



## Legislation Details (With Text)

**File #:** 20-0176      **Version:** 1      **Name:** Bank Franchise Tax Refund - Branch Banking and Trust Company  
**Type:** Resolution      **Status:** Passed  
**File created:** 6/5/2020      **In control:** City Council Legislative Session  
**On agenda:** 7/8/2020      **Final action:** 7/8/2020  
**Title:** Request for Approval of Refund of Certain Erroneously Assessed Bank Franchise Tax Levied on Branch Banking and Trust Company

**Sponsors:**

**Indexes:**

**Code sections:** 37-2(b) - Refunds, Virginia Code Section 58.1-3981 - Correction by Commissioner or other official performing his duties

**Attachments:**

Date	Ver.	Action By	Action	Result
7/8/2020	1	City Council Legislative Session	approved	Pass

Request for Approval of Refund of Certain Erroneously Assessed Bank Franchise Tax Levied on Branch Banking and Trust Company

### **PURPOSE/BACKGROUND:**

The City Treasurer shall issue refunds of local tax, penalty, and interest assessed and paid, owing to a taxpayer due to an erroneous assessment. Pursuant to Hampton City Code Section 37-2(b) and Code of Virginia Section 58.1-3981, no refund in excess of \$2,500 per invoice shall be made until the amount is approved by the City Attorney and the City Council.

### **Discussion:**

The Virginia Bank Franchise Tax (Code of Virginia Sec. 58.1-1201 et. seq.; "Bank Franchise Tax") is imposed on the net capital of banks and trust companies. The Bank Franchise Tax is administered at both the state and local level, with primary return filing and audit responsibilities resting with Commonwealth. Branch Banking and Trust Company ("BB & T") timely filed an amended returns for tax years 2012- 2014 with the Commonwealth, and advised localities of the request with the filing of its 2015 Bank Franchise Tax return. The Commonwealth and BB&T ultimately litigated the request. Earlier this year, localities throughout the state were made aware of the ultimate settlement of that matter through a comprehensive refund request. The statewide impact of this adjustment is \$ 10,320,246.00; \$37,392.00 of which is attributed to the City of Hampton.

BB & T has agreed to accept the refund without payment of interest, which may be otherwise due under the Code of Virginia and/or the Hampton City Code.

### **Recommendation:**

Approve the Resolution.

WHEREAS, pursuant to Hampton City Code Section 37-2(b), the City Treasurer shall issue refunds of local tax, penalty, and interest owing to taxpayer, except that no refund in excess of \$2,500 per invoice for tax, penalty, and interest, until the amount of the refund is approved by City Council in accordance with Code of Virginia Section 58.1-3981;

WHEREAS, pursuant to Code of Virginia Section 58.1-3981(A), if an assessment has been paid, the governing body of the county or city shall, upon certification of the assessing official and the city attorney, that an assessment is erroneous, direct the treasurer to refund the excess paid, with interest if so authorized.

WHEREAS, the Commissioner of the Revenue has certified that certain 2012, 2013, and 2014 bank franchise taxes levied on Branch Banking and Trust Company in the amount of \$37,392.00 were erroneous and the City Attorney agrees that the assessment was erroneous; and

WHEREAS, the Treasurer has certified that those taxes were paid by Branch Banking and Trust Company, the exoneration of which results in a total refund due to Branch Banking and Trust in the total amount of \$37,392.00.

NOW THEREFORE, the City Council of the City of Hampton, Virginia directs the Treasurer to refund to Branch Banking and Trust Company the total sum of \$37,392.00.