

Response to Questions on the FY 2016 Budget

Request By: Chairman Bulova

Question: What was the recent Supreme Court decision pertaining to BPOL and how will this affect Fairfax County?

Response: In a case appealed from the Arlington County Circuit Court, the Supreme Court looked at how multi-state (and multi-national) companies apportion their revenue in order to exclude from local BPOL taxation receipts already being taxed elsewhere. The apportionment process can be complicated, but the goal is to avoid a sense of double taxation. The Supreme Court ruling simply considered a formula developed by the State Tax Commissioner to calculate this apportionment.

The Supreme Court's decision actually remanded the case back to the Arlington County Circuit Court for further action, so to that extent the case is still ongoing. It is too early to determine the future fiscal impact from this case. Moreover, not all companies apportion receipts so this ruling does not apply to everyone. At present the Department of Tax Administration (DTA) has appeals from only 8 businesses, with refund requests totaling approximately \$31 million. Any refunds that might stem from these cases would be covered by the litigation reserve set aside by the Board. Staff will monitor the future fiscal impact and report back to the Board as necessary.