

Chapter 18

BUSINESSES*

* **Charter References:** Issuance of licenses, § 19; privilege taxes, § 26; licensing generally, § 28; licensing and regulating shows, circuses, etc., § 32; prohibition ordinances, § 33.

Cross References: Amusements and entertainments, ch. 6; community development, ch. 22; general commercial district C, § 50-69; industrial district I, § 50-70; shopping centers, § 50-106; nursing, convalescent and rest homes, § 50-109; professional offices, § 50-110; home occupations, § 50-112; bed and breakfast, § 50-116; taxation, ch. 62; lodging tax, § 62-186 et seq.; utilities, ch. 74; vehicles for hire, ch. 78.

State Law References: Sale of ice cream and similar products, state preemption, Code of Virginia, § 3.1-562.4; going out of business sales, Code of Virginia, §§ 18.2-223, 18.2-224; local licensing of bail bondsmen, Code of Virginia, § 19.2-152.1; professions and occupations, Code of Virginia, title 54.1; local regulation of precious metals dealers, Code of Virginia, § 54.1-4111; records of firearms dealers, Code of Virginia, § 54.1-4200 et seq.; local license taxes, Code of Virginia, § 58.1-3700 et seq.; enforcement, collection, refunds, remedies

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ARTICLE I.

IN GENERAL

Secs. 18-1--18-25. Reserved.

ARTICLE II.

LICENSE TAXES

Sec. 18-26. Overriding conflicting ordinances.

Except as may be otherwise provided by the laws of the Commonwealth and notwithstanding any other current ordinances or resolutions enacted by the town, whether or not compiled in this Code, to the extent of any conflict, this article shall be applicable to the levy, assessment, and collection of licenses required and taxes imposed on businesses, trades, professions and callings and upon the persons engaged therein within the town.

(Ord. of 12-20-1996, § 10-1)

Sec. 18-27. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Affiliated group means:

(1) One or more chains of corporations subject to inclusion connected through stock ownership with a common parent corporation which is a corporation subject to inclusion if:

a. Stock possessing at least 80 percent of the voting power of all classes of stock and at least 80 percent of each class of the nonvoting stock of each of the corporations subject to inclusion, except the common parent corporation, is owned directly by one or more of the other corporations subject to inclusion; and

b. The common parent corporation directly owns stock possessing at least 80 percent of the voting power of all classes of stock and at least 80 percent of each class of the nonvoting stock of at least one of the other subject to inclusion corporations. As used in this subsection, the term "stock" does not include nonvoting stock which is limited and preferred as to dividends, the phrase "corporation subject to inclusion" means any corporation within the affiliated group irrespective of the state or country of its incorporation, and the term "receipts" includes gross receipts and gross income.

(2) Two or more corporations if five or fewer persons who are individuals, estates or trusts own stock possessing:

a. At least 80 percent of the total combined voting power of all classes of stock entitled to vote or at least 80 percent of the total value of shares of all classes of the stock of each corporation; and

b. More than 50 percent of the total combined voting power of all classes of stock entitled to vote or more than 50 percent of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each such person only to the extent such stock ownership is identical with respect to each such corporation.

When one or more of the corporations subject to inclusion, including the common parent corporation, is a nonstock corporation, the term "stock" as used in this subsection shall refer to the nonstock corporation membership or membership voting rights, as is appropriate to the context.

(3) Two or more entities if such entities satisfy the requirements in subsection (1) or (2) of this definition as if they were corporations and the ownership interests therein were stock.

Assessment means a determination as to the proper rate of tax, the measure to which the tax rate is applied, and ultimately the amount of tax, including additional or omitted tax, that is due. An assessment includes a written assessment made pursuant to notice by the assessing official or a self-assessment made by a taxpayer upon the filing of a return or otherwise not pursuant to notice. Assessments shall be deemed made by an assessing official when a written notice of assessment is delivered to the taxpayer by the assessing official or an employee of the assessing official, or mailed to the taxpayer at his last known address. Self-assessments shall be deemed made when a return is filed or, if no return is required, when the tax is paid. A return filed or tax paid before the last day prescribed by ordinance for the filing or payment thereof shall be deemed to be filed or paid on the last day specified for the filing of a return or the payment of tax, as the case may be.

Assessor and *assessing official* mean the town treasurer.

