



Douglas Waldron, Commissioner of the Revenue
City of Manassas
9027 Center Street
Manassas VA 20110

Dear Contractor:

The following information is provided to clarify how to accurately report your gross receipts for the City of Manassas renewal each year. When you receive your renewal, you will be asked to complete and return, with the business license renewal, a worksheet similar to the one enclosed. This will assist you in determining the correct gross receipts taxable in the City of Manassas.

Contractors as defined by Code of Virginia §58.1-3714 as businesses that accept contracts for work on or in any building or structure that requires the use of paint, stone, brick, mortar, steel, wood or other similar construction material, paving, excavating, plumbing, painting, wiring, etc. Contractors whose license requirements are defined by Code of Virginia §58.1-3715 with a principal office location in the City of Manassas may deduct from their gross receipts all work done in another licensing jurisdiction that both exceeds \$25,000 **and** in which a business license tax is paid. If a business conducts work in another locality that exceeds \$25,000, but does not exceed that other locality's threshold and is assessed a license **FEE** by that locality, the contractor may **NOT** deduct the gross receipts from the business in the other locality from the gross receipts attributable to the contractor's principal locality.

2000 BPOL Guidelines for the Business, Professional, and Occupational License (BPOL) Tax.

These *BPOL Guidelines* are required by *Code of Virginia* § 58.1-3701 for use by local governments in administering the BPOL tax. **After July 1, 2001, the *Guidelines* will be subject to the Administrative Process Act and accorded the weight of a regulation under *Code of Virginia* § 58.1-205.**

§ 3.2. SITUS OF GROSS RECEIPTS FOR A CONTRACTOR.

Generally, under § 58.1-3703.1(A)(3)(1), the gross receipts of a contractor are attributed to the definite place of business where its services are performed. If a contractor performs services in a locality in which it does not maintain a definite place of business, then gross receipts from such services are attributed to the definite place of business where its services are initiated, controlled or directed, unless the contractor is subject to § 58.1-3715. [Prior to July 1, 1999, the provisions of *Code of Virginia* § 58.1-3715 did not apply to contractors with no definite place of business in Virginia.]

A contractor is subject to § 58.1-3715 when it derives gross receipts in excess of \$25,000 in one year from a Virginia locality in which it does not maintain a definite place of business. This locality may require the contractor to pay a license fee or tax. If the contractor maintains a definite place of business in a Virginia locality, the contractor may deduct the amount of business done in the locality in which it does not maintain a definite place of business from the gross revenue reported to the locality where its definite place of business is located. If gross receipts derived from the locality in which the contractor does not maintain a definite place of business do not exceed \$25,000, then those receipts are attributable to the locality in which the contractor's definite place of business is located.

For example:

1. A painter is located and properly licensed in B County in Virginia. The painter is contracted to paint a large warehouse located in Town A in Virginia. The painter will receive gross receipts in excess of \$25,000 for this job. The painter is subject to a license tax in Town A pursuant to § 58.1-3715. The

gross receipts taxable in Town A are deductible from the gross receipts which the painter reports to County B.

2. A plumber residing in City A performs plumbing work in City A, County B and Town C. The gross receipts attributable to County B and Town C are each less than \$25,000 a year. The plumber keeps all tools and parts in his truck but maintains his records and business phone line in his house. The situs of gross receipts would be City A because the location of his phone line and records means that he controls his business from this locality.
3. DEF, Inc., a company engaged in the business of contracting, has its principal office in City A, and provides contracting services in City A as well as County B and Town C. DEF's gross receipts in City A in a year equal \$125,000 and its gross receipts in County B equal \$15,000 in that same year. DEF's gross receipts from Town C equal \$35,000 in that same year, also. All localities herein require a license of, and also assess a BPOL tax on, contractors. DEF pays a license fee of \$100 per year in City A and also pays a license fee of \$30 per year in Town C.

Here, DEF would report gross receipts of \$175,000 to City A. However, since Town C could assess a BPOL tax on the \$35,000 in gross receipts DEF generated in its locale, and if in fact it did levy such a tax upon DEF, then DEF would receive a deduction from the gross receipts it reports to City A for its BPOL tax in the amount of the business done in Town C. However, DEF would not receive a deduction in the calculation of its City A BPOL tax for any license fee paid to Town C. For the reasons stated above, since DEF's gross receipts from County B do not exceed \$25,000, those receipts are attributable to City A, where DEF's principal office is located. Accordingly, DEF's gross receipts would be attributed as follows: \$140,000 to City A and \$35,000 to Town C.

Rulings of the Tax Commissioner

Document Number: 01-47
Tax Type: BPOL Tax; Local Taxes
Brief Description: Situs for contractors; Thresholds for taxes based on gross receipts and for fees
Topics: Local Power to Tax; Local Taxes Discussion; Rate of Tax
Date Issued: 04/23/2001
April 23, 2001

Re: Taxpayer: Locality Assessing Tax: Final State Determination Business, Professional and Occupational License (BPOL)Tax

Dear ****

This final state determination is issued upon an application for correction of a BPOL tax assessment filed by you on behalf of **** (the "Taxpayer"). The contested assessment was made by the Commissioner of the Revenue of the City of **** (the "City"). I apologize for the delay in responding to your application for correction.

The BPOL tax and fee are imposed and administered by local officials. Code of Virginia § 58.1-3707.1(A)(5) authorizes the department to issue determinations of taxpayer appeals of certain BPOL assessments. On appeal, a BPOL tax assessment is deemed *prima facie* correct. In other words, the assessment stands unless the Taxpayer proves it is incorrect.

The following determination is based on the facts presented by the Taxpayer and the City as summarized below. Copies of cited sources are enclosed.

FACTS

The Taxpayer is a contractor with a definite place of business in the "City." The Taxpayer conducts significant amounts of business in other cities in the region. In some years, the amount of business in some cities is in excess of \$100,000, while in other cities the gross receipts are more than \$25,000, but less than \$100,000. Finally, in some instances, the Taxpayer does less than \$25,000 in a given locality. The Taxpayer pays a license tax or fee in each of the jurisdictions that requires a license and deducts all of the receipts attributable to business done in these jurisdictions from its total receipts to be used in determining the tax due to the City. Receipts of less than \$25,000 earned for business performed in other jurisdictions are sourced back to the City. The Taxpayer states that it has always used this methodology and was never challenged in previous audits.

The City disputes the Taxpayer's methodology, citing footnote 12 of the 1997 BPOL Guidelines, which states that in those instances where a locality imposes a fee, the "contractor may not deduct the amount of business done in the other locality from its BPOL tax return in its principal locality."

OPINION

Situs for Contractors

The 2000 BPOL Guidelines defines situs for contractors as follows:

Generally, under § 58.1-3703.1(A)(3)(1), the gross receipts of a contractor are attributed to the definite place of business where its services are performed. If a contractor performs services in a locality in which it does not maintain a definite place of business, then gross receipts from such services are attributed to the definite place of business where its services are initiated, controlled or directed, unless the contractor is subject to § 58.1-3715.

Section 58.1-3715 states that a contractor must obtain a license in a secondary jurisdiction when its business in that jurisdiction is in excess of \$25,000.

Thresholds for Taxes Based on Gross Receipts and for Fees

A locality may impose a BPOL tax either in the form of a fee or based on gross receipts. However, in no instance may a locality impose both a fee and a gross receipts tax. Both the fee and the tax are subject to certain threshold requirements. The following chart gives an overview of the thresholds' application to the exemption based on gross receipts and the limitation on the license fee based on a locality's population:

Population	Maximum license fee amount	Gross receipts threshold amounts
0-24,999	\$30	No dollar threshold amount
25,000-50,000	\$50	\$50,000
50,001+	\$50	\$100,000

In the Taxpayer's case, all of the localities in which it conducts business have populations greater than 50,001, so the gross receipts from the business conducted in each locality must exceed \$100,000 for the locality to impose the gross receipts tax.

License Taxes and Fees

The 1997 BPOL Guidelines noted that in those instances where a contractor has a principal place of business in one locality, conducts business in another locality that is in excess of \$25,000, but does not exceed that other locality's threshold and is assessed a license fee by that locality, the contractor may not deduct the gross receipts from the business in the other locality from the gross receipts attributable to the contractor's principal locality. 1997 BPOL Guidelines, p.48, fn. 12. This point is clarified by Example # 3 in § 3.2 of the 2000 BPOL Guidelines.

Therefore, it is my determination that the City was correct in disallowing the deduction of gross receipts earned in a jurisdiction where the Taxpayer paid a license fee for the privilege of conducting business. Accordingly, the City's assessment is correct.

If you have any questions regarding this determination, please do not hesitate to contact ****, Tax Policy Analyst, in the department's Office of Tax Policy, at ****.

Sincerely,

Danny M. Payne
Tax Commissioner