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May 7, 2007

Mayor and Town Council
Town of Chapel Hill
Town Hall

405 Martin Luther King Jr. Blvd.
Chapel Hill, NC 27514

RE: Petition to repeal Privilege License Tax

Dear Mayor Foy and Members of the Chapel Hill Town Council:

On behalf of our members and the local business community, we write to strongly encourage you to repeal the current Privilege License Tax and instead to pursue a more equitable means of generating tax revenue for Chapel Hill.

Our request for repealing the tax are based on five key objections:

1. Our community has thrived for over sixty years without the tax;
2. Taxes collected to support the general services and welfare of a community should be collected equitably from all who benefit;
3. The Privilege License Tax is disproportionately applied and specifically targets businesses of the new economy;
4. The tax is based on gross receipts is not a fair way to asses taxes and it applies to businesses regardless of their profitability; and
5. Businesses already pay their fair share.

1. Our community thrived without it.

North Carolina municipalities have possessed the statutory authority to impose privilege license taxes for over sixty years. For decades, the Town of Chapel Hill successfully operated without requiring businesses to pay a gross receipt based privilege tax. In 2000, the Town adopted a small gross receipt based privilege license tax of \$25. This tax was increased significantly in the 2005/06 budget up to a cap of \$750. In response to Chamber and other business community input, the adopted increase was rolled back to a reduced level and refunds were issued. They new cap is \$300.

2. Taxes to support general services should be levied and collected equitably.

The Chamber believes that taxes gathered to serve the general good should be gathered equitably from the general public rather than from a specific subset of our community. The lawful, but inequitable application of the tax remains a serious concern for the Chamber. The Privilege License Tax is not a fee for service intended to cover the cost of a service by the Town. Instead, the tax is levied simply for the purposes of generating income for the general fund. We

hope that you agree that the most equitable and progressive method to raise funds needed to support the general fund and general town operations is through property and sales tax.

3. The tax only applies to a fraction of the business community.

The Privilege License Tax places a tax burden only on a small fraction of our business community. Specifically, businesses of the new economy are disproportionately paying this tax since they did not exist when the Legislature was granting exemptions and limitations as they wrote and amended the legislation. To illustrate this point, we have enclosed a list of business types exempted from the tax, those whose tax is capped by state statute, and those to which the Chapel Hill Privilege License Tax applies.

4. Gross receipts is a poor basis for a tax.

We believe taxing businesses on a gross receipts basis fails to account for differences in gross and net revenue among different business types. A business's amount of gross receipts offers no indication of profitability. In fact, many businesses such as travel agents and jewelers operate businesses with large amounts of gross receipts, but very small profit margins. Under the gross receipts model of taxation, a business could operate at a loss and still pay the maximum taxation rate of \$300. We are personally aware of several businesses for whom this situation currently exists.

5. Businesses already pay their fair share.

Finally, we believe that local businesses are already paying more than their fair share in local taxes without the added burden of the Privilege License Tax. Businesses are revenue positive for the Town and generally pay more in taxes than they consume in municipal services. Unlike homeowners, local business owners are taxed both on the assessed value of their property and also on the contents of their offices and stores. Additionally businesses contribute sales tax revenue to Chapel Hill and the county.

For the 2005/06 fiscal year, the total revenue collected on the Privilege License Tax was only \$126,226. That is less than the total amount collected from library fines and represents only one-fifth of a cent on the tax rate. Repealing the Privilege License Tax is fair and equitable and will be a strong message of support for the local business community.

On behalf of our members and the business community, we thank you for considering our request to eliminate the gross receipt based Privilege License Tax.

Sincerely,

Anita Badrock
Chair, Board of Directors

Kevin Schwartz
Chair, Government Relations

Aaron Nelson
President and CEO

Enclosures:

1. List of exempt, capped, and uncapped businesses (below in this draft)
2. "Over-privileged" an April 25, 2007 Guest Column in the *Chapel Hill News* by Mark Zimmerman

According to the *North Carolina City and County Privilege License Taxes, Fifth Edition*, a publication produced by the UNC School of Government

Examples of businesses exempted by state statute from Local Privilege License Tax include:

- ✓ Doctors
- ✓ Attorneys
- ✓ Architects
- ✓ Accountants
- ✓ Real estate agents
- ✓ Utilities
- ✓ Banks
- ✓ Day Care Facilities
- ✓ Addressograph Machine Sellers
- ✓ Video Rental Stores
- ✓ Photographers
- ✓ Chiropractors
- ✓ Embalmers
- ✓ Automatic Machine Sellers (home appliances, data processing, copying equipment)

Examples of business whose local Privilege License Tax is capped by state statute include:
(Generally no more than \$25-\$50)

- ✓ Service Stations
- ✓ Contractors
- ✓ Merry-Go-Round Operators
- ✓ Bowling Alleys
- ✓ Circuses
- ✓ Automobile Dealers
- ✓ Restaurants
- ✓ Shooting Galleries
- ✓ Firm Arms Dealers

Any and all remaining businesses not specifically named and capped or exempted by state statute are subject to the locally set privilege tax rate. Some of these may include:

- ✓ Travel Agents
- ✓ Jewelers
- ✓ Cellular Service Providers
- ✓ Grocery Stores
- ✓ Web site Developers
- ✓ Graphic Designers
- ✓ Public Relations Firms
- ✓ Web Hosting Firms
- ✓ Many Home-Based Businesses

Over-privileged

Chapel Hill News, 4/25/07

<http://www.chapelhillnews.com/108/story/6917.html>

MY VIEW

BY MARK ZIMMERMAN

How upset would you feel if a local store charged you more than your neighbor for something you needed? That's how hundreds of local businesses feel each year after they receive their privilege-tax bill from Carrboro or Chapel Hill.

The privilege tax is aptly named. It is an extra tax levied on companies for the privilege of being able to conduct business in a community.

The privilege tax dates back to 1939, when the state authorized local governments to levy a tax on some -- but not all -- companies doing business in their jurisdiction. Certain businesses were exempt. Other businesses were subject to the tax, but at a low, fixed amount. The remaining businesses could be taxed a portion of their revenue, set at whatever level the local government desired. Over the years, the state has added dozens of businesses to the exempt or restricted taxation list.

Why are businesses treated differently? Some, such as licensed professionals, were exempted from local privilege taxes because they already paid a state privilege tax. For others, the reasons aren't quite so clear. If you distribute motion pictures, you don't pay a tax. If you show one, you do. Penny arcades and shooting galleries pay a little bit; fortunetellers and palmists pay a lot more. Restaurants pay limited taxes; bakeries have no limit. Gun dealers pay a small amount; knife dealers pay up to four times as much. If you are just a general merchant, your tax is unlimited, unless you're part of a chain, in which case you pay a minimal amount. The list of inequities goes on and on and on.

If this sounds complicated, it is. Fifteen pages of Carrboro's town code are devoted to the privilege tax. A 54-page book about how to administer it has been published by UNC's Institute of Government. It's in its fifth edition.

A couple of years ago the Chapel Hill Town Council provoked controversy by significantly raising its privilege-tax rates. The ensuing furor prompted a quick retreat, but the spat shone a harsh spotlight on this little-known business tax. It was too late that year to consider repealing the tax completely. But the towns are in budget season, making now a good time to revisit whether to impose this extra burden on local businesses at all.

What are the arguments for keeping the tax?

First, it's a revenue source for municipal governments. Now, I'm sure we can always spend more money. However, the privilege tax doesn't help pay many bills. For all the effort, only 0.3 percent of the annual revenue for Carrboro and Chapel Hill comes from the privilege tax. The tax raises only \$59,000 out of Carrboro's \$17.4 million budget this year and just \$130,000 of Chapel Hill's \$49.3 million budget. Chapel Hill collects more each year in library fines.

Second, some may argue, since it really isn't much money, businesses can afford it. As a former small-business owner, I would beg to differ. Even a little can have a real impact. And for many of our small businesses a couple of hundred dollars certainly make a difference. Plus, I'd rather have these dollars reverberating through our local economy than ending up in government coffers.

Third, we've always done it. Well, that's not true. Chapel Hill was able to thrive for decades without imposing the privilege tax. Moreover, inertia hardly justifies perpetuating an inequity, no matter how traditional.

Finally, everyone else does it. Sorry, that excuse doesn't even work for my children.

What are the arguments for repealing the tax?

It is unjust. It taxes the few for the good of the many, and among the few it further discriminates. In imposing this tax we are violating a basic American principle -- to strive for equal treatment under the law. We like to think we have a free economy, but for privilege-taxed businesses, it's not so free.

The privilege tax is convoluted, archaic and unfair. Even the aforementioned UNC Institute of Government book comments, "Those who administer the privilege tax must resign themselves to its many inequities and curiosities and trust that the General Assembly will either remedy its shortcomings or replace the tax with another source of local revenue."

Well, we in Chapel Hill and Carrboro need not trust our state legislature to right the wrongs of the privilege tax. We are fully empowered to do so ourselves. We should drop the privilege tax from this year's budgets.

Dropping the tax won't affect local residents, but it will relieve the affected businesses of an unfair and unnecessary burden. It also will let the towns make a strong symbolic statement of support for our local merchants countering the perception among some that Chapel Hill-Carrboro is a tough place to do business.

Instead of taxing some folks for the privilege of doing business, we should feel privileged they have chosen our communities in which to invest their time and talents.

Contact Mark Zimmerman at markzimmerman@nc.rr.com
The Chapel Hill News