Base year means the calendar year preceding the license year, except for contractors subject to the provisions of Code of Virginia, § 58.1-3715 or unless this article provides for a different period for measuring the gross receipts of a business, such as for beginning businesses or to allow an option to use the same fiscal year as for federal income tax purposes.

Broker means an agent of a buyer or a seller who buys or sells stocks, bonds, commodities, or services, usually on a commission basis.

Business means a course of dealing which requires the time, attention and labor of the person so engaged for the purpose of earning a livelihood or profit. It implies a continuous and regular course of dealing, rather than an irregular or isolated transaction. A person may be engaged in more than one business. The following acts shall create a rebuttable presumption that a person is engaged in a business:

(1) Advertising or otherwise holding oneself out to the public as being engaged in a particular business; or

(2) Filing tax returns, schedules and documents that are required only of persons engaged in a trade or business.

Commodity means staples, such as wool, cotton, etc., which are traded on a commodity exchange and on which there is trading in futures.

Contractor means the same as prescribed in Code of Virginia, § 58.1-3714.B, as amended, whether such work is done or offered to be done by day labor, general contract or subcontract.

Dealer means any person engaged in the business of buying and selling securities for his own account, but does not include a bank, or any person insofar as he buys or sells securities for his own account, either individually or in some fiduciary capacity, but not as part of a regular business.

Definite place of business means an office or a location at which occurs a regular and continuous course of dealing for 30 consecutive days or more. A definite place of business for a person engaged in business may include a location leased or otherwise obtained from another person on a temporary or seasonal basis and real property leased to another. A person's residence shall be deemed to be a definite place of business if there is no definite place of business maintained elsewhere and the person is not subject to licensure as a peddler or itinerant merchant.

Financial services means the buying, selling, handling, managing, investing, and providing of advice regarding money, credit, securities or other investments and includes the service for compensation by a credit agency, an investment company, a broker or dealer in securities and commodities or a security or commodity exchange, unless such service is otherwise provided for in this article. Those engaged in rendering financial services include, but without limitation, the following:

(1) Buying installment receivables.

(2) Chattel mortgage financing.

(3) Consumer financing.

(4) Credit card services.

(5) Credit unions.

(6) Factors.

(7) Financing accounts receivable.

(8) Industrial loan companies.

(9) Installment financing.

(10) Inventory financing.

(11) Loan or mortgage brokers.

(12) Loan or mortgage companies.

(13) Safety deposit box companies.

(14) Security and commodity brokers and services.

(15) Stockbroker.

(16) Working capital financing.

Gross receipts means the whole, entire, total receipts attributable to the licensed privilege, without deduction, except as may be limited by the provisions of Code of Virginia, § 58.1-3700 et seq.

License year means the calendar year for which a license is issued for the privilege of engaging in business.

Personal services means rendering for compensation any repair, personal, business or other services not specifically classified as "financial, real estate or professional service" in this article or rendered in any other business or occupation not specifically classified in this article unless exempted from local license tax by Code of Virginia, title 58.1.

Professional services means services performed by architects, attorneys at law, certified public accountants, dentists, engineers, land surveyors, surgeons, veterinarians, and practitioners of the healing arts (the arts and sciences dealing with the prevention, diagnosis, treatment and cure or alleviation of human physical or mental ailments, conditions, diseases, pain or infirmities) and such occupations, and no others, as the state department of taxation may list in the BPOL guidelines promulgated pursuant to Code of Virginia, § 58.1-3701. The department shall identify and list each occupation or vocation in which a professed knowledge of some department of science or learning, gained by a prolonged course of specialized instruction and study, is used in its practical application to the affairs of others, either advising, guiding, or teaching them, and in serving their interests or welfare in the practice of an art or science founded on it. The word "profession" implies attainments in professional knowledge, as distinguished from mere skill, and the application of knowledge to uses for others rather than for personal profit.

Purchases means all goods, wares and merchandise received for sale at each definite place of business of a wholesale merchant. The term also includes the cost of manufacture of all goods, wares and merchandise manufactured by any wholesale merchant and sold or offered for sale. A wholesale merchant may elect to report the gross receipts from the sale of manufactured

goods, wares and merchandise if it cannot determine the cost of manufacture or chooses not to disclose the cost of manufacture.

Real estate services means providing a service with respect to the purchase, sale, lease, rental, or appraisal of real property. Such services include but are not limited to the following:

- (1) Appraisers of real estate.
- (2) Escrow agents, real estