443901	2001	885.88	88.59	6/22/01
R00953	2001	458.38	45.84	6/22/01
2992201	2001	362.19	36.22	6/22/01
1063301	2001	353.31	35.33	6/22/01
R15985	2001	41.18	10.00	6/22/01
3260101	2001	19.71	10.00	6/22/01
2837601	2001	11,156.09	1,115.61	6/25/01
3269201	2001	323.81	32.38	6/25/01
3002202	2001	179.55	17.96	6/25/01
3143701	2001	148.68	14.87	6/25/01
J11262	2001	104.03	10.40	6/25/01
3418601	2001	83.60	10.00	6/25/01
A00032	2001	279.11	27.91	6/26/01
C32415	2001	107.73	10.77	6/26/01
H00289	2001	156.23	15.62	6/27/01
F11108	2001	86.26	10.00	6/27/01
3211601	2001	9,285.82	928.58	6/28/01
3335901	2001	1,470.03	147.00	6/28/01
3370501	2001	520.13	52.01	6/28/01
3498001	2001	131.24	13.12	6/28/01
3415201	2001	53.34	10.00	6/28/01
E06999	2001	557.37	55.74	6/29/01
3209201	2001	162.45	16.25	6/29/01
3252701	2001	131.81	13.18	6/29/01
S20769	2001	14.25	10.00	6/29/01
3125201	2001	81.32	10.00	6/29/01
3354401	2001	397.98	39.80	7/1/01
2001101	2001	430.40	43.04	7/2/01
P16080	2001	415.48	41.55	7/2/01

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Account Number	Year	Tax	Late Filing Penalty	Date Filed
3418801	2001	271.23	27.12	7/2/01
C32440	2001	145.02	14.50	7/2/01
3113102	2001	84.17	10.00	7/2/01
F14289	2001	3,000.81	300.08	7/3/01
3331301	2001	1,175.06	117.51	7/3/01
3403801	2001	563.92	56.39	7/3/01
P20104	2001	150.72	15.07	7/3/01
B26071	2001	45.08	10.00	7/3/01
A14739	2001	345.71	34.57	7/5/01
3442501	2001	294.98	29.50	7/5/01
2818401	2001	129.44	12.94	7/5/01
K12812	2001	9.17	9.17	7/5/01
S26294	2001	1,650.63	165.06	7/6/01
3115501	2001	1,434.36	143.44	7/6/01
3574601	2001	589.24	58.92	7/6/01
R18455	2001	60.42	10.00	7/6/01
A01286	2001	80,274.67	8,027.47	7/7/01
3217402	2001	154.00	15.40	7/7/01
3485101	2001	143.02	14.30	7/7/01
3026301	2001	132.91	13.29	7/7/01
3123501	2001	31.07	10.00	7/7/01
H02851	2001	24,478.08	2,447.81	7/9/01
J03684	2001	12,318.80	1,231.88	7/9/01
N03294	2001	844.65	84.47	7/9/01
2893101	2001	268.71	26.87	7/9/01
T04174	2001	13,062.60	1,306.26	7/10/01
3049801	2001	634.93	63.49	7/10/01
1031401	2001	6.89	6.89	7/10/01
A01922	2001	336.44	33.64	7/11/01
S28435	2001	14,649.86	1,464.99	7/12/01
3196401	2001	6,855.58	685.56	7/12/01
3256901	2001	2,459.31	245.93	7/12/01
A01990	2001	1,568.59	156.86	7/12/01
3285701	2001	875.38	87.54	7/12/01
S31431	2001	380.86	38.09	7/12/01
3580601	2001	52.49	10.00	7/12/01
3127801	2001	1,159.86	115.99	7/13/01
3448101	2001	43.99	10.00	7/13/01
P15875	2001	71.35	10.00	7/13/01
3038601	2001	97.80	10.00	7/13/01
A21995	2001	43,304.28	4,330.43	7/16/01
3317101	2001	10,247.08	1,024.71	7/16/01
M28751	2001	42.51	10.00	7/16/01
H01881	2001	85.83	10.00	7/16/01
3122501	2001	9,657.23	965.72	7/17/01
3231201	2001	3,282.44	328.24	7/17/01
3144301	2001	36.34	10.00	7/17/01
3378901	2001	69,856.26	6,985.63	7/18/01
T04198	2001	5,103.83	510.38	7/18/01
C03220	2001	2,954.64	295.46	7/18/01
S02201	2001	1,860.10	186.01	7/18/01
3020301	2001	133.95	13.40	7/18/01
3081601	2001	128.25	12.83	7/18/01

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Account Number	Year	Tax	Late Filing Penalty	Date Filed
2822401	2001	109.25	10.93	7/18/01
3584201	2001	100.70	10.07	7/18/01
3089101	2001	30.78	10.00	7/18/01
3440401	2001	26.60	10.00	7/18/01
S23516	2001	9,627.87	962.79	7/19/01
W18555	2001	730.50	73.05	7/19/01
L14970	2001	536.47	53.65	7/19/01
3135301	2001	320.10	32.01	7/19/01
G10739	2001	44.94	10.00	7/19/01
3111201	2001	403.61	40.36	7/20/01
3448401	2001	175.18	17.52	7/20/01
H20889	2001	45.74	10.00	7/20/01
T00278	2001	16.63	10.00	7/20/01
E03874	2001	1,229.21	122.92	7/23/01
2998101	2001	351.79	35.18	7/23/01
3583101	2001	152.67	15.27	7/23/01
3563701	2001	1,992.10	199.21	7/24/01
3239901	2001	1,959.42	195.94	7/24/01
B26308	2001	1,073.88	107.39	7/24/01
3186301	2001	272.18	27.22	7/24/01
3356601	2001	136.99	13.70	7/24/01
N07604	2001	126.11	12.61	7/24/01
3582901	2001	44.27	10.00	7/24/01
3555101	2001	15,163.19	1,516.32	7/25/01
2988901	2001	365.13	36.51	7/25/01
P02349	2001	114.86	11.49	7/25/01
3489801	2001	1,235.00	123.50	7/26/01
3322101	2001	183.11	18.31	7/26/01
3183001	2001	14.25	10.00	7/26/01
1958701	2001	13,584.95	1,358.50	7/27/01
T15327	2001	717.54	71.75	7/27/01
D11817	2001	22.80	10.00	7/27/01
3492701	2001	37.05	10.00	7/27/01
C32471	2001	93.72	10.00	7/27/01
P01873	2001	1,919.67	191.97	7/30/01
A10099	2001	286.52	28.65	7/30/01
2907701	2001	78.38	10.00	7/30/01
3241601	2001	313.22	31.32	7/31/01
S20531	2001	209.62	20.96	7/31/01
3254301	2001	42.18	10.00	7/31/01
B11419	2001	33.54	10.00	7/31/01
C09411	2001	39.42	10.00	7/31/01
3591101	2001	435.58	43.56	8/1/01
3250701	2001	105.07	10.51	8/1/01
3336001	2001	32.25	10.00	8/1/01
3583501	2001	1,374.51	137.45	8/2/01
3586801	2001	125.02	12.50	8/2/01
3531001	2001	157.08	15.71	8/3/01
F17020	2001	70.92	10.00	8/3/01
3417401	2001	71.87	10.00	8/3/01
S05349	2001	48.40	10.00	8/4/01
2925601	2001	3,741.58	374.16	8/6/01
3596201	2001	1,960.99	196.10	8/6/01

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Account Number	Year	Tax	Late Filing Penalty	Date Filed
1491302	2001	190.00	19.00	8/6/01
3326101	2001	75.24	10.00	8/6/01
3604801	2001	1,522.14	152.21	8/7/01
1810602	2001	1,487.18	148.72	8/7/01
3305701	2001	61.09	10.00	8/7/01
2925001	2001	520.60	52.06	8/8/01
3458401	2001	237.50	23.75	8/8/01
3581801	2001	143.69	14.37	8/8/01
2802501	2001	783.85	78.39	8/9/01
P13332	2001	36.86	10.00	8/9/01
3420801	2001	1,503.37	150.34	8/10/01
3109701	2001	549.29	54.93	8/10/01
3355901	2001	504.69	50.47	8/10/01
3027701	2001	28.50	10.00	8/10/01
3497001	2001	29.93	10.00	8/11/01
3481106	2001	2,273.97	227.40	8/13/01
3044501	2001	568.77	56.88	8/13/01
3545101	2001	494.00	49.40	8/13/01
1550701	2001	379.86	37.99	8/13/01
3486701	2001	293.27	29.33	8/13/01
3394101	2001	159.27	15.93	8/13/01
3096001	2001	103.50	10.35	8/13/01
3477601	2001	25.65	10.00	8/13/01
3300801	2001	17.10	10.00	8/13/01
D18825	2001	13.54	10.00	8/13/01
F01644	2001	56.15	10.00	8/13/01
3210501	2001	43.94	10.00	8/13/01
3129601	2001	85.50	10.00	8/13/01
3495301	2001	67.26	10.00	8/13/01
3482301	2001	85.50	10.00	8/13/01
3370901	2001	22.75	10.00	8/13/01
C32454	2001	38.90	10.00	8/13/01
R15760	2001	9.50	9.50	8/13/01
2563001	2001	7.36	7.36	8/13/01
A19475	2001	5.46	5.46	8/13/01
D18342	2001	760.29	76.03	8/14/01
2021301	2001	561.12	56.11	8/14/01
D03605	2001	360.62	36.06	8/14/01
3391001	2001	204.49	20.45	8/14/01
3073601	2001	167.15	16.72	8/14/01
3230901	2001	115.00	11.50	8/14/01
3288301	2001	15.01	10.00	8/14/01
3343001	2001	24.94	10.00	8/14/01
L16438	2001	77.95	10.00	8/14/01
2876701	2001	16.06	10.00	8/14/01
G02975	2001	52.01	10.00	8/14/01
H20763	2001	48.45	10.00	8/14/01
M38457	2001	75.24	10.00	8/14/01
H00982	2001	2,136.31	213.63	8/15/01
R03940	2001	118.75	11.88	8/15/01
3327701	2001	59.85	10.00	8/15/01
K01298	2001	35.86	10.00	8/15/01
3228801	2001	79.80	10.00	8/15/01

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Account Number	Year	Tax	Late Filing Penalty	Date Filed
3161701	2001	83.03	10.00	8/15/01
3137901	2001	23.80	10.00	8/15/01
J10584	2001	54.15	10.00	8/15/01
3454901	2001	41.33	10.00	8/15/01
3492702	2001	802.75	80.28	8/16/01
H16995	2001	704.19	70.42	8/16/01
A01228	2001	338.30	33.83	8/16/01
3463201	2001	318.06	31.81	8/16/01
3186701	2001	302.53	30.25	8/16/01
B05757	2001	250.66	25.07	8/16/01
1253801	2001	228.00	22.80	8/16/01
D17830	2001	16.15	10.00	8/16/01
3145001	2001	65.41	10.00	8/16/01
H00392	2001	39.14	10.00	8/16/01
M34881	2001	14.63	10.00	8/16/01
K14707	2001	51.73	10.00	8/16/01
3593701	2001	45.03	10.00	8/16/01
3030601	2001	22.75	10.00	8/16/01
2791501	2001	62.80	10.00	8/16/01
3445301	2001	87.40	10.00	8/16/01
3441601	2001	54.06	10.00	8/16/01
3077101	2001	8.98	8.98	8/16/01
J10872	2001	1,628.97	162.90	8/17/01
3584401	2001	960.12	96.01	8/17/01
3498401	2001	570.00	57.00	8/17/01
T00986	2001	254.03	25.40	8/17/01
3443501	2001	171.91	17.19	8/17/01
E07414	2001	38.86	10.00	8/17/01
2863901	2001	85.31	10.00	8/17/01
3478701	2001	21.38	10.00	8/17/01
3401001	2001	52.20	10.00	8/17/01
R15669	2001	5.04	5.04	8/17/01
3341101	2001	55.81	10.00	8/18/01
3227802	2001	40.90	10.00	8/18/01
M40329	2001	7.13	7.13	8/18/01
3050801	2001	7,411.19	741.12	8/20/01
P14568	2001	2,420.08	242.01	8/20/01
3386501	2001	1,037.12	103.71	8/20/01
A22013	2001	678.49	67.85	8/20/01
3137401	2001	450.73	45.07	8/20/01
D16841	2001	286.43	28.64	8/20/01
H29665	2001	23.75	10.00	8/20/01
D19457	2001	59.38	10.00	8/20/01
W21141	2001	36.72	10.00	8/20/01
R16009	2001	59.09	10.00	8/20/01
N02105	2001	89.59	10.00	8/20/01
2053401	2001	244.39	24.44	8/21/01
1570502	2001	113.05	11.31	8/21/01
W18255	2001	80.28	10.00	8/21/01
N07423	2001	11.07	10.00	8/21/01
2988101	2001	25.98	10.00	8/21/01
2988102	2001	18.05	10.00	8/21/01
3416301	2001	9.03	9.03	8/21/01

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Account Number	Year	Tax	Late Filing Penalty	Date Filed
C28634	2001	629.57	62.96	8/22/01
D01556	2001	551.86	55.19	8/22/01
2882201	2001	466.78	46.68	8/22/01
H25261	2001	393.78	39.38	8/22/01
3587601	2001	334.59	33.46	8/22/01
3322901	2001	212.52	21.25	8/22/01
3508101	2001	190.86	19.09	8/22/01
N05159	2001	179.41	17.94	8/22/01
3265901	2001	17.58	10.00	8/22/01
3528001	2001	89.54	10.00	8/22/01
3038401	2001	34.20	10.00	8/22/01
2499202	2001	20.19	10.00	8/22/01
2911201	2001	1,576.19	157.62	8/23/01
3071301	2001	276.21	27.62	8/23/01
3518501	2001	19.38	10.00	8/23/01
B28824	2001	41.66	10.00	8/23/01
3466301	2001	56.81	10.00	8/23/01
3305501	2001	197.84	19.78	8/24/01
3471201	2001	174.99	17.50	8/24/01
P18934	2001	171.48	17.15	8/24/01
A13406	2001	147.73	14.77	8/24/01
3152301	2001	137.23	13.72	8/24/01
M33539	2001	53.82	10.00	8/24/01
3521101	2001	80.85	10.00	8/24/01
3472701	2001	24.70	10.00	8/24/01
3520201	2001	3,126.78	312.68	8/27/01
3033001	2001	2,350.44	235.04	8/27/01
R12849	2001	545.16	54.52	8/27/01
3042301	2001	169.62	16.96	8/27/01
Y02830	2001	128.25	12.83	8/27/01
H24454	2001	107.59	10.76	8/27/01
3329901	2001	47.50	10.00	8/27/01
3309201	2001	37.00	10.00	8/27/01
3124001	2001	46.93	10.00	8/27/01
3492901	2001	65.31	10.00	8/27/01
3387301	2001	62.32	10.00	8/27/01
S23530	2001	638.64	63.86	8/28/01
A15078	2001	392.02	39.20	8/28/01
3424501	2001	380.00	38.00	8/28/01
3387501	2001	122.55	12.26	8/28/01
3356501	2001	114.76	11.48	8/28/01
3570401	2001	57.76	10.00	8/28/01
3083001	2001	1,993.53	199.35	8/29/01
B36217	2001	1,170.69	117.07	8/29/01
3525501	2001	489.82	48.98	8/29/01
D19604	2001	13.44	10.00	8/29/01
3188401	2001	11.40	10.00	8/29/01
K10648	2001	618.78	61.88	8/30/01
3305101	2001	277.21	27.72	8/30/01
1443201	2001	249.23	24.92	8/30/01
2490101	2001	234.75	23.48	8/30/01
2858901	2001	156.99	15.70	8/30/01
3362201	2001	79.52	10.00	8/30/01

2001 Active non-statutory BPP Accounts those have Late Filing Penalty with \$5 or More
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Account Number	Year	Tax	Late Filing Penalty	Date Filed
2877401	2001	2,656.30	265.63	8/31/01
R20213	2001	796.48	79.65	8/31/01
3416102	2001	190.86	19.09	8/31/01
L11140	2001	163.50	16.35	8/31/01
T07869	2001	78.23	10.00	8/31/01
1608802	2001	29.02	10.00	8/31/01
3416101	2001	99.13	10.00	8/31/01
3170001	2001	899.18	89.92	9/4/01
3315301	2001	667.04	66.70	9/4/01
S06236	2001	550.81	55.08	9/4/01
3350401	2001	85.17	10.00	9/4/01
V04265	2001	35.01	10.00	9/4/01
1615702	2001	21,281.97	2,128.20	9/5/01
S00718	2001	1,429.42	142.94	9/5/01
2893301	2001	1,395.60	139.56	9/5/01
3511801	2001	571.28	57.13	9/5/01
E07349	2001	18.95	10.00	9/5/01
2912001	2001	71.25	10.00	9/5/01
2595302	2001	52.20	10.00	9/5/01
B36148	2001	9.64	9.64	9/5/01
3368401	2001	2,385.83	238.58	9/6/01
3311901	2001	1,490.36	149.04	9/6/01
3431701	2001	1,034.31	103.43	9/6/01
O05441	2001	445.08	44.51	9/6/01
3447801	2001	184.54	18.45	9/6/01
F13995	2001	111.58	11.16	9/6/01
3601701	2001	25.65	10.00	9/6/01
P14757	2001	93.24	10.00	9/6/01
3053701	2001	11.64	10.00	9/6/01
D13998	2001	31.40	10.00	9/6/01
G16323	2001	62.70	10.00	9/6/01
K11613	2001	9.50	9.50	9/6/01
C29117	2001	506.59	50.66	9/7/01
L00232	2001	102.93	10.29	9/7/01
D12415	2001	897.56	89.76	9/8/01
M40149	2001	454.67	45.47	9/10/01
3268801	2001	223.96	22.40	9/10/01
T16700	2001	14.16	10.00	9/10/01
3376501	2001	9.50	9.50	9/10/01
3362302	2001	227.05	22.71	9/11/01
3378001	2001	207.39	20.74	9/11/01
3323501	2001	47.07	10.00	9/11/01
3606901	2001	2,706.98	270.70	9/12/01
3030702	2001	1,257.71	125.77	9/12/01
3588001	2001	727.27	72.73	9/12/01
S31260	2001	185.01	18.50	9/12/01
2826601	2001	132.86	13.29	9/12/01
O00367	2001	511.01	51.10	9/13/01
3194701	2001	102.70	10.27	9/13/01
P20093	2001	23.75	10.00	9/13/01
J10901	2001	11.40	10.00	9/13/01
3147701	2001	26.65	10.00	9/13/01
G13312	2001	29.59	10.00	9/13/01

2001 Active non-statutory BPP Accounts those have Late Filing Penalty with \$5 or More
Sorted by Filing Date and Late Filing Penalty Amount

2/15/02

Account Number	Year	Tax	Late Filing Penalty	Date Filed
B11706	2001	617.88	61.79	9/14/01
3380201	2001	221.49	22.15	9/14/01
3095201	2001	124.26	12.43	9/14/01
3458601	2001	102.60	10.26	9/14/01
N02705	2001	49.92	10.00	9/14/01
2810101	2001	8.55	8.55	9/14/01
R13310	2001	2,003.41	200.34	9/17/01
3418701	2001	450.16	45.02	9/17/01
A22256	2001	237.50	23.75	9/17/01
B03768	2001	178.17	17.82	9/17/01
H17542	2001	144.31	14.43	9/17/01
3351401	2001	74.29	10.00	9/17/01
T14466	2001	92.10	10.00	9/17/01
1255201	2001	78.66	10.00	9/17/01
J09862	2001	44.22	10.00	9/17/01
F17017	2001	1,109.27	110.93	9/18/01
3606601	2001	271.04	27.10	9/18/01
S26245	2001	118.75	11.88	9/18/01
L12129	2001	53.11	10.00	9/18/01
S33334	2001	64.65	10.00	9/18/01
M40268	2001	5.94	5.94	9/18/01
3459401	2001	5,081.06	508.11	9/19/01
3379901	2001	407.55	40.76	9/19/01
A06781	2001	301.44	30.14	9/19/01
L12462	2001	160.60	16.06	9/19/01
2579002	2001	157.56	15.76	9/19/01
3047801	2001	75.95	10.00	9/19/01
3387701	2001	54.01	10.00	9/19/01
T01089	2001	91.91	10.00	9/19/01
3322401	2001	620.49	62.05	9/20/01
3248201	2001	237.64	23.76	9/20/01
T17787	2001	112.81	11.28	9/20/01
2820201	2001	102.13	10.21	9/20/01
G22628	2001	17.10	10.00	9/20/01
3068301	2001	13.06	10.00	9/20/01
3053201	2001	21.38	10.00	9/20/01
3503001	2001	34.96	10.00	9/20/01
G14936	2001	504.83	50.48	9/21/01
F17039	2001	173.52	17.35	9/21/01
3219602	2001	40.85	10.00	9/21/01
M37104	2001	8.12	8.12	9/21/01
S36784	2001	1,875.35	187.54	9/23/01
U00153	2001	317.58	31.76	9/24/01
3260901	2001	105.50	10.55	9/24/01
3230801	2001	104.07	10.41	9/24/01
F05822	2001	66.50	10.00	9/24/01
T02447	2001	19.00	10.00	9/24/01
3389201	2001	32.78	10.00	9/24/01
L16569	2001	1,301.93	130.19	9/25/01
3306301	2001	964.30	96.43	9/25/01
2790501	2001	179.22	17.92	9/25/01
3608401	2001	159.70	15.97	9/25/01
2483002	2001	34.34	10.00	9/25/01

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2001 Active non-statutory BPP Accounts those have Late Filing Penalty with \$5 or More
Sorted by Filing Date and Late Filing Penalty Amount

Account Number	Year	Tax	Late Filing Penalty	Date Filed
B03016	2001	995.65	99.57	9/26/01
J04546	2001	623.29	62.33	9/26/01
T07530	2001	329.37	32.94	9/26/01
A14750	2001	5,488.32	548.83	9/27/01
3478601	2001	792.82	79.28	9/27/01
3090801	2001	762.09	76.21	9/27/01
3613701	2001	665.71	66.57	9/27/01
P18743	2001	201.21	20.12	9/27/01
R08226	2001	123.55	12.36	9/27/01
3245102	2001	91.91	10.00	9/27/01
2761101	2001	34.82	10.00	9/27/01
3374402	2001	215.18	21.52	9/28/01
B24031	2001	173.09	17.31	9/28/01
3151601	2001	152.10	15.21	9/28/01
3315801	2001	52.49	10.00	9/28/01
3227701	2001	49.54	10.00	9/28/01
B31650	2001	21.61	10.00	9/28/01
T11577	2001	78.85	10.00	9/28/01
C21593	2001	75.57	10.00	9/28/01
W16417	2001	161.45	16.15	9/29/01
1674504	2001	161.45	16.15	9/29/01
B35152	2001	47.74	10.00	9/29/01
3186801	2001	1,564.65	156.47	10/1/01
O00168	2001	532.57	53.26	10/1/01
3385501	2001	401.04	40.10	10/1/01
3246701	2001	351.45	35.15	10/1/01
3414301	2001	264.48	26.45	10/1/01
3190301	2001	178.84	17.88	10/1/01
L14829	2001	172.43	17.24	10/1/01
3343501	2001	13.30	10.00	10/1/01
3606101	2001	14,647.10	1,464.71	10/2/01
S21563	2001	223.44	22.34	10/2/01
3414901	2001	181.26	18.13	10/2/01
S39196	2001	120.75	12.08	10/2/01
3254701	2001	69.49	10.00	10/2/01
3176701	2001	14.25	10.00	10/2/01
W15479	2001	28.26	10.00	10/2/01
J09950	2001	1,667.16	166.72	10/3/01
3397601	2001	125.26	12.53	10/3/01
3363301	2001	99.42	10.00	10/3/01
T15333	2001	14.73	10.00	10/3/01
3273101	2001	77.28	10.00	10/3/01
B30932	2001	34.58	10.00	10/3/01
J01107	2001	96.33	10.00	10/3/01
3352301	2001	6.60	6.60	10/3/01
J11170	2001	3,776.35	377.64	10/4/01
1605301	2001	2,801.27	280.13	10/4/01
1930302	2001	2,479.50	247.95	10/4/01
2022601	2001	1,380.59	138.06	10/4/01
C00423	2001	824.51	82.45	10/4/01
3251501	2001	726.75	72.68	10/4/01
3036601	2001	524.40	52.44	10/4/01
F13272	2001	446.12	44.61	10/4/01

2001 Active non-statutory BPP Accounts those have Late Filing Penalty with \$5 or More
Sorted by Filing Date and Late Filing Penalty Amount

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Account Number	Year	Tax	Late Filing Penalty	Date Filed
3211701	2001	358.77	35.88	10/4/01
N03128	2001	329.27	32.93	10/4/01
M26223	2001	313.50	31.35	10/4/01
3100501	2001	275.64	27.56	10/4/01
3312801	2001	262.11	26.21	10/4/01
2894801	2001	170.00	17.00	10/4/01
3244701	2001	140.84	14.08	10/4/01
3372801	2001	61.89	10.00	10/4/01
3348701	2001	74.05	10.00	10/4/01
O06309	2001	21.95	10.00	10/4/01
F11894	2001	76.57	10.00	10/4/01
3491501	2001	17.43	10.00	10/4/01
B36555	2001	87.88	10.00	10/4/01
3171301	2001	68,287.66	6,828.77	10/5/01
3343101	2001	875.33	87.53	10/5/01
N02701	2001	449.68	44.97	10/5/01
2843101	2001	403.18	40.32	10/5/01
3236801	2001	154.14	15.41	10/5/01
3400801	2001	106.26	10.63	10/5/01
S37361	2001	55.39	10.00	10/5/01
D01154	2001	40.28	10.00	10/5/01
2848201	2001	46.27	10.00	10/5/01
2829401	2001	16.34	10.00	10/5/01
C28953	2001	7.13	7.13	10/5/01
3442001	2001	5.70	5.70	10/5/01
3376101	2001	49.40	10.00	10/8/01
3085201	2001	1,842.95	184.30	10/9/01
3411701	2001	1,110.08	111.01	10/9/01
P15921	2001	975.70	97.57	10/9/01
D01455	2001	372.73	37.27	10/9/01
3105001	2001	178.17	17.82	10/9/01
N08196	2001	57.57	10.00	10/9/01
3381301	2001	33.20	10.00	10/9/01
T13777	2001	5.89	5.89	10/9/01
3173601	2001	313.45	31.35	10/11/01
3166801	2001	401.61	40.16	10/12/01
3409302	2001	138.79	13.88	10/12/01
3126401	2001	16.63	10.00	10/12/01
3231001	2001	4,459.63	445.96	10/14/01
H22284	2001	646.33	64.63	10/15/01
1235002	2001	14.25	10.00	10/15/01
3315401	2001	1,015.36	101.54	10/16/01
M29222	2001	9.79	9.79	10/16/01
3616801	2001	210.19	21.02	10/18/01
2840701	2001	13.30	10.00	10/19/01
3386301	2001	43.75	10.00	10/19/01
3618401	2001	915.71	91.57	10/22/01
3467101	2001	146.06	14.61	10/22/01
3617201	2001	17.10	10.00	10/22/01
1455801	2001	95.76	10.00	10/22/01
3187901	2001	176.70	17.67	10/23/01
3501001	2001	116.33	11.63	10/23/01
U01783	2001	32.87	10.00	10/23/01

2001 Active non-statutory BPP Accounts those have Late Filing Penalty with \$5 or More
Sorted by Filing Date and Late Filing Penalty Amount

2/15/02

Account Number	Year	Tax	Late Filing Penalty	Date Filed
U02098	2001	66.12	10.00	10/24/01
3273201	2001	51.78	10.00	10/24/01
3620001	2001	369.98	37.00	10/25/01
3502001	2001	330.65	33.07	10/25/01
3057601	2001	1,178.86	117.89	10/30/01
3288701	2001	244.53	24.45	11/1/01
P15670	2001	2,028.63	202.86	11/2/01
3034201	2001	71.44	10.00	11/2/01
3243901	2001	147.96	14.80	11/7/01
3390401	2001	36.10	10.00	11/8/01
3619701	2001	540.84	54.08	11/9/01
3027601	2001	296.12	29.61	11/14/01
2920901	2001	69.59	10.00	11/15/01
3565501	2001	5,001.09	500.11	11/16/01
3621301	2001	169.81	16.98	11/16/01
1600503	2001	31.35	10.00	11/16/01
3272301	2001	75.86	10.00	11/19/01
2877801	2001	7.55	7.55	11/19/01
3195601	2001	298.21	29.82	11/20/01
T14275	2001	43.75	10.00	11/26/01
2834301	2001	12.83	10.00	11/26/01
T16798	2001	18.05	10.00	11/26/01
C25939	2001	758.58	75.86	11/30/01
3488301	2001	282.48	28.25	11/30/01
3279601	2001	201.12	20.11	12/4/01
3012501	2001	381.28	38.13	12/5/01
3156601	2001	286.14	28.61	12/5/01
D02955	2001	60.85	10.00	12/5/01
K14239	2001	425.98	42.60	12/6/01
P18340	2001	15.20	10.00	12/6/01
P16817	2001	63.03	10.00	12/6/01
1532401	2001	220.92	22.09	12/7/01
R02355	2001	111.20	11.12	12/7/01
2987101	2001	107.54	10.75	12/7/01
W20187	2001	95.48	10.00	12/7/01
3470401	2001	22.80	10.00	12/7/01
M40225	2001	107.45	10.75	12/8/01
3264101	2001	123.64	12.36	12/10/01
3400101	2001	57.71	10.00	12/10/01
L14988	2001	933.38	93.34	12/11/01
3471701	2001	343.71	34.37	12/11/01
M31583	2001	229.62	22.96	12/11/01
J07868	2001	39.66	10.00	12/11/01
P11912	2001	80.32	10.00	12/11/01
C29107	2001	28.50	10.00	12/11/01
T11167	2001	800.47	80.05	12/12/01
3420501	2001	38.00	10.00	12/12/01
3148401	2001	313.79	31.38	12/13/01
3339701	2001	36.43	10.00	12/13/01
3418201	2001	427.07	42.71	12/14/01
C34563	2001	182.45	18.25	12/14/01
P15876	2001	129.82	12.98	12/14/01
3212701	2001	44.51	10.00	12/14/01

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2001 Active non-statutory BPP Accounts those have Late Filing Penalty with \$5 or More
Sorted by Filing Date and Late Filing Penalty Amount

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Account Number	Year	Tax	Late Filing Penalty	Date Filed
3453901	2001	89.68	10.00	12/14/01
S33351	2001	28.50	10.00	12/15/01
3414001	2001	81.70	10.00	12/17/01
3573601	2001	244.15	24.42	12/18/01
3302901	2001	55.34	10.00	12/18/01
B02193	2001	71.96	10.00	12/18/01
3425301	2001	48.45	10.00	12/19/01
1368001	2001	21.04	10.00	12/19/01
3294501	2001	72.68	10.00	12/20/01
D17777	2001	82.22	10.00	12/20/01
C28219	2001	3,747.09	374.71	12/21/01
J12786	2001	28.12	10.00	12/21/01
3485001	2001	15.20	10.00	12/21/01
3439301	2001	200.02	20.00	12/26/01
3628002	2001	326.37	32.64	12/27/01
3464601	2001	110.20	11.02	12/27/01
1476901	2001	2,994.16	299.42	12/28/01
3405101	2001	608.29	60.83	12/28/01
3488101	2001	412.30	41.23	12/28/01
3012001	2001	38.52	10.00	12/28/01
3239601	2001	216.55	21.66	12/31/01
T07534	2001	11,876.76	1,187.68	1/2/02
3411501	2001	7,268.74	726.87	1/3/02
3393901	2001	226.81	22.68	1/4/02
3639201	2001	1,293.52	129.35	1/7/02
3349001	2001	43.94	10.00	1/8/02
3280601	2001	277.54	27.75	1/9/02
3462101	2001	304.00	30.40	1/10/02
3429201	2001	201.40	20.14	1/10/02
2817401	2001	194.35	19.44	1/10/02
K14230	2001	35.24	10.00	1/10/02
3228601	2001	26.74	10.00	1/10/02
3125601	2001	51.78	10.00	1/10/02
L00428	2001	944.54	94.45	1/11/02
3120401	2001	881.41	88.14	1/11/02
3042501	2001	278.73	27.87	1/11/02
P17231	2001	251.94	25.19	1/11/02
J10205	2001	193.42	19.34	1/11/02
G01208	2001	35.67	10.00	1/11/02
H27937	2001	73.10	10.00	1/11/02
3139201	2001	147.16	14.72	1/14/02
3644401	2001	10.69	10.00	1/14/02
N00323	2001	597.46	59.75	1/15/02
3475501	2001	197.55	19.76	1/15/02
3333901	2001	105.69	10.57	1/15/02
2901801	2001	13.06	10.00	1/15/02
3497601	2001	84.31	10.00	1/15/02
B28848	2001	7.84	7.84	1/15/02
H05583	2001	1,381.82	138.18	1/16/02
3347501	2001	1,155.39	115.54	1/16/02
J07846	2001	1,005.58	100.56	1/16/02
M34739	2001	10.36	10.00	1/16/02
3204901	2001	66.41	10.00	1/16/02

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2001 Active non-statutory BPP Accounts those have Late Filing Penalty with \$5 or More
Sorted by Filing Date and Late Filing Penalty Amount

Account Number	Year	Tax	Late Filing Penalty	Date Filed
S11532	2001	19.95	10.00	1/16/02
P15895	2001	587.34	58.73	1/17/02
3422001	2001	217.79	21.78	1/17/02
3222701	2001	7.13	7.13	1/17/02
S36321	2001	1,620.75	162.08	1/18/02
1011502	2001	134.19	13.42	1/18/02
W17063	2001	130.34	13.03	1/18/02
3252901	2001	55.81	10.00	1/18/02
J09481	2001	70.78	10.00	1/18/02
R15988	2001	14.25	10.00	1/18/02
3168401	2001	1,040.01	104.00	1/22/02
U01330	2001	385.13	38.51	1/22/02
3407701	2001	266.10	26.61	1/22/02
3167701	2001	155.14	15.51	1/22/02
2741602	2001	104.98	10.50	1/22/02
J11263	2001	68.54	10.00	1/22/02
1798603	2001	24.94	10.00	1/22/02
3493101	2001	30,541.98	3,054.20	1/23/02
C25458	2001	355.30	35.53	1/23/02
3392001	2001	195.13	19.51	1/23/02
M31730	2001	52.73	10.00	1/23/02
M29283	2001	17.24	10.00	1/23/02
3427201	2001	39.90	10.00	1/23/02
P18821	2001	2,364.84	236.48	1/24/02
E07078	2001	442.61	44.26	1/24/02
D18612	2001	139.51	13.95	1/24/02
3218901	2001	21.04	10.00	1/24/02
3034601	2001	44.70	10.00	1/24/02
3312001	2001	241.30	24.13	1/25/02
C28225	2001	21.61	10.00	1/25/02
3401601	2001	24.70	10.00	1/25/02
A21204	2001	515.80	51.58	1/26/02
U01934	2001	289.18	28.92	1/28/02
K12832	2001	108.21	10.82	1/28/02
J06571	2001	5,606.76	560.68	1/29/02
K16623	2001	226.20	22.62	1/29/02
2998701	2001	194.85	19.49	1/29/02
2429202	2001	72.44	10.00	1/29/02
3151101	2001	78.38	10.00	1/29/02
3649001	2001	16.29	10.00	1/29/02
3056801	2001	9.50	9.50	1/29/02
1903001	2001	5,591.89	559.19	1/30/02
D18526	2001	16.15	10.00	1/30/02
3271001	2001	63.89	10.00	1/30/02
3489201	2001	29.59	10.00	1/30/02
2087802	2001	453.01	45.30	1/31/02
3189301	2001	336.02	33.60	1/31/02
G03954	2001	815.24	81.52	2/1/02
2990401	2001	612.70	61.27	2/1/02
3439801	2001	326.14	32.61	2/1/02
A14713	2001	284.86	28.49	2/1/02
J10506	2001	190.76	19.08	2/1/02
N09317	2001	118.23	11.82	2/1/02

2001 Active non-statutory BPP Accounts those have Late Filing Penalty with \$5 or More
Sorted by Filing Date and Late Filing Penalty Amount

2/15/02

Account Number	Year	Tax	Late Filing Penalty	Date Filed
2462802	2001	982.63	98.26	2/4/02
J10350	2001	406.55	40.66	2/4/02
2766301	2001	189.76	18.98	2/4/02
B32619	2001	130.39	13.04	2/5/02
3254201	2001	38.33	10.00	2/5/02
3652601	2001	19.00	10.00	2/5/02
3337902	2001	804.65	80.47	2/6/02
A01092	2001	381.62	38.16	2/6/02
3255901	2001	226.05	22.61	2/6/02
3456801	2001	190.00	19.00	2/7/02
3280101	2001	152.00	15.20	2/7/02
M33493	2001	84.74	10.00	2/8/02
3433301	2001	16.25	10.00	2/8/02
967		583,117.82	160,390.96	

City of Alexandria, Virginia

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2-12-02

MEMORANDUM

DATE: FEBRUARY 5, 2002

TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

FROM: PHILIP SUNDERLAND, CITY MANAGER ^{PS}

SUBJECT: CONSIDERATION OF CITY POLICY ON PENALTIES FOR LATE FILING AND LATE TAX PAYMENTS

ISSUE: City Council consideration of City Policy on Penalties for Late Filing and Late Tax Payment.

RECOMMENDATION: That City Council discuss the attached report on Late Filing and Late Payment Penalties on City Taxes.

DISCUSSION: Councilman Speck has requested that the memorandum to City Council (attached) on late filing and late payment penalties on City taxes, dated January 29, 2002, be docketed. The key issues in this memorandum are the following:

1. Under the State Code, the City has the discretion to impose late filing and late payment penalties at, or less than, 10%, but has only limited authority to waive the penalties once they are imposed.
2. For decades the City has imposed a 10% late filing penalty (or \$10, whichever is more) on all late Business Personal Property tax returns. A 10% late filing penalty is equal to that of other major jurisdictions in Virginia which have been surveyed.
3. The City imposes a 10% late payment penalty on the total tax bill whenever a vehicle personal property tax bill is paid late. In most cases, the taxpayer is responsible for paying only 30% of the original tax bill; the State pays the remaining 70% the day after the taxpayer makes his/her payment. Under the current City practice, when a taxpayer's payment is late, the taxpayer is held responsible for a 10% penalty on the total tax due, not just the portion owed by the taxpayer, which can amount to a 33% effective penalty. To staff's knowledge, the City's practice in this area is the same as in all other localities in Virginia.

Business Personal Property Taxes

Business personal property generates approximately \$14 million in General Fund revenues for the City. The following chart shows the effect of various options on the late filing penalties.

Penalty Options	Revenue Tax Year 2000	Revenue Tax Year 2001	Estimated Revenue Tax Year 2002
10% Late Filing Penalty Revenues (Current practice)	\$208,900	\$250,000	\$250,000
Cost of Options			
1. 5% Late Filing Penalty			(125,000)
2. 10% Late Filing Penalty up to \$500 Maximum			(140,000)
3. 7% Late Filing Penalty			(75,000)
4. 5% Penalty if Filing Less than 20 Days Late (and the taxpayer has not filed late in the three prior years), 10% otherwise			(50,000)

Staff does not support an across-the-board reduction in the late filing penalty but would support a differentiated penalty structure in the late filing context for “first-time, moderately late” late filing penalty (#4 above). This differentiated penalty structure, if applied to tax year 2001, would have benefitted about 200 of 881 business taxpayers who filed late returns. If the number of back years of filing compliance were reduced to two or one, then the number of beneficiaries and cost would increase to some unknown degree.

Vehicle Personal Property Taxes

The City collected over \$500,000 in penalties from individual taxpayers who did not pay the tax on their vehicle on time by applying a 10% penalty to the total tax bill. As staff puts together the FY 2003 budget, we will consider alternative late payment policies for vehicle personal property taxes to reduce what is now an effective penalty rate of 33% due to the 10% penalty applying to the total tax bill, rather than to the net amount due to the City from the taxpayer. Reducing the penalty to 10% of the taxpayer’s bill, not the total bill, would reduce City revenues by approximately \$350,000 per year. Given that the FY 2003 budget will be a very tight year, it is not likely that such a large reduction in the penalty will, at this time, be feasible.

FISCAL IMPACT: The cost of changing the late filing penalty for business personal property taxes (based on the four options listed above) would be between \$50,000 and \$125,000 per year, with the cost of reducing the vehicle personal property late payment penalty variable depending on what (if any) option is chosen. The maximum cost of reducing the vehicle personal property late payment penalty would be \$350,000 per year.

ATTACHMENT: Memorandum from D. A. Neckel dated January 29, 2002, subject: Late Filing and Late Payment Penalties on City Taxes

STAFF: Daniel A. Neckel, Director of Finance
Mark Jinks, Assistant City Manager

City of Alexandria, Virginia

MEMORANDUM

DATE: JANUARY 29, 2002

TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

THROUGH: PHILIP SUNDERLAND, CITY MANAGER *PS*

FROM: D. A. NECKEL, DIRECTOR OF FINANCE *D.A. Neckel*

SUBJECT: LATE FILING AND LATE PAYMENT PENALTIES ON CITY TAXES

Recently, either through letters or inquiries, a number of issues related to personal property late filing and late payment penalties have been raised. This memorandum addresses three topics in this area:

- I. Business Personal Property Late Filing and Late Payment Penalties;
- II. Vehicle Personal Property Penalties; and
- III. Impact of Post-September 11 Economy on Business Tax Payments.

I. Business Personal Property Late Filing and Late Payment Penalties

Over the past few months, as is typical, the City has received various requests for waiver of its 10% late filing and 10% late payment penalties assessed on business personal property taxes. The penalties are imposed when a taxpayer fails to file his or her tax return on time, or when the taxpayer fails to pay the assessed taxes on or before the payment due date. In FY 2001, the City collected \$0.4 million in late filing and late payment penalties in the business personal property area. These penalties are imposed to provide an incentive to taxpayers to file returns (which identify the business personal property used in their business) and to pay taxes on time. The tax returns, which are due on May 1, provide information that is used by the City to determine the amount of business personal property taxes that are due. Tax bills are sent to businesses in August, and tax payments are due on October 5. The imposition of late filing and late payment penalties is authorized under the State Code and is common in Virginia. A chart is attached that compares the City's policies with those of other Northern Virginia localities and major Virginia cities (Attachment 1). The chart shows the City's 10% late filing and 10% late payment penalties are equal or very similar to these jurisdictions for both business and vehicle personal property taxes.

The 10% late filing penalty for business personal property is the subject of Alexandria Toyota's letter (Attachment 2). The City has had a 10% late filing penalty in the City Code and in practice for decades. It is designed to encourage businesses to timely report their personal property to the

City so that taxes can be assessed. Even though the City mails the business personal property forms and instructions to businesses 45 to 60 days before May's due date, in FY 2001 881 City businesses filed returns late (21% of all businesses which filed personal property tax returns), and paid approximately \$250,000 in late filing penalties. All told, business personal property taxes comprise about \$14 million in annual General Fund revenues.

When the City's current business tax computer systems are fully replaced in FY 2003, we will be able to issue business personal property forms (which include prior year data on a business-by-business basis) and instructions earlier in the calendar year. This will give businesses more time to prepare their personal property returns. This spring, postcards will be issued close to the filing date by the Finance Department to see if a reminder postcard increases the percentage of businesses that file their returns by the May 1 due date.

Under the State Code, the City has the discretion to impose late filing and late payment penalties at, or less than, 10%, but has only limited authority to waive them once they have been imposed. Under Virginia Code §58.1-3516 (and City Council Resolution No. 1536), a penalty may be waived if the failure to file the return or to pay the tax (i) was not the fault of the taxpayer or (ii) was the fault of the Finance Director. Virginia Code §58.1-3516 provides in part: "Penalty and interest for failure to file a return or to pay a tax shall not be imposed [i.e., must be waived] if such failure was not the fault of the taxpayer, or was the fault of the commissioner of the revenue or the treasurer, as the case may be." Resolution No. 1536 specifies the criteria to be used in deciding if a late filing payment is "not the fault of the taxpayer":

1. A transfer of real property occurs after January 1 of the tax year and the City mails the tax bill to the property's prior owner. If the property's new owner pays the tax within two weeks of the mailing of a new tax bill to the new owner the penalty can be waived.
2. The taxpayer substantiates, with his or her own affidavit and either a supporting statement from the U.S. Postal Service or other valid evidence, that the [return or] tax payment, although postmarked subsequent to the due date, was in fact mailed on or before that date.
3. The taxpayer, or the person handling the taxpayer's financial matters, can substantiate with appropriate documentation (doctor's statement, hospital records, death certificate) that the taxpayer died in the six-month period immediately preceding the due date, or that because of medical problems, the taxpayer was incapable of making the personal property filing on the due date.

Various opinions of the Attorney General of Virginia and the City Attorney's Office conclude that the "no fault of taxpayer" and "fault of [tax official]" standards in the State Code are the only standards or circumstances in which penalties may be waived. Neither a less, nor more stringent standard may be utilized in waiving penalties. With respect to the Alexandria Toyota appeal of a

late filing penalty assessed on its business personal property tax accounts, there is no basis on which the City may waive the penalty, since the failure to timely file the return was not "not the fault of the taxpayer." In the case of Alexandria Toyota, the business personal property return was prepared by the company's accounting firm and forwarded to Alexandria Toyota for submission to the City. Unfortunately, Alexandria Toyota mistakenly believed that the accounting firm had filed the tax return when in fact it had not. When City staff contacted Alexandria Toyota in early July, the company realized the mistake and immediately forwarded the return to the City. Although the late filing was not intentional, it clearly was not "not the fault of the taxpayer."

The fact that a taxpayer has delegated the authority to another entity (such as a law or accounting firm) to complete the business personal property tax form and file it does not relieve the taxpayer of the responsibility to file the return on time; nor does it relieve the taxpayer of the liability for a penalty if his or her "delegatee" has filed the return late. In other words, a taxpayer may not satisfy the "not the fault of the taxpayer" standard by delegating the filing requirement to another person.

Most late business personal property tax filings are usually the result of forgetfulness or miscommunication on the part of the taxpayer or taxpayer agent. It should be noted, however, that intentional non-filings also occur, as taxpayers hope the City will not discover that they failed to file their personal property tax return, enabling them to avoid paying local business personal property taxes.

While the City does not have the authority to extend the circumstances in which penalties may be waived, it does have the authority to define the amount of the penalty (i.e., anywhere between 0 and 10%), and the circumstances in which a penalty may be imposed in the first place. Thus, for instance, in the late filing context, the City could impose an across-the-board penalty of less than 10% (e.g., 5%, or a set amount (e.g., \$500), or the greater of 5% or a set amount). Alternatively, for example, the City could impose a less-than-10% penalty in certain defined circumstances (e.g., a 5% penalty where the filing is less than 20 calendar days late and the taxpayer has never previously filed late). While staff does not support an across-the-board reduction in the late filing penalty, we would support the establishment of a differentiated penalty scheme in the late filing context, which reduces (from 10%) the penalty for "first-time, moderately late" late-filing businesses. If City Council were interested in prospectively changing City policy regarding late business property filings, it would need to amend the City Code and Resolution No. 1536 to accomplish the change.

Staff does not, however, believe it advisable to revisit, let alone revise, the rules regarding the late payment of business personal property (or other) taxes. As noted, under the current rules, any late payment of taxes gives rise to a penalty of 10%, unless the late payment is (i) "not the fault of the taxpayer" or (ii) is the fault of City tax officials, in which case the penalty must be waived. These rules provide a significant deterrent to the late payment of taxes -- a matter of considerable fiscal interest to the City -- and should not, in our view, be revised.

II. Vehicle Personal Property Penalties

A number of taxpayer complaints this past fall centered on the 10% late payment penalty for vehicle personal property taxes. The way the late payment penalty has been historically handled in localities across the State (including Alexandria) is that the 10% late payment penalty is applied to the entire vehicle personal property tax bill. However, with car tax relief, the taxpayer is no longer paying 100% of the tax bill, but only 30% (unless the vehicle is assessed for more than \$20,000). As a result, a penalty of 10% on the entire tax bill amounts to a 33% penalty on the taxpayer's own tax bill. For instance:

	<u>Pre-tax Relief</u>		<u>Post-tax Relief</u>
Tax bill	\$500	Tax bill	\$500
		Less State relief	<u>- 350</u>
		Net tax bill	\$150
10% Penalty	\$50	10% Penalty	\$ 50 (10% x \$500)
Effective penalty rate =	10%	Effective penalty rate =	33%

While it was recognized when the car tax relief law was passed that the "effective" late payment rates would rise, the State would not share in the fiscal cost of any penalty reduction related to its percentage share of the car tax. Local governments did not want to lose revenue due to car tax relief, and therefore the 10% penalty continued to be assessed against the total car tax bill. From a fairness point of view, there is a reasonable argument that this way of calculating the late payment penalty should be changed. With the City collecting over \$0.5 million in FY 2001 from late payment penalties, reducing the effective penalty rate would come at some fiscal cost to the City. As staff puts together the FY 2003 budget, we will consider alternative late payment policies for vehicle personal property taxes to reduce what is now an effective penalty rate of 33%.

III. Impact of Post-September 11 Economy on Business Tax Payments

During the October 23 City Council meeting, Councilwoman Pepper requested that staff monitor business tax payments and consider the possibility of waiving the late payment penalty on the personal property taxes for those companies who were affected by the economic downturn that has followed the events of September 11 and the subsequent Anthrax events in the District and elsewhere. Over the last few months, while it is clear that nearly all businesses were negatively impacted in some way, it appears that the impact was not so substantial as to create significant tax payment hardships for most businesses. To date, Finance Department staff have not noticed any major increases in late business tax payments (payments were due October 5, 2001), and have received only a few requests for waiving late tax payment penalties. Only in one case was the late payment waiver request granted, and that was in a situation where the taxpayer's business records were located in a damaged building near the World Trade Center site and were inaccessible. That circumstance met the definition of "no fault of the taxpayer" and therefore a payment penalty waiver could be granted. Arlington and Fairfax Counties have also noted few additional business tax payment hardships over the last three months.

In discussing with the U.S. Small Business Administration loan officers how small businesses react to a sudden, unexpected economic hardship, the loan officers indicated that they have seen when an economic disaster occurs that it takes some time for businesses to get to the point that tax and loan defaults begin to occur. Businesses which are profitable have some margin, cash flow and variable expenses to work with before the situation becomes extreme. Also, business owners are generally optimists who believe their business revenues will rebound. As evidence of this business thinking, very few City businesses have taken advantage of the SBA low-interest long-term loans that were made available in the Northern Virginia region after September 11. However, businesses can apply for loans until June of 2002, making this source available for businesses who may find their businesses in need of cash in the upcoming months.

In addition, as reported in the Monthly Financial Reports, while business revenues are down or flat for many consumer-oriented businesses (retail, business service, restaurants, hotels), the revenue drops by business class (except for hotels) are generally not double digit; nor are they as high as feared in early October.

While it remains to be seen how deep the economic downturn is and how long it lasts, at this time a retrospective changing of the October 5, 2001, business property tax payment due date does not appear to be warranted.

If anyone would like the subject of tax penalties, or one of the suggestions mentioned in Section I above, docketed for a Council meeting, please let me or Michele Evans know.

Attachments: 1. Comparison of Penalty & Interest Charges
2. Correspondence (November 21, 2001) from Alexandria Toyota

cc: Michele Evans, Assistant City Manager
Mark Jinks, Assistant City Manager
Steve Rosenberg, Assistant City Attorney
Daniel Neckel, Director of Finance
Debbie Kidd, Division Chief, Revenue Administration



3750 Jefferson Davis Highway • Alexandria, Virginia 22305 • 703/684-0700

Mr. Kerry J. Donley
 Mayor
 City of Alexandria
 Room 2300, City Hall
 301 King St.
 Alexandria, Va. 22314

November 21, 2001

Dear Kerry,



Alexandria Toyota was supposed to provide a list of its personal property to the City of Alexandria by May 1. Since 1973, my company has successfully provided the city with this list. My controller has always done this list. Because of our new building she felt that this year we should have our accountant do the list, because we had so much new personal property.

In June, we received a call from the City saying that they thought that they had misplaced the list. We called our accountant to make sure that he had sent it. At that moment we realized that he had sent the list to us, thinking that we would send it to the city and we of course thought he had sent it to the city. As soon as we realized this, we immediately sent the list to the city. My Controller tells me that our failure to get the list in by May 1, did not delay the work of the department of finance.

Subsequent to this, we were notified by the City that a 10 percent penalty would be assessed, because we did not get the list in on time. That penalty was approximately \$8700.00 because our tax bill was \$87,000. I was incensed. The tax was not due until October and was paid in September.

I wrote several e-mails to the City Manager expressing my dismay. I believed that the City Manager has discretion on matters such as this. After all, the tax was paid on time. The City Manager believes the law is the law. I was extremely disappointed by his response given the record of my company on how it has paid its taxes to the City since 1973. The City Manager did say that I could appeal this matter to the Director of Finance. I pointed out to the City Manager that this would require me to hire a lawyer, which would cost more money. In my opinion this comment was met with indifference.

I hired Mary Catherine Gibbs, of Hart, Calley, Gibbs & Karp to write a letter to the Director of Finance. Her letter explained why she felt he had discretion in this matter. A copy of that letter is enclosed along with the Director's response. The Director of Finance denied our request citing Virginia Code, Section 58.1-3916 which states:

If the treasurer determines from all the facts and circumstances that the taxpayer (1) did not fail purposely in his duty to report and pay the taxes due OR (2) did not engage in conduct that materially contributed to the failure to file and pay tax when due, then the treasurer must waive the penalty.

Our position is that the penalty can be waived if we comply with either 1 or 2. For some reason the director of finance believes the word 'or' doesn't mean 'or', it means 'and'. We obviously have a different position.

Mr. Neckels, in his denial, said, "I find that as a matter of fact Jack Taylor's Alexandria Toyota, did engage in conduct that materially contributed to the late filing of its 2001 business tangible personal property tax return when it arranged for the preparation of the tax return, but did not ensure that the return, once completed, was timely filed with the City." For Mr. Neckel to suggest that Alexandria Toyota was engaged in conduct that materially contributed to the late filing was wrong. We hired a professional firm to prepare the list and send it to the City. We thought that happened. When we found out that it did not happen, we immediately corrected the situation. In my opinion, the only conduct that Alexandria Toyota engaged in was to fix a mistake as soon as a mistake was found. For the City to suggest that Alexandria Toyota was inefficient is preposterous.

Up to this point I have put a lot of my time and some money into this matter. This is something that could have been resolved very quickly with a common sense approach. That has not happened. I think it's interesting that when the city called us and told us that we were missing the list, we got it to them immediately. When I hire a lawyer to send a letter to the director of finance it takes them almost 30 days to respond. I believe that this is one more example of how the city couldn't care less about their businesses.

If the city does not change their position, I intend to appeal this to the Circuit Court. Of course this will take lots of time and lots of money. I believe that there is a much more productive use of my time and resources and have proven that over the years. I am now rethinking that position. It has become apparent to me that my time and resources are going to have to be used to fight the City.

Sincerely,


Jack Taylor
President

cc: William Cleveland
Claire Eberwein
William Euille
Del Pepper
David Speck

HART, CALLEY, GIBBS & KARP, P.C.

ATTORNEYS AND COUNSELLORS AT LAW

307 NORTH WASHINGTON STREET
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ERRY F. HART
RY CATHERINE H. GIBBS
BERT L. KARP

OF COUNSEL
CYRIL D. CALLEY
ROBERT L. MURPHY

October 15, 2001

Ms. Debbie Kidd, Chief
Revenue Division
Department of Finance
City of Alexandria
P.O. Box 178
Alexandria, Virginia 22313

Re: Jack Taylor's Alexandria Toyota
Penalty for late filing of Tangible Personal Property Schedule

Dear Ms. Kidd:

This letter is written to request that you reconsider the 10% penalty imposed upon Jack Taylor's Alexandria Toyota ("Alexandria Toyota") for the late filing of the business's 2001 tangible personal property schedule. As you may be aware, Alexandria Toyota missed the May 1 filing deadline for the schedule of tangible personal property owned by the company because of a mis-communication between it and its accounting firm at Holmes Lowery. When the accounting firm prepared the schedule and sent it to Alexandria Toyota in April 2001, the Controller of Alexandria Toyota, Ms. Adriana Figueras, mistakenly thought that the accountant filed the schedule with your office. When informed in the middle of June of 2001 by Ms. Sharon Richter that she could not find Alexandria Toyota's schedule, she immediately forwarded the schedule to your office. Since that time, Alexandria Toyota paid its tangible personal property taxes prior to the October 5, 2001 due date, so the City is not without any of those funds. Based upon the honest mistake of Ms. Figueras, however, the City has assessed a 10% penalty on Alexandria Toyota for the late filing.

After Ms. Figueras wrote to you on August 16, 2001, you informed her on August 23, 2001 that you could not waive the penalty based upon the Virginia and the City of Alexandria Code. I am writing to request that you reconsider that ruling. Pursuant to Virginia Code § 58.1-3916, "penalty and interest for failure to file a return or to pay a tax shall not be imposed if such failure was not the fault of the taxpayer. . . ." Whether the failure to pay is the fault of the taxpayer is a question of fact to be determined by the local treasurer. However, on several occasions, the Virginia Attorney General looked at this issue of "fault" and has concluded that if the taxpayer "(1) did not fail purposefully in his duty to report and pay the taxes due, or (2) did not engage in conduct that materially contributed to the failure to report or pay the taxes when

Ms. Debbie Kidd
October 15, 2001
Page 2

due, then the treasurer must waive the penalty." See 1991 Va. AG 277, 277; 86-87 Va. AG 321, 322; and 83-84 Va. AG 387.

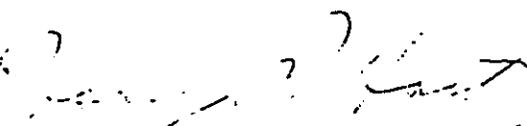
In this case, Alexandria Toyota did not "purposefully" fail in its duty to report its tangible personal property when due. An honest mistake was made by Alexandria Toyota so that it is impossible for Alexandria Toyota to have purposefully failed in its duty to report to the City. As such, the failure to file the report by the May 1 deadline should not be considered the fault of Alexandria Toyota, and consequently, the City should waive the late filing penalty.

In addition, I believe you could also waive this penalty through granting Alexandria Toyota an extension of time in which to file their return/schedule. Virginia Code § 58.1-3916 further provides that, "[t]he governing body may further provide by resolution for reasonable extensions of time, not to exceed ninety days, . . . for filing returns on tangible personal property . . . whenever good cause exists." (Emphasis added). Since the City could provide extensions of time up to ninety days to file returns of tangible personal property for good cause, the City could consider the waiver of this penalty as a grant of an extension in which to file the schedule.

Clearly, good cause exists to grant an extension. This was simply an honest miscommunication between Alexandria Toyota and its accountant. Upon being informed of their mistake, Alexandria Toyota immediately rectified the situation within ninety days of the May 1 deadline and it paid the taxes prior to the due date, so there is no monetary loss to the City which the payment of a penalty might correct.

Please reconsider your decision and waive the imposition of the 10% penalty as Alexandria Toyota did not purposefully fail in its duty to report its tangible personal property or simply grant Alexandria Toyota an extension of time in which to file its schedule of tangible personal property by waiving the 10% penalty imposed. In addition, if such consideration is denied, please inform Alexandria Toyota of its right to appeal in this regard. Thank you in advance for your consideration.

Very truly yours,


Harry P. Hart

cc: Mr. Jack Taylor



DEPARTMENT OF FINANCE

P. O. Box 178 - City Hall
Alexandria, Virginia 22313

Phone (703) 838-4755

alexandria.va.us

November 8, 2001

Mr. Harry P. Hart, Attorney at Law
Hart, Calley, Gibbs & Karp, P.C.
397 North Washington Street
Alexandria, Virginia 22314-2557

Dear Mr. Hart:

Re: Jack Taylor's Alexandria Toyota
Penalty for Late Filing of Business Tangible Personal Property Tax Return

Your letter of October 15, 2001, to Debbie Kidd, concerning the late filing penalty attached to the 2001 business tangible personal property tax account for Jack Taylor's Alexandria Toyota, has been forwarded to me for response. I am treating your letter as an appeal of the assessment of the late filing penalty on the account under Virginia Code §58.1-3980.

Thank you for taking the time to carefully research and present your case. Unfortunately, I must deny your request to waive the late filing penalty on the tax account.

City records show that the 2001 business tangible personal property tax return was mailed to Jack Taylor's Alexandria Toyota at 3750 Jefferson Davis Highway. The return was delivered to the City subsequent to the May 5, 2001 due date. Your October 15, 2001 letter acknowledges that the failure to timely file the return was due to a "mis-communication" between Jack Taylor's Alexandria Toyota and its accounting firm, Homes Lowery.

In support of the waiver of the late filing penalty, you rely on three opinions of the Virginia Attorney General: 91 Att'y Gen. Ann. Rep. 277; 86-87 Att'y Gen. Ann. Rep. 321 and 83-84 Att'y Gen. Ann. Rep. 387. Each of these opinions addresses the determination of "fault" for purposes of Virginia Code §58.1-3916 (or its predecessors). The opinions consistently state that:

if the treasurer determines from all the facts and circumstances that the taxpayer (1) did not fail purposefully in his duty to report and pay the taxes due or (2) did not engage in conduct that materially contributed to the failure to report and pay the tax when due, then the treasurer must waive the penalty.

1191 Att'y Gen. Ann. Rep. 271, 271 (emphasis added).

Mr. Harry P. Hart
Page 2
November-8-2001

This same standard has been adopted by the City Council of the City of Alexandria in Resolution No. 1536, a copy of which is enclosed, to guide the director of finance in his determination of fault. Paragraph 3 of the resolution provides:

That, before determining that a late tax filing or a late tax payment was not the fault of the taxpayer, the director must find that the taxpayer had not purposefully failed to perform a tax-related duty and had not engaged in conduct that materially contributed to the late filing or late payment.

This standard, as stated in the opinions of the Virginia Attorney General and in the resolution adopted by City Council, supports the City's denial of the requested waiver. In your analysis, you focus upon only one part of the standard, that is whether the taxpayer purposefully failed to perform a tax-related duty. As you maintain, it is apparent that the taxpayer made a mistake, but did not intentionally fail to file the tax return.

However, it is equally apparent that the taxpayer did engage in conduct that materially contributed to the late filing, when it arranged for the preparation of the tax return by its accounting firm, but did not ensure that the return, once completed, was timely filed with the City.

In summary, I must deny your request for a waiver for the following reasons:

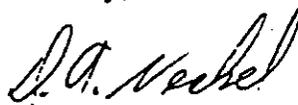
- Resolution No. 1536, adopted by City Council consistently with the provisions of Virginia Code §58.1-3916, clearly provides for the only circumstances where a lack of fault on the part of the taxpayer may be demonstrated, and is controlling in this matter;
- In accordance with the resolution and Virginia Code §58.1-3916, the issue of fault is a factual question and is to be determined by the (Director of Finance); and
- The resolution provides that in order to find a lack of fault on the part of the taxpayer the director must find that the taxpayer had not purposefully failed to perform a tax-related duty and had not engaged in conduct that materially contributed to the late filing or late payment. I find that, as a matter of fact, Jack Taylor's Alexandria Toyota, did engage in conduct that materially contributed to the late filing of its 2001 business tangible personal property tax return, when it arranged for the preparation of the tax return, but did not ensure that the return, once completed, was timely filed with the City.

An examination of City records currently shows that Jack Taylor's Alexandria Toyota has a total of \$8,739.97 outstanding for late filing penalty. Please arrange for payment of this amount within 15 days.

Mr. Harry P. Hart
Page 3
November 8, 2001

If you are dissatisfied with my response, you have the right to appeal in court pursuant to Virginia Code §58.1-3984. If you have any questions, please contact me at (703) 838-4755.

Sincerely,



D.A. Neckel
Director of Finance

Enclosure

cc: Steve Rosenberg, Senior Assistant City Attorney
Debbie Kidd, Division Chief, Revenue

RESOLUTION NO. 1536

WHEREAS, section 58.1-3916 of the Code of Virginia (1950), as amended, became effective on January 1, 1985; and

WHEREAS, prior to July 1, 1991, section 58.1-3916 authorized the City to impose penalties and interest for the late filing of a tax return and late payment of local taxes except when the failure to file or pay on time "is not the fault of the taxpayer"; and

WHEREAS, section 58.1-3916 was amended by the 1991 General Assembly to prohibit the imposition of penalty and interest for the late filing of a return or the late payment of a tax where the late filing or payment is "the fault" of the responsible tax official; and

WHEREAS, section 58.1-3916 further provides that "the governing body may delegate to the appropriate local tax officials the responsibility to make the determination of fault"; and

WHEREAS, in Resolution No. 1068, adopted on December 11, 1984, and in Resolution No. 1409, adopted October 10, 1989, the Director of Finance was designated as the city official authorized to make the determination of fault; and

WHEREAS, standards were established in Resolution Nos. 1068 and 1409 to guide the director in making determinations of fault; and

WHEREAS, city council now wishes to set forth additional standards to guide the director in making determinations of fault consistent with section 58.1-3916, as amended, to extend the prohibition against the imposition of penalty and interest to cases where the tax official is at fault;

WHEREAS, city council believes that, with respect to the imposition of penalties and interest for the late filing of tax returns and the late payment of taxes, all delegations of authority and the standards applied in exercising such authority should be set forth in a single resolution;

NOW, THEREFORE, BE IT RESOLVED BY
THE CITY COUNCIL OF ALEXANDRIA:

1. That the Director of Finance shall be and is hereby designated the city official with the authority and responsibility to determine whether the failure to file a tax return, or to make a tax payment, on time was not the fault of the taxpayer or was the fault of city tax officials or personnel;

2. That, where the director determines that the failure to file a tax return or to make a tax payment on time was not the fault of the taxpayer or that such failure was the fault of city tax officials or personnel, the taxpayer shall not be liable for any penalty or interest on account of the late filing or the late payment;

3. That, before determining that a late tax filing or a late tax payment was not the fault of the taxpayer, the director must find that the taxpayer had not purposefully failed to perform a tax-related duty and had not engaged in conduct that materially contributed to the late filing or late payment;

4. That the director shall find that the taxpayer has met the criteria of section 3 where:

a. A transfer of the property in issue occurs after January 1 of the tax year, the City mails the tax bill to the property's prior owner, and the property's new owner pays the tax within two weeks of the mailing of a new tax bill to said owner;

b. The taxpayer substantiates, with his or her own affidavit and either a supporting statement from the postal service or other valid evidence (e.g., a check register), that the tax payment, although postmarked subsequent to the due date, was in fact mailed on or before that date; or

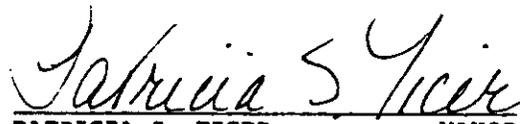
c. It is substantiated through appropriate documentation that the taxpayer died in the six-month period immediately preceding the due date or that the taxpayer was, for medical reasons, incapable of making the tax payment on the due date;

5. That, before determining that a late tax filing or a late tax payment was the fault of city tax officials or personnel, the director must find that an action or inaction by one or more such officials or personnel primarily and directly caused the late filing or late payment;

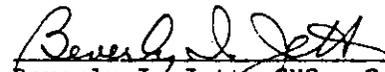
6. That Resolution No. 1409 is hereby repealed;

7. That this resolution shall be effective as of the date of its adoption.

ADOPTED: May 14, 1991


PATRICIA S. TICOR MAYOR
On behalf of the City Council
of Alexandria, Virginia

ATTEST:


Beverly I. Jett, CMC City Clerk

City of Alexandria

Comparison of Penalty & Interest Charges

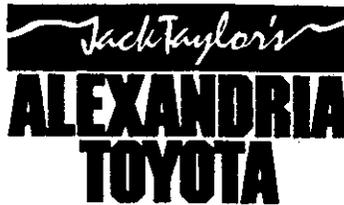
[As of December 4, 2001]

Locality	Personal Property			Business Personal Property			BPOL *		
	Late Filing Penalty	Late Payment Penalty	Interest/Refund	Late Filing Penalty	Late Payment Penalty	Interest/Refund	Late Filing Penalty	Late Payment Penalty	Interest/Refund
Alexandria	\$10 or 10% of total tax due before PPTRA reduction (applied after 120 days)	\$10 or 10% of total tax due before PPTRA reduction and late filing penalty	10% per annum for 1st yr. 5% per annum thereafter	\$10 or 10% of total tax due	\$10 or 10% of total tax due and late filing penalty	10% per annum for 1st yr. 5% per annum thereafter	n/a	\$10 or 10% of total tax due	10% per annum for 1st yr. 5% per annum thereafter
Arlington Co	None	\$10 or 10% of total tax due before PPTRA reduction	5% per annum	10% of total tax due	10% of total tax due and late filing penalty	5% per annum	n/a	10% of total tax due	5% per annum
Fairfax Co	10% of total tax due before PPTRA reduction	10% of total tax due before PPTRA reduction and late filing penalty	5% per annum	10% of total tax due	10% of total tax due and late filing penalty	5% per annum	10% of total tax due	n/a	5% per annum
Prince William Co	None	10% of total tax due before PPTRA reduction	10% per annum	10% of total tax due	10% of total tax due and late filing penalty	10% per annum	n/a	10% of total tax due	10% per annum
Richmond	10% of total tax due before PPTRA reduction	\$10 or 10% of total tax due before PPTRA reduction and late filing penalty	10% per annum	10% of total tax due	\$10 or 10% of total tax due and late filing penalty	10% per annum	10% of total tax due	\$10 or 10% of total tax due and late filing penalty	10% per annum
Norfolk	10% of total tax due before PPTRA reduction	\$10 or 10% of total tax due before PPTRA reduction and late filing penalty	10% per annum	10% of total tax due	\$10 or 10% of total tax due and late filing penalty	10% per annum	n/a	\$10	6% per annum
Virginia Beach	10% of total tax due before PPTRA reduction	\$10 or 10% of total tax due before PPTRA reduction and late filing penalty	8% per annum	10% of total tax due	\$10 or 10% of total tax due and late filing penalty	8%	n/a	10% of total tax due	10% per annum
Loudon Co	10% of total tax due before PPTRA reduction	\$10 or 10% of total tax due before PPTRA reduction and late filing penalty	10% per annum	10% of total tax due	\$10 or 10% of total tax due and late filing penalty	10% per annum	10% of total tax due	\$10 or 10% of total tax due and late filing penalty	10% per annum

*Only one penalty (either late filing penalty or late payment penalty) can be charged for BPOL.

Virginia Code Sec. 58.1-3531: In calculating penalties, the Treasurer may take into consideration the full amount of the tangible personal property tax levied including any amount to be paid by the Commonwealth.

Virginia Code Sec. 58.1-3916: No penalty for failure to file a return shall be greater than 10% of the tax.



3750 Jefferson Davis Highway • Alexandria, Virginia 22305 • 703/684-0700

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2-12-02

February 1, 2002

The Honorable Kerry J. Donley
Mayor, City of Alexandria
City Hall, Room 2300
301 King Street
Alexandria, VA 22314



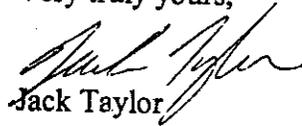
Re: Penalty for Late Filing of Business Personal Property Tax Schedule

Dear Mayor Donley:

In response to the City Manager's memorandum dated January 29, 2002, I wish to bring one issue to the attention of the City Council and bring it to the forefront of this matter. I simply wish to have an explanation of why, when the Virginia Attorney General establishes a standard to determine the "fault" of the taxpayer in order to decide whether or not the taxpayer should be required to pay a late filing penalty, did the City of Alexandria change that standard? The City Manager relies on Resolution No. 1536 and the three examples cited therein as to the only means for finding that the late filing of a tax schedule was not the fault of the taxpayer: 1) a new property owner; 2) a U.S. Postal Service mistake; or 3) death or incapacity of the taxpayer. The City, in adopting this resolution, states that it is attempting to adopt standards that are consistent with Section 58.1-3916 of the Virginia Code. The Attorney General of Virginia, however, has ruled in several instances that the standard under the Code is different from that adopted by the City. The letter sent by the Department of Finance on November 8 clearly shows this distinction. The determination to impose a penalty is based upon whether or not the failure to file is the "fault" of the taxpayer. The Virginia Attorney General states that the local treasurer has to look at all the facts and find that the taxpayer 1) did not fail purposefully in his duty to report when due **OR** 2) did not engage in conduct that materially contributed to the failure to report when due. The City Resolution states that the treasurer must find that the taxpayer 1) did not fail purposefully in his duty to report when due **AND** 2) did not engage in conduct that materially contributed to the failure to report when due. That is not the same standard and the change in one word is of significant consequence here. My lawyer raised this point in her October 15 letter. I again raised that point in my November 21 letter to Council. The City Manager's memorandum does not address this point. I now simply want an answer on this specific point.

I found it very interesting in the memorandum to Council that there were 881 businesses in the City of Alexandria that file their taxes late. It is apparent to me that there's something wrong with the system when 21 percent of all businesses in Alexandria filed a late return. I also found it interesting that the City collected \$250,000.00 in late penalties. That is approximately \$283.00 per business. Alexandria Toyota's penalty is approximately \$8,700.00. This amount represents four percent of the total penalties collected. Does this punishment fit the crime? In this case, the amount of the penalty is not only disproportionate to the average of all penalties, but also bears no rational relationship to the monetary detriment to the City. I look forward to hearing from you.

Very truly yours,


Jack Taylor

Cc: William C. Cleveland
Claire M. Eberwein
William D. Euille
Redella S. Pepper
David G. Speck

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3-26-02

~~29~~
~~3-12-02~~

OPINION

TO: PHILIP SUNDERLAND
CITY MANAGER

FROM: IGNACIO B. PESSOA 
CITY ATTORNEY

DATE: MARCH 12, 2002

SUBJECT: WAIVER OF LATE FILING AND PAYMENT PENALTIES FOR TAXES

Inquiry

You have asked whether City Council Resolution No. 1536, which provides authority for the Director of Finance to waive late filing and late payment penalties for certain taxes only where the Director finds that “the taxpayer had not purposefully failed to perform a tax-related duty *and* had not engaged in conduct that materially contributed to the late filing or late payment,” correctly states the controlling law, or whether the Resolution could be amended to state the two elements or prongs of the test in the disjunctive, so that relief could be afforded to a taxpayer under either prong.

For the reasons discussed below, I conclude that, under Virginia Code § 58.1-3916, a taxpayer must qualify under both prongs in order to claim relief from delinquent filing and payment penalties. Thus I conclude that Resolution No. 1536 correctly states the controlling law.

Analysis

Virginia Code § 58.1-3916 provides in pertinent part that:

Penalty and interest for failure to file a return or to pay a tax bill shall not be imposed if such failure *was not the fault of the taxpayer. . . .*

(emphasis supplied). Thus, under the statute, the key determinant for relief is that the taxpayer is without “fault.” In Alexandria, this without fault determination is to be made by the Director of Finance.

Plainly, a taxpayer who has “purposefully failed to perform a tax-related duty” is not without fault. Just as plainly, a taxpayer who has “engaged in conduct that materially contributed to the late filing or late payment” is not without fault. Thus, a taxpayer must pass both prongs of the test in order to be without fault and qualify for relief.

I am aware of two opinions from the Attorney General which appear on their face to state that passing one prong but not the other is sufficient. However, a close reading of the several AG

opinions on point reveals that the taxpayer must pass both prongs in order to excuse late filing or late payment penalties.

The seminal opinion, issued in 1982, construed the without fault language of the statute and declared that a person who claims relief from delinquency penalties “must not have purposefully failed in a duty or engaged in conduct that materially contributed” to the delinquency. 81-82 Va. AG 393. See also, 83-84 Va. AG 387. Although the “failed in a duty” and the “engaged in conduct that materially contributed” prongs are separated by an “or,” it is clear from the sentence structure that a failure under either prong disqualifies the taxpayer from relief.

Unfortunately, subsequent citations to these opinions changed the sentence structure to suggest that passing one prong would be sufficient, even if the taxpayer failed the other. See 86-87 Va. AG 321, 91 Va. AG 277. This change in phrasing appears inadvertent, in as much as the later opinions cite the earlier ones as controlling and continuing as good authority. Moreover, in light of the without fault requirement of the statute, which is the statutory language the opinions are construing, an interpretation which allowed relief for a taxpayer who was without fault under one prong, but guilty of fault under the other, would be counterintuitive and not supportable.

Conclusion

For the foregoing reasons I conclude that Resolution No. 1536 correctly requires that, in order to qualify for relief from tax penalties, the taxpayer must not have purposefully failed to perform a tax-related duty *and* must not have engaged in conduct that materially contributed to the late filing or late payment.

cc: The Honorable Mayor and
Members of City Council

Michele Evans
Assistant City Manager

Mark Jinks
Assistant City Manager

Daniel A. Neckel
Director of Finance