Surety insurance company serving in capacity of bail bondsman is exempt from local business license taxation.

The Honorable William Page Johnson II
Commissioner of the Revenue for the City of Fairfax

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You ask whether a bail bondsman licensed as a surety insurance company under Chapter 25 of Title 58.1, §§ 58.1-2500 through 58.1-2530 of the Code of Virginia, is subject to local business license tax under § 58.1-3724. You provide a copy of the City of Fairfax ordinance requiring bail bondsmen to obtain an annual business license based on gross receipts. You relate that § 58.1-3724 specifically authorizes localities to adopt an ordinance requiring the licensure of any person engaged, either as a principal or surety, in the business of bail bonding. You also note that § 58.1-3703(C)(11) specifically exempts from local license tax any insurance company subject to taxation under Chapter 25 of Title 58.1 or any agent of such company. Finally, you observe that §§ 58.1-3703(C)(11) and 58.1-3724 appear to be in conflict.

Section 58.1-3703(C)(11) prohibits a locality from imposing a license fee or tax "[o]n any insurance company subject to taxation under Chapter 25 (§ 58.1-2500 et seq.) of [Title 58.1] or on any agent of such company." A surety insurance company is subject to taxation under Chapter 25. Section 58.1-3724 provides, in part:

The governing body of any county or city may by ordinance require that every person who shall, for compensation, enter into any bond or bonds for others, whether as a principal or surety, shall obtain a revenue license, the amount of which shall be prescribed in such ordinance; and no such professional bondsman or his agent shall enter into any such bond or bonds in any such county or city until he shall have obtained such license.
To determine legislative intent in this instance, statutes dealing with the same subject matter should be construed together to achieve a harmonious result, resolving conflicts to give effect to each statute, to the maximum extent possible. Another accepted principle of statutory construction is that, when it is not clear which of two statutes applies, the more specific statute prevails over the more general. Also, when statutes provide different procedures on the same subject matter, the more general gives way to the more specific.

It is clear that both §§ 58.1-3703(C)(11) and 58.1-3724 apply to this matter. It is also apparent that § 58.1-3703(C)(11) is the more specific statute pertaining to a surety insurance company, and that § 58.1-3724 is the more general statute. Consequently, § 58.1-3724 must give way to the more specific § 58.1-3703(C)(11).

Therefore, I must conclude that § 58.1-3703(C)(11) exempts a surety insurance company serving in the capacity of bail bondsman from the local business license tax imposed pursuant to § 58.1-3724. Accordingly, a surety insurance company serving in the capacity of bail bondsman is not subject to local business license tax under § 58.1-3724.

1The ordinance provides that "[e]very person engaged in the business of a bondsman shall pay for the privilege an annual license tax as a personal service provider." Fairfax, Va., Code § 12-46 (Mun. Code Corp. 1997).

2See § 58.1-2501(A)(1), see also § 38.2-121 (defining "surety insurance").

3VEPCO v. Prince William Co., 226 Va. 382, 387-88, 309 S.E.2d 308, 311 (1983); 1991 Op. Va. Att’y Gen. 7, 8; id. at 159, 160; see also Prillaman v. Commonwealth, 199 Va. 401, 405-06, 100 S.E.2d 4, 7-8 (1957) (statutes relating to same subject are not to be considered in isolation but must be construed together to produce harmonious result that gives effect to all provisions if possible).
