EXHIBIT NO. 1

7
5-14-05

City of Alexandria, Virginia

MEMORANDUM

DATE: MAY 11, 2005

TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

FROM: JAMES K. HARTMANN, CITY MANAGER

SUBJECT: RESTRUCTURING OF THE ADMISSION TAX

ISSUE: The structure of the new Admission Tax.

RECOMMENDATION: That City Council:

(1) Reconsider the action it took on the Admission Tax ordinance as part of the adoption of the FY 2006 budget; and

(2) If Council determines appropriate, amend the structure of the Admission Tax and reflect any action it takes in the minutes of May 2, 2005.

BACKGROUND: As part of the budget adoption on May 2, Council approved an ordinance establishing an Admission Tax at a rate of 10%, but no higher than 50 cents. The tax is to be effective as of July 1, 2005. The establishment of the Admission Tax diversified the City's tax structure as well as provided an estimated $1.3 million in additional revenues to help finance a portion of the real estate tax rate reduction to 91.5 cents. At Council's legislative meeting this past Tuesday night, the Mayor asked that the Admission Tax be re-docketed for Council discussion of the structure of the tax. Given that this re-docketing is a reconsideration of a prior Council action and not a new reading and with a newly advertised public hearing, Council can only consider an Admission Tax equal to or lower than the 10% rate that was previously advertised and approved by Council. Any lowering of the rate would also have FY 2006 Approved Budget implications, and require additional adjustments to keep the budget in balance.

The Admission Tax as adopted by Council was established at a rate of 10% of the price of admission, but the tax on each admission would be no higher than 50 cents. There were substantial exemptions approved by Council. The full details of the exemption and the tax are discussed in the attached docket item.

Virginia law and the City Charter provides Council discretion in how an admission tax could be structured. The percentage rate of 10% could be lowered, or the maximum per admission cap of 50 cents could be lowered. For example, a 5% tax with a 50 cent maximum per admission rate could be selected as the new rate structure. A 5% rate is equal to the State sales tax rate which

may make this new tax more easily understood and accepted by those purchasing admissions to movies and to other events. That structure would result in the following changes in the price of an admission:

Sample Movie Theater Rates[1]		Admission Tax	
Movie Admission Classification	Ticket Price	@ 10% / 50¢	@ 5% / 50¢
Children	$6.50	50¢	32¢
Senior Citizens	$6.50	50¢	32¢
Adult - Matinee	$7.00	50¢	35¢
Adult - Evening	$9.25	50¢	46¢

[1] Regal Cinema at Potomac Yard rates; other movie theater prices vary.

This price structure would change the Admission Tax so that the lower price tickets (generally those for children, matinees, and senior citizens) would have a lower effective Admission Tax. There would be no change for a ticket price of $10 or more. It is likely because the Admission Tax rate of 5% produces varied increments (32¢, 35¢, 46¢) that the movie theaters and other venues will round up the ticket price and the Admission Tax to a higher level (i.e., $6.50 + $0.32 = $6.82 rounded to $6.90 or $7.00).

FISCAL IMPACT: The cost of a 5% tax rate with a 50 cent cap would be about $0.3 million in reduced revenues per year. If Council chooses to reduce the Admission Tax, then the FY 2006 Approved Budget would need to be rebalanced. A reduction in the cash capital funding for the Capital Improvement Program and a corresponding deferral of a capital project would be the staff recommendation and would be identified when the FY 2006 appropriations ordinance comes before Council in June.

ATTACHMENTS:

Attachment I. Admission Tax Docket Item dated April 13, 2005 (including the Budget and Fiscal Affairs Advisory Commission Report)

Attachment II. Admission Tax Ordinance (as advertised and approved on May 2, 2005)

STAFF:

Mark Jinks, Assistant City Manager
Dan Neckel, Director, Finance
Bruce Johnson, Director, Office of Management and Budget

Attachment I

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City of Alexandria, Virginia 4-26-05 4-16-05

MEMORANDUM

DATE: APRIL 13, 2005

TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

FROM: JAMES K. HARTMANN, CITY MANAGER

SUBJECT: INTRODUCTION AND FIRST READING OF AN ORDINANCE TO ESTABLISH A TAX ON ADMISSION CHARGES FOR CERTAIN EVENTS, NOT TO EXCEED 50 CENTS PER TICKET

ISSUE: Consideration of establishing a tax on Admission charges not to exceed $0.50 per admission, with specific exemptions as detailed in this report.

RECOMMENDATION: That City Council pass the ordinance on first reading and set it for public hearing on Tuesday, April 26, and second reading and final passage on Monday, May 2, 2005.

BACKGROUND: As part of its initiative to lower the real estate tax rate by at least 8 cents, as well as to shift some of the burden of financing the City government away from homeowners, Council authorized staff to bring forward certain tax and fee diversification options such as the Admission tax for active consideration. One of the options would be to institute a 50 cent per person admission tax (referred to in this report as a 50 cent per admission tax but technically it would be a 10% tax but not exceeding 50 cents per admission). This report discusses the tax, its history, applicability, and fiscal impact. On Tuesday, April 12, City Council discussed this Admission tax option and directed staff to bring the proposed ordinance forward for first reading on Saturday, April 16 and public hearing on Tuesday, April 26.

History: Although Virginia law restricts the types of taxes a local government can levy, the City is granted the authority under its Charter to levy an Admission tax on the price of admission to an event. However, the City's Admission tax must conform to the classifications of taxable events as defined in the Virginia Code, with no ability to craft other exemptions or classifications. Because of this limitation, beginning with the 1999 General Assembly legislative package, the City has requested that the State law on admission tax be changed to include either a complete exemption for all non-profit organizations, or the designation of motion pictures played in theaters as a separate class of events. Unfortunately, the General Assembly has not approved any of these tax law amendment requests by the City and is not likely to approve such requests at any time in the foreseeable future.

Concurrent with the request to amend the Admission tax law during the 2005 session of the General Assembly, the then City Manager recommended, and Council agreed, that its Budget and Fiscal Affairs Advisory Committee (BFAAC) study the Admission tax as a way of diversifying its revenue base. BFAAC has completed its report (Attachment 1) and it was issued on March 29 (Budget Memo #17). BFAAC endorsed by a 9 to 2 vote the 50 cent Admission tax as long as the broadest exemptions allowed under State law were applied.

The admission tax has long been a tax which all Virginia cities and towns, and certain Virginia counties, are authorized to levy. BFAAC reports that as of 2004, 17 cities, four counties and one town reported levying an admission tax. The total revenues collected by jurisdictions ranged from $4.4 million per year by the City of Norfolk to $150 per year in the town of Vinton. In total, Virginia localities collected $14.9 million in admission taxes in 2004. This tax collection amount has doubled over the last 10 years. Tax rates range from 1% to 10%. Virginia is not unique in authorizing an admission tax. The BFAAC report notes that cities in at least 19 states and counties in at least 5 states levy a tax like the admission tax.

An admission tax was not a tax that could produce sizable revenues until recent years when the Regal theaters were opened in the Potomac Yard retail center and the Hoffman AMC theaters were opened on Eisenhower Avenue. With these two large theaters an admission tax of 50 cents per ticket could generate some $1.3 million per year in new tax revenue to the City. It would also be a method to "import" tax revenue and shift a portion of the tax burden away from City residents and businesses, as many theater and entertainment venue patrons live in neighboring localities.

Proposed Admission Tax Structure: The Admission tax is proposed to be 50 cents per ticket (unless in rare instances the ticket is less than $5, then the ticket tax would be 10% and less than 50 cents). This 50-cent tax structure is proposed because a flat 10 % tax rate may tend to discourage ticket sales for more expensive events such as live musical entertainment and live theater. A 50-cent ticket tax would not tend to discourage ticket sales. This tax amount is far less than the handling fees that ticket purchasers often pay to buy tickets by phone or through the Internet. It is also far less than the price of movie popcorn, soda or other typical movie theater food and beverage purchases.

Since most of the admissions in the City are for its two large movie theater complexes, the vast majority of Admission tax revenues would be generated by these two theaters. Having a 50-cent per ticket tax would add a small amount to the ticket price, but on a percentage basis it would be in the 6% to 8% effective tax percentage range depending on the price of the movie ticket. For non-movie venues such as live entertainment, the 50 cent ticket tax would be 2 percent of a $25 ticket, 1.4% of a $35 ticket and 1% of a $50 ticket. A 50-cent tax structure also generates the vast majority of the revenues from the movie theater complexes. This is effectively, but not perfectly, what Council was seeking to accomplish with its requested legislative amendment to the Admission tax law.

Exemptions: As stated earlier in this report, Virginia law delineates admission tax exemptions which can be crafted. However there are a large number of exemption categories, and it is recommended that Council authorize all of the permitted exemptions. This includes an exemption for most all non-profit admissions in the City where the gross or net proceeds go to charity. While there are some steps which non-profit organizations (defined as any 501(c)(3) organization or any 501(c)(4) organization which is organized for charitable purposes) would need to take to get the exemption, these steps are not onerous. The primary step is gaining from the State a sales and use tax exemption. Previously each non-profit exemption required General Assembly action.

As of July 1, 2004, most non-profits whose events are eligible for exemption from the admission tax can readily obtain this exemption through on-line application via the Virginia Department of Taxation's web site. Many 501(c)(3) charitable non-profits in the City either already have their sales and use tax exemption by General Assembly action, or via on-line Internet application. If not, they can easily apply and receive it from the State. It should be noted that based on State and federal law, as well as an on-point Attorney General opinion in 1998, charitable activities include services or events which serve the poor and needy, as well as those which "better the condition of society" such as cultural, educational, benevolent, humane, philanthropic, eleemosynary, or similar organizations.

The chart below seeks to clearly identify what would be taxed and what would be exempt under the proposed 50-cent Admission tax:

Type of Event	50¢ Admission Tax Impact
Proceeds (net or gross) go to profit (movies, live theater, entertainment concerts, walking tours, non-school sporting events)	Admission tax applies
Public or private elementary, secondary, and college-sponsored events, including events sponsored by school-recognized student organizations. Events may be on or off school property.	Exempt
Museums, botanical or similar gardens, and zoos	Exempt
Participation in a sporting event	Exempt
Events which have 100% of gross proceeds going to charitable purposes	Exempt
Net proceeds after paying event expenses go to a charitable purpose and to an organization that is exempt from the State sales and use tax	Exempt
Fundraising dinner or event where the event requires a donation which exceeds a commercially reasonable relationship to the value of the meal, entertainment, etc.	Exempt
Governmental entity-sponsored events	Exempt
Boat chartering and room rentals for events	Exempt
Events not open to the general public	Exempt
Net proceeds go to a non-profit entity this is not exempt from the State sales and use tax, or proceeds are not used to support an exempt entity's charitable mission	Admission tax would generally apply, unless exempted for other reasons. These additional tax revenues would be added to the Commission for the Arts, the Community Partnership Fund, the Children's Fund and/or the Youth Fund

Return of Revenues from Non-profit Sponsored Events: As described in the BFAAC report, many (staff believe it to be the vast majority) non-profit events will be exempt from the Admission tax, while some will unavoidably be subject to it. Staff concurs with the suggestion from BFAAC that 100 percent of the revenues reported by the non-profits be returned to the non-profit community through increases in the appropriations to the following four City funds: the Alexandria Commission for the Arts, the Community Partnership Fund, the Children's Fund and the Youth Fund. The appropriations will be in addition to the money these funds receive as part of the City's annual budget process. The Finance Department will account for revenues received from non-profits separately from other Admission tax. Annually after the close of the fiscal year, staff will request City Council to increase the appropriations to these four funds by the amount of Admission tax received in the prior fiscal year.

FISCAL IMPACT: Staff estimates that an Admission tax of 10 percent of the gross admission price, not to exceed $0.50, will generate approximately $1.3 million in annual revenue for the General Fund after transferring the non-profit generated funds to the Alexandria Commission for the Arts, the Community Partnership Fund, the Children's Fund and the Youth Fund. It is likely that the non-profit tax revenue would be small and in the range of $5,000 to $15,000 per year.

ATTACHMENTS:

Attachment 1: Report of the Budget and Fiscal Affairs Advisory Committee (FY 2006 Budget Memo #17)

Attachment 2: Proposed Ordinance to establish an Admission Tax

STAFF:

Mark Jinks, Assistant City Manager
D. A. Neckel, Director of Finance
Bruce Johnson, Director, Office of Management and Budget

Attachment 1 120

City of Alexandria
Budget and Fiscal Affairs Advisory Committee

REPORT ON ADMISSIONS TAX

March 29, 2005

Lisa Chimento, Chair
Dennis Auld
James Butler
Mark Feldheim
Paul Friedman
Margaret Gullen
Holly Hemphill, Vice Chair
Anna Leider, Secretary
Tim Lovain, Vice Chair
Matthew Natale
Tracy Rickett
Matt Tallmer
Boyd Walker

BFAAC ADMISSION TAX STUDY

SUMMARY

In a Memorandum dated March 15, 2004 the City Manager recommended that the Budget and Fiscal Affairs Advisory Committee (BFAAC) study the benefits and potential impacts of the imposition of an Admission Tax in preparation for the FY 2006 budget process—more specifically, whether or not the City should implement an Admission Tax; what the rate structure should be; what to do with the revenue derived from the non-movie sector; and whether or not to pursue additional legislative changes to the State Code. City Council concurred with the Manager's study recommendation.

After a detailed review of the current legislative authority and an analysis of the experiences of other jurisdictions that have imposed such a tax, BFAAC recommends the following:

(1) The City of Alexandria should implement a local Admission Tax.
(2) The Admission Tax rate should equal 10 percent of the gross admission price, not to exceed $ .50 per admission.
(3) City Council should use a portion of the annual revenues to increase funding for the Alexandria Commission for the Arts, the Community Partnership Fund, the Children's Fund and the Youth Fund. Said amount should equal at least 100 percent of the Admission Tax revenues derived from non-profit entities and be in addition to whatever sum is allocated to these four funds as part of the City's annual budget process.[1]
(4) The City should continue to pursue legislative changes to the State Code to give the City more flexibility in terms of what types of events and venues it may tax. It should be noted, however, that no legislative changes are necessary to implement the proposed recommendations.

BACKGROUND

In its most basic form, an Admission Tax, also referred to as an Amusement or Entertainment Tax, is a tax imposed on admission to events such as sports, arts performances, fairs and festivals, lectures and readings, entertainment shows and movies. Under Virginia law, non-profit organizations are *not* exempt from collecting this tax (since the tax is paid by the individual purchasing the ticket, not the organization). Admission taxes are levied by cities in at least 19 states, and by counties in at least five states. In most of the jurisdictions, the receipts become part of the municipality's general treasury revenues; others use the tax as a dedicated funding source for the arts.[2]

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[1] FY 2005 Approved Budget included $209,937 for the Arts Commission, $862,775 for the Community Partnership Fund, $292,226 for the Youth Fund and $1,053,814 for the Children's Fund.
[2] M. Dodson, Amusement Tax for the Arts (Arts Council Monograph)

In Virginia, the Admission Tax is collected by seventeen cities, four counties and one town. The authority to levy such a tax is part of the general taxing powers of the City's Charter, but is restricted by the event classifications defined in Code of Virginia §58.1-3817:

1. Admissions charged for attendance at any event, the *gross* receipts of which go wholly to charitable purpose or purposes.
2. Admissions charged for attendance at public and private elementary, secondary, and college school-sponsored events, including events sponsored by school-recognized student organizations.
3. Admissions charged for entry into museums, botanical or similar gardens, and zoos.
4. Admissions charged to participants in order to participate in sporting events.
5. Admissions charged for entry into major league baseball games and events at any major league baseball stadium which has seating for at least 40,000 persons.
6. All other admissions.

Localities may choose to tax each of these six categories at the same, or at different tax rates. If the City does decide to establish an Admission Tax, BFAAC recommends imposing a tax on only the last ("other admissions") category.

The City initially considered an Admission Tax as part of its FY 1999 Proposed Budget, but Council tabled the ordinance to establish such a tax on May 6, 1998 pending further clarification on how the tax would be applied, including consideration of an exemption for non-profit organizations. As part of its 1999 General Assembly legislative package, the City supported legislation that would have exempted non-profits from the Admission Tax.

No action was taken on that initiative, but since then the General Assembly has passed legislation (§58.1-3818) that allows localities (by ordinance) to exempt events from the admission tax provided that the purpose of the event is solely to raise money for charitable purposes and that the *net* (rather than gross) proceeds derived from the event will be transferred to an entity that is exempt from sales and use tax (§58.1-609.11). *This would have the effect of exempting many (but not all) non-profit events from the Admission Tax.*

The City again considered a five-percent Admission Tax as part of its FY 2000 Proposed Budget. Once again the proposal was not approved, this time because of the desire to target the tax to movie theaters, which could only be done by amending state legislation.

The City's Legislative Package for the 2005 General Assembly Session included a proposal to amend the Code of Virginia to create a separate category – movie theater admissions – for which a locality may charge an Admission Tax.[3] The City included a similar proposal in its Legislative Package for the 2003 and 2004 General Assembly Sessions. The legislation has failed each time, and the City's Legislative Director has

[3] October 20, 2004 City Manager Memo to Council

indicated that in the foreseeable future similar legislation would continue to fail. In fact, in the 2005 Session, none of the bills involving admission taxes (HB 108, HB 2494, and SB 1101) were approved by either the House of Delegates or the Senate.

FISCAL IMPACT

Unlike Richmond, Virginia Beach, Hampton, Newport News, Roanoke, and other jurisdictions within the Commonwealth that have sports stadiums, race tracks, convention centers, museums, aquariums, zoos etc., Alexandria's primary entertainment venues are limited to a number of live theatres and three motion picture theatres.[4] According to City Staff, these venues have combined gross receipts of over $20 million per year.

The fiscal impact of an Admission Tax on the motion picture theaters alone is quite substantial. In 1999, the City estimated that a five-percent Admission Tax (with no cap) on the 3,600-seat Hoyt Cinema complex at Potomac Yard would generate at least $418,000 annually.[5] Since that time the AMC Hoffman 22 Theatre has opened (2001). This 4,150-seat theatre has consistently been ranked the number one theatre in the Washington, DC area, and is among the top 50 best-performing theatres in the United States.[6]

The City estimates that a ten percent Admission Tax (with a fifty-cent cap) on these two movie theaters would now generate $1.1 million to $1.4 million per year.

In addition, there would be revenue from numerous smaller venues and events such as Little Theater, The Birchmere, Metro Stage and the Alexandria Symphony. In FY2000, the City estimated $1.6 million in gross taxable admission charges from other entertainment venues, which would result in up to $160,000 in additional Admission Tax revenue.

EXPERIENCE OF OTHER JURSIDICTIONS

Within the Commonwealth of Virginia, seventeen cities, four counties and one town currently report levying an Admissions Tax.[7] The amount collected ranges from $150 (in the Town of Vinton) to $4.4 million (in the City of Norfolk). Over the past ten years, the annual revenue from Admission Taxes collected statewide has more than doubled, from $7.3 million to $14.8 million. For more details, see Appendix One.

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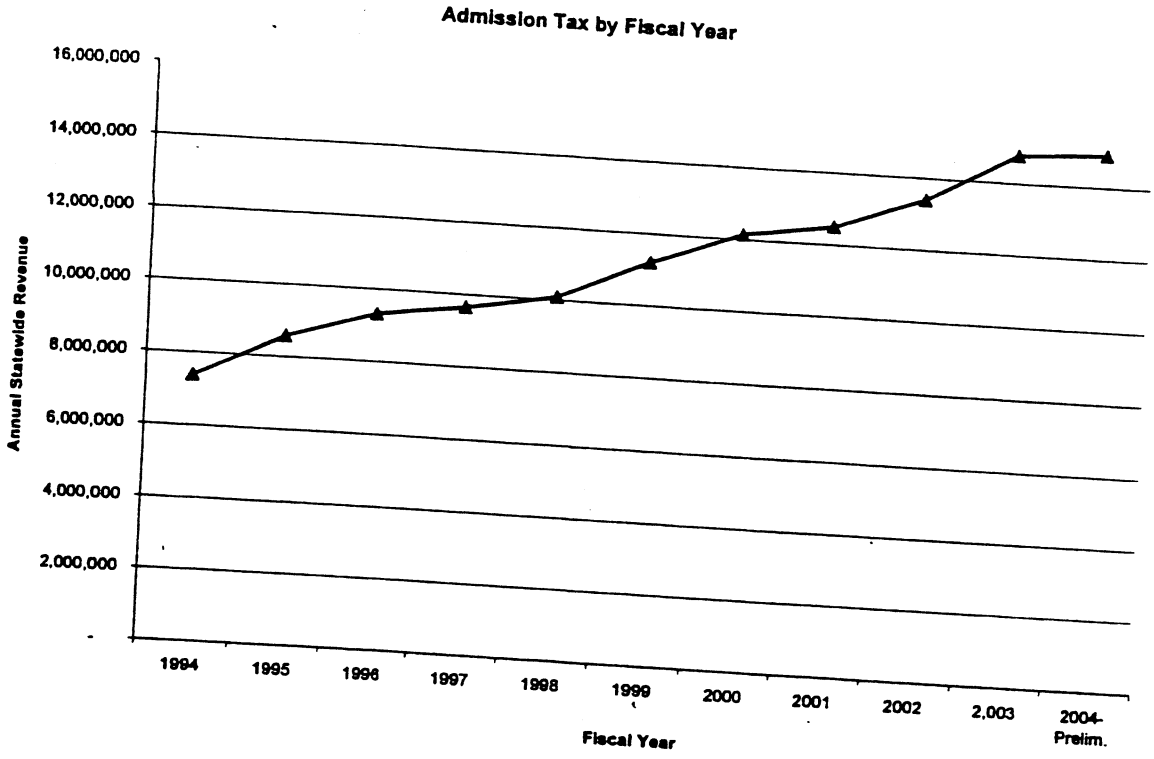
[4] Live theatre venues include "for profits" and "non-profit" organizations. The redevelopment of Landmark Mall may also include an additional motion picture theater.
[5] Budget Memo #2, March 16, 1999
[6] Entertainment Properties Trust, www.eprkc.com
[7] Weldon Cooper Center for Public Service (University of Virginia) 2004 Annual Survey



It is useful to look at the experiences of other jurisdictions within Virginia, as well as nationwide, to learn how they go about collecting the tax, and how they use the revenues. While Fairfax and Arlington Counties have been granted the authority to collect an Admission Tax, they have not implemented such a tax.

Richmond. According to Richmond's Finance Department, an Admission Tax has been operative in excess of 40 years. Currently there is a seven-percent tax on any charge for admission to any place of amusement or entertainment where the fee is greater than $.50 per admission.[8] Current annual revenues are estimated at $1.8 million. Although revenues are not specifically earmarked for the arts, a recent increase in the meals tax to six percent with one percent dedicated to the Arts Council has met with some opposition from the arts community.

Lynchburg. Lynchburg's taxing authority is contained in its City Charter and recently increased its Amusement Tax from five percent to seven percent. Lynchburg reports that current annual revenues are estimated at $262,000 and no revenues are specifically earmarked for arts or City sponsored events.

Virginia Beach. The City of Virginia Beach imposes a ten-percent Admission Tax on all six classes of admissions listed in the Code of Virginia, §58.1-3817.[9] Annual revenues are estimated at $4.23 million. According to the April 28, 2004 *Virginia Pilot*, the

[8] Code of the City of Richmond, § 98-401 to § 98-412
[9] Virginia Beach City Code §§ 35-181 and 35-182

Virginia Beach Arts Commission receives funding of $1 per resident, or $428,000 last year. In turn, the Commission funds about 320 performances and programs, and, as a result, about half their funding is returned to the City via revenue from the admission tax and venue rentals.

Roanoke. The City of Roanoke imposes a nine-percent tax on events at City facilities, like the Roanoke Civic Center, and a 5.5% tax on events at other venues (the State Code has been clarified to permit localities to establish different tax rates on events held at City-owned facilities vs. events held at other venues). It exempts taxes on admission charges of less than ten cents. Annual revenues are estimated at $530,000. These funds go into the general revenue, however, the Arts Commission in Roanoke was seeking dedicated funding equal to a one-half cent City Admission Tax.

Chesapeake. Although their Charter is similar to ours, the City of Chesapeake's ten-percent Admission Tax exempts "schools, charitable or nonprofit organizations." As written, this would appear to be in contradiction to what is permitted by State law. Annual revenues are estimated at $573,000.

State of Maryland. Maryland has an Amusement and Entertainment tax in 23 counties and Baltimore City. Tax rates range from .5 percent to ten percent. Revenues from this tax increased by 42 percent between March, 2003 and March, 2004. Montgomery County imposes a seven percent tax; its annual revenues in FY 2003 were $4.8 million. Prince George's County imposes a ten percent tax; its annual revenues in FY 2003 were $12.3 million.

Chicago, Illinois. In Chicago, an Amusement Tax has been levied for "decades" on professional sporting events, bowling, miniature golf, movies, commercial movie attractions and pay television, including cable. All nonprofit arts organizations, however, are exempt from the tax with the exception of professional live theatre with seating capacity over 750. Revenues from the tax, currently seven percent, are not specifically earmarked for the arts.

Portland, Oregon. Portland, OR levies a "user fee" for tickets sold to events at publicly-owned arts and convention facilities. The tax is neither a fixed percentage of the ticket price, nor a flat per-ticket amount. Instead, it is 50 cents, $1.00 or $1.50, depending upon the price of a ticket. This complicated sliding scale has made collecting the tax more difficult.

Seattle, Washington. Seattle, WA imposes a five percent Admissions Tax, however, a number of exemptions (e.g., nonprofit arts, museums etc.) have been introduced over the past 65 years. In 2001, 20 percent of all eligible Admission Tax revenue was dedicated to the Office of Arts and Cultural Affairs. This dedicated funding source was suspended in 2003 and 2004, however, the Mayor has proposed reinstating the funding source in 2005 (at 15 percent) and 2006 (back to 20 percent).

Kent, Washington. The City of Kent exempts 501c organizations from collecting the tax as well as schools, and federal, state and local government organizations. The tax rate is five percent. The tax is due quarterly.

Santa Cruz, California. The Admission Tax is designed to raise revenues from admission and registration charges at recreational events and activities including non-profit organizations and political fundraising activities. The tax rate is five percent; annual revenues are around $1.54 million. Ongoing operations pay the tax monthly. One-time (or infrequent) operations must apply for an admission tax operator's license prior to the event and pay an advance deposit based on attendance estimates. They must follow up within ten days of the event with actual figures, and pay any balance due (or apply for a refund, if they overpaid when requesting the license).

PROPOSED RATE STRUCTURE

Based on the experiences of these other jurisdictions, it is important (for compliance) that Alexandria keep its collection guidelines clear and well-defined, especially with regard to one-time and infrequent operations. Furthermore, the City must keep its rate structure simple.

State law permits a tax not to exceed ten percent; the median rate in Virginia is seven percent. BFAAC proposes a ten-percent Admissions Tax, not to exceed $ .50 per admission. This rate is intended to strike a balance—the tax should be low enough not to inhibit City efforts to promote tourism, cultural events and entertainment venues in Alexandria, but large enough to make the tax worthwhile.

As proposed, the tax is minimal, easy to calculate, and could be designed so as not impose an unreasonable burden or restriction on the taxpayer. For example, the City could consider the approach taken in Richmond where the tax is due on the 20th of the month following the month it is collected from the consumer and is reported on the same form along with Lodging, Meals and Alcoholic Beverages. No increased administrative costs have been incurred.[10] See Appendix Two for a sample of Richmond's Admission Tax collection form; a similar, simple form could be designed for use by organizations with infrequent admission tax collections.

TREATMENT OF REVENUES DERIVED FROM NON-PROFIT SECTOR

As previously noted, many non-profit events would be exempt from the Admission Tax. BFAAC recommends, however, that Admission Tax revenues reported by non-exempt non-profit events be used to increase the budgets of four City funds at a rate greater than 100 percent of the revenues reported by these non-profits. These funds are: (1) the Alexandria Commission for the Arts; (2) the Community Partnership Fund; (3) the

[10] Richmond Office of Finance, Kevin Irvin (804) 646-6452

Children's Fund and (4) the Youth Fund. [11] Said revenues would be in addition to whatever money these funds receive as part of the City's annual budget process.

The greater-than 100 percent "return rate" would help compensate the non-profit community for the administrative costs of collecting the tax and guarantee that some of the revenue derived from the for-profit sector (like movie admissions) would be going toward arts and human services funding. Furthermore, it would allow the City to demonstrate a greater commitment to the arts and human services through the budget process.

CONSIDERATIONS

An Admission Tax offers the following advantages (and a few cautions):

Advantages

1. It broadens the tax base. The implementation of an Admission Tax is consistent with BFAAC's repeated observation and recommendation that the City must explore a variety of means to diversify its revenue sources and reduce its reliance on the real property tax base.
2. It is a local option tax, as a result, all revenue would be returned directly to Alexandria.
3. There is good prospect for future growth as additional theaters open in Alexandria (for example, at Landmark).
4. A majority of the tax revenues would likely be paid by Alexandria visitors as opposed to City residents. This "imports" taxes and shifts a portion of the tax burden away from City residents.
5. At the recommended rate, it would allow Council to reduce the real property tax rate by approximately an additional half-cent.
6. It is a fairly progressive tax since spending for entertainment generally increases as income rises.
7. It taxes discretionary spending, unlike the real property tax.

Cautions

1. The Chamber of Commerce opposes an Admission Tax and instead "supports a broad-based tax system and user fees for financing city priorities."

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[11] The Commission for the Arts supports the development and expansion of the arts in Alexandria and serves as the single funding source for all activities concerning the arts which are not conducted as part of a regularly scheduled City program. The Community Partnership Fund helps support human services priorities for adults age 22 and over as well as for anyone in need (regardless of age). The Youth Fund promotes youth development and serves youth ages 6 –21. And the Children's Fund serves children under age six (including prenatal).

2. Some people worry that arts patrons are price sensitive, and the extra tax might reduce attendance.
3. The emphasis on movie theaters means the tax has the greatest impact on the "most affordable" form of entertainment, thus impacting lower income families.
4. There is potential for instability, since revenues can fluctuate with general economic conditions and changes in discretionary spending.
5. There is a potential loss of business to arts and entertainment venues in neighboring jurisdictions such as Arlington and Fairfax.
6. The vast majority of the revenue will be generated by movie theaters. The National Theater Owners Association has fought the tax in other jurisdictions.

CONCLUSIONS

Taking into account the foregoing information, BFAAC concludes that, on balance, it would be fiscally prudent for the Alexandria City Council to create an Admission Tax and endorses the proposal as described above. As proposed, the Admission Tax does not require changes to the State Code, it does not impose a significant adverse fiscal impact on the taxpayer or the consumer, it exempts many non-profit events, it could be designed in a way that is easy to calculate and administer, and it will ultimately benefit the arts community as well as human services agencies through additional funding of the Arts Commission, the Community Partnership Fund, the Children's Fund and the Youth Fund.

Appendix O[illegible]mission Tax by Fiscal Year

Prepared by the Business and Economics Division of the University of Virginia's Weldon Cooper Center for Public Service.

Original source: Commonwealth of Virginia, Auditor of Public Accounts. Comparative Report of Local Government Revenues and Expenditures.

Locality	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004-Prelim.	% Change-
Cities												
Chesapeake	326,069	343,632	607,180	783,831	698,200	913,142	805,960	640,624	527,383	574,769	572,745	75.7%
Falls Church	28,150	28,007	25,749	26,464	25,490	27,677	31,351	28,202	21,213	22,474	16,805	-40.3%
Fredericksburg	67,287	82,650	76,510	95,380	110,247	105,178	98,865	129,782	136,175	173,747	168,775	150.8%
Galax	17,115	13,075	20,575	16,497	28,222	17,922	18,895	19,568	21,716	24,052	18,652	9.0%
Hampton	378,236	451,554	388,473	310,851	301,936	679,111	786,206	987,090	1,092,257	1,141,045	1,220,600	222.7%
Harrisonburg	---	---	---	---	---	98,481	143,093	155,934	154,373	167,925	178,760	81.5%
Lynchburg	237,020	248,717	245,799	269,799	275,240	268,707	279,964	257,513	285,755	311,639	261,647	10.4%
Newport News	594,960	654,933	702,034	672,707	635,653	374,627	358,844	514,713	580,204	564,602	577,777	-2.9%
Norfolk	2,006,332	2,523,469	2,713,856	2,318,105	2,563,382	3,049,959	3,592,937	3,648,739	3,949,356	4,546,081	4,382,128	118.4%
Petersburg	39,474	20,953	19,221	27,398	14,123	34,726	29,331	34,903	24,989	23,378	15,878	-59.8%
Portsmouth ß	145,597	163,755	201,913	164,143	168,734	108,847	122,208	113,627	304,650	496,192	274,012	88.2%
Richmond	899,826	1,034,565	1,204,906	1,147,193	1,118,259	1,306,473	1,466,535	1,423,044	1,391,847	1,465,338	1,804,701	100.6%
Roanoke	204,081	225,242	228,662	262,018	278,081	256,072	242,194	355,570	400,210	504,298	530,712	160.0%
Salem	167,498	129,394	175,040	205,541	171,303	178,836	186,499	150,051	188,135	133,762	not yet reptd	-20.1%
Suffolk	---	---	---	---	---	-	-	127,041	293,405	351,413	386,899	204.5%
Virginia Beach	2,091,565	2,440,367	2,497,882	3,138,769	3,503,967	3,528,703	3,702,447	3,676,492	3,776,576	4,024,520	4,228,092	102.1%
Winchester	89,066	87,645	86,493	95,327	100,388	81,624	73,952	91,851	97,052	100,866	110,547	24.1%
City total	7,292,276	8,447,958	9,194,293	9,534,023	9,993,225	11,030,085	11,939,281	12,354,744	13,245,296	14,626,101	14,748,730	102.3%
Counties												
Dinwiddie	23,876	54,471	48,470	54,637	51,395	46,255	45,740	27,115	29,715	32,129	39,794	66.7%
Lee	1,473	-	1,665	1,601	1,394	1,216	1,472	845	1,396	1,398		-5.1%
New Kent §	---	---	---	...	---	-	-	0	3,919	4,480	5,277	34.7%
Prince George	---	---	---	---	---	-	-	0	6,292			
Roanoke	54,369	69,404	60,757	47,752	31,217	125,810	151,377	114,556	104,884	110,493	99,645	83.3%
County totals	79,718	123,875	110,892	103,990	84,006	173,281	198,589	142,516	146,206	148,500	144,716	81.5%
Selected towns												
Rocky Mount §	555	382	1,048	695	---	---	0	0	0			
Vinton	1,021	1,179	748	946	845	196	223	1,137	292	507	153	-85.0%
Selected towns to	1,576	1,561	1,796	1,641	845	196	223	1,137	292	507	153	-90.3%
Grand total	**7,373,570**	**8,573,394**	**9,306,981**	**9,639,654**	**10,078,076**	**11,203,562**	**12,138,093**	**12,498,397**	**13,391,794**	**14,775,108**	**14,893,599**	**102.0%**

Appendix

130

FAILURE TO REMIT THESE TAXES MAY RESULT IN FELONY PROSECUTION FOR EMBEZZLEMENT

YEAR	ACCOUNT NUMBER
2001	- -

CITY OF RICHMOND
ADMISSIONS, LODGING, MEALS TAX
CITY HALL, ROOM 102
P 0. BOX 26505, RICHMOND, VA 23261-6505
PHONE: (804) 646-5690

COMPLETE INFORMATION REQUESTED BELOW

BUSINESS LOCATION IF OTHER THAN BELOW

Verify all applicable Boxes 'X'd

	MONTH	TOTAL ADMISSIONS	RATE	TAX
☐ ADMISSIONS TAX		0	x 7 % =	0.00
	MONTH	**RENTALS FOR MONTH**	**RATE**	**TAX**
☐ LODGING TAX		0	x 8 % =	0.00
	MONTH	**SALES**	**RATE**	**TAX**
☐ MEALS & ALCOHOLIC BEVERAGES TAX		0	x 6 % =	0.00
			TOTAL	0.00
			PENALTY	0
			INTEREST	0
			TOTAL	0.00

* PENALTY FOR LATE PAYMENT AFTER 20TH OF FOLLOWING MONTH.

IF TAX IS $0.00 - $10.00, PENALTY IS SAME AS TAX.

IF Tax is $10.01 - $100.00 PENALTY is $10.00

IF TAX IS OVER $100.00 PENALTY IS 10% OF TAX.

ADD INTEREST - 18% PER ANNUM FROM 21 ST TO DATE OF PAYMENT.

IF PAYING IN PERSON, PRINT AND BRING TWO COPIES OF THIS FORM. IF PAYING BY MAIL, SEND A PRINTED COPY WITH CHECK AND KEEP A SECOND COPY

AUTHORIZED SIGNATURE MEANS THE SIGNATURE OF THE COLLECTOR AND REMITTER OF TAX.

X _____ / / . .
AUTHORIZED SIGNATURE DATE PHONE

Appendix Three

Statement of Dissent from BFAAC Members Dennis Auld and Margaret Gullen

We oppose an Admission Tax. While supporting a broad-based tax system and user fees for financing city priorities, a tax on admissions unfairly singles out one industry for taxation, placing an unfair burden on entertainment businesses that operate in the City. As adjacent jurisdictions do not have this tax, the City faces the possibility of losing not only revenues generated by visitors, but in Alexandrians deciding to attend venues outside of Alexandria. In addition, compliance would be difficult for the City to administer, as well as the process of returning a portion of these tax revenues to designated non-profits. This may also create problems in deciding who gets returns, who doesn't.

The tax also appears to be a "regressive tax" as it targets those venues which provide entertainment affordable by, and attractive to Alexandria's lowest income citizens. The hope of visitors supplying a "majority" of the tax receipts has not been verified by facts.

We strongly encourage the City to set goals to help plan for tax revenue diversification and expansion, as opposed to an ad hoc approach to identifying potential tax sources. We believe in growing the tax base, not in shifting revenues from the same payers. This will allow all parties involved in the taxation process to cooperatively produce effective tax/growth planning, and eliminate unfair targeting.

Attachment II

17.1

4-16-05

Introduction and first reading:	4/16/2005
Public hearing:	4/26/2005
Second reading and enactment:	5/02/2005

INFORMATION ON PROPOSED ORDINANCE

Title

AN ORDINANCE to amend Chapter 2 (TAXATION) of Title 3 (FINANCE, TAXATION AND PROCUREMENT), of The Code of the City of Alexandria, 1981, as amended, by adding thereto a add a new Article W (ADMISSION TAX).

Summary

The proposed ordinance establishes an admission tax of ten percent, but not to exceed 50¢, to be levied on the charges paid for admission to certain events in the city, such as movies, fairs, carnivals and concerts.

Sponsor

Staff

Mark Jinks, Assistant City Manager
Bruce Johnson, Director, Management and Budget
Ignacio B. Pessoa, City Attorney

Authority

§ 2.02(a)(3), Alexandria City Charter

Estimated Costs of Implementation

None

Attachments in Addition to Proposed Ordinance

None

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ORDINANCE NO. _____

AN ORDINANCE to amend Chapter 2 (TAXATION) of Title 3 (FINANCE, TAXATION AND PROCUREMENT), of The Code of the City of Alexandria, 1981, as amended, by adding thereto a add a new Article W (ADMISSION TAX).

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Chapter 2 of Title 3 of The Code of the City of Alexandria, 1981, as amended, be, and the same hereby is, amended by adding thereto a new Article V, to read as follows:

[The following is all new language]

Article W

ADMISSION TAX

Sec. 3-2-382 Definitions.

The following words and phrases, when used in this article, shall have the following respective meanings, except where the context clearly indicates a different meaning:

(1) Admission charge. A charge made, directly or indirectly, to a person or group of persons for admission to any event, including a charge made for season tickets, and a cover or other charge made for the use of seats or tables, and excluding any separately stated federal or state tax thereon, or any separately stated service charge made by an agent or party other than the owner or operator for the sale or issuance of a ticket or receipt which entitles the bearer to admission to an event.

(2) Charitable purposes. Any charitable, benevolent, humane, philanthropic, patriotic, eleemosynary, educational, religious, cultural or similar purpose intended to better the condition of society or any considerable portion thereof, including, without limitation, support for the activities, other than unrelated business income activities, of an organization recognized as exempt from federal income taxation under Section 501(c)(3) or 501(c)(4) of the Internal Revenue Code.

(3) Event. Any amusement, entertainment, performance, exhibition or similar production, open to the general public, including without limitation: circuses, carnivals, motion pictures, fairs, shows and exhibitions of all kinds; dances; tours; sporting events; theatrical, dramatic, operatic and musical and similar performances; lectures, talks, symposia, library readings and performances similar thereto; and such attractions as merry-go-rounds, ferris wheels, roller coasters and the like.

(4) Open to the general public. Available for attendance by any person upon payment of an admission charge, without, in addition to such payment, (i) meeting any duly established requirements or selection criteria for membership in or belonging to a *bona fide* society, club, congregation, organization, party or similar group, or (ii) making or promising to make a donation, subscription or other similarly valuable contribution to the owner or operator, or to the designee thereof, which exceeds a commercially reasonable relationship to the economic value of the event to the person admitted.

(5) Owner or operator. A person who owns, operates, conducts, promotes, produces or provides an event.

(6) Sporting event. Any athletic activity engaged in by one or more individuals, including, without limitation, baseball, basketball, football, wrestling, boxing, swimming, tennis, golf, soccer or hockey.

Sec. 3-2-383 Amount and levy of tax.

Except as provided in section 3-2-384, there is hereby levied an admission tax in the amount of ten percent of any admission charge, not to exceed $0.50 per person admitted.

Sec. 3-2-384 Exclusions from tax.

There shall be no admission tax on any admission charge:

(1) For any event, the gross receipts of which go wholly to one or more charitable purposes;

(2) For any event, the purpose of which is solely to raise money for one or more charitable purposes, and the net receipts of which are utilized by or transferred to one or more entities that are exempt from sales and use tax pursuant to Section 58.1-609.11 of the Code of Virginia, 1950, as amended;

(3) For any public or private elementary, secondary or college school-sponsored event, whether or not on school property or at a school facility, including events sponsored by school-recognized student organizations;

(4) For entry into museums, botanical and similar gardens, and zoos;

(5) For participation as an entrant in a sporting event.

Sec. 3-2-385 Situs.

The tax imposed by this article shall be levied on admission charges for events which occur within the City of Alexandria, irrespective of the location at which admission to such events may be sold, contracted for or paid.

Sec. 3-2-386 Collection of tax.

(a) Every owner or operator, or the agent thereof, receiving a payment of an admission charge on which an admission tax is levied shall collect the amount of such tax from the person making the payment at the time the payment is made.

(b) The taxes required to be collected under subsection (a) shall be deemed to be held in trust by the owner, operator and agent required to collect the same, jointly and severally, until remitted to the city as provided in this article.

Sec. 3-2-387 Reports and remittances generally.

Every owner or operator collecting admission taxes shall prepare a report for each calendar month, upon such forms and setting forth such information as the director may prescribe, showing the number of persons admitted, the amount of admission charges collected, the amount of the taxes due on such charges under this article, and the amount of taxes being remitted along with the report, and shall sign and deliver the report, and remit the taxes, to the director. The report and the remittance of taxes shall be made to the director on or before the last day of the calendar month next following the month being reported.

Sec. 3-2-388 Reports, remittances and deposits by temporary or transitory events.

(a) Whenever an admission charge is made to attend an event of a temporary or transitory nature, the director may require the report and remittance of taxes to be made within seven days following the event, or within seven days following the conclusion of a series of events, or at such other reasonable time as the director shall determine.

(b) Before any temporary or transient event shall be held in the city, and before any business license under title 9 of this code, if required, shall be issued therefor, the owner or operator of the event shall deposit with the director a sum of money, to be determined by the director, sufficient to cover the admission taxes that the director estimates will be required to be collected by such owner or operator, which the director shall hold as security for the collection of taxes and payment thereof to the city. Within seven days of the conclusion of the temporary or transient event, or such other time as set by the director under subsection (a), the owner or operator shall deliver to the director the report and the amount of taxes required by section 3-2-387. Upon such delivery, the director shall refund the deposit made under this section. Should an owner or operator fail timely to deliver such report and taxes, the director may assess the owner or operator the amount of taxes provided by section 3-2-390, in which case the director

shall retain the deposit made under this subsection as a credit toward the amount of assessed taxes.

Sec. 3-2-389 Penalty and interest for failure to remit taxes when due.

Any owner or operator who fails or refuses to remit admission taxes to the city, within the time and in the amount required by this article, shall be liable for a penalty equal to ten percent of the amount of the taxes required to be remitted. The owner or operator shall also be liable for interest on the amount of the taxes which remain unpaid, at the rate of ten percent per annum, starting on the date the taxes were initially to be remitted to the city.

Sec. 3-2-390 Procedure upon failure to collect, report or remit taxes.

(a) If any owner or operator shall fail or refuse to collect admission taxes or to make, within the prescribed time, the report and remittance required by this article, the director shall proceed in such manner as he may deem best to obtain facts and information on which to base an estimate of the taxes due. As soon as the director has obtained such facts and information, he shall determine and assess against the owner or operator the taxes that are due, along with any interest and penalties provided for by this article, and shall notify the owner or operator by mail of the total amount of such taxes, interest and penalties. The total amount of taxes, interest and penalties shall be paid within ten days from the date of such notice.

(b) It shall be the duty of the director to ascertain the name of every owner or operator in the city who fails, refuses or neglects to collect admission taxes, or to timely make the report and remittances, required by this article.

Sec. 3-2-391 Preservation of records.

Except as may be provided by the director by regulation, every owner or operator required to collect and remit admission taxes shall keep and preserve, for a period of two years, such records as are necessary to enable the director to determine the amount of taxes such owner or operator was responsible for collecting and remitting to the city. The director shall have the right to inspect such records at all reasonable times and to make copies of all or any parts thereof.

Sec. 3-2-392 Duty of owner or operator going out of business.

Whenever any owner or operator required to collect and remit admission taxes shall dispose of his business or otherwise cease to operate, any taxes payable to the city under this article shall become immediately due and payable, and such owner or operator shall immediately make a report and pay the taxes due.

Sec. 3-2-393 Authority of director.

The director shall have the power and the duty of enforcing this article, including the authority to adopt reasonable procedures and regulations for the administration of the admissions tax, and shall cause all taxes remitted to the city under this article to be paid into the general treasury of the city.

Sec. 3-2-394 Penalty for violation of article.

Any person violating or failing to comply with any provision of this article shall be guilty of a class 3 misdemeanor and each such violation or failure shall constitute a separate offense. No conviction for violating or failing to comply with a provision of this article shall relieve the convicted person from the payment, collection and remittance of the taxes, interest and penalties as provided in this article.

Section 2. That the several provisions of this ordinance shall be severable in accordance with the following rules: (i) if any court of competent jurisdiction shall adjudge any provision of this ordinance invalid, such judgement shall not affect any other provisions of this ordinance, and (ii) if any court of competent jurisdiction shall adjudge this ordinance or any provision of this ordinance invalid as applied to a particular person, entity, or state of facts, such judgement shall not affect the application of this ordinance or any provision of this ordinance to any other person, entity, or state of facts.

Section 3. That this ordinance shall become effective on July 1, 2005, and shall apply to all events which occur in the City of Alexandria on and after that date.

WILLIAM D. EUILLE
Mayor

Introduction: 4/16/2005
First Reading: 4/16/2005
Publication:
Public Hearing:
Second Reading:
Final Passage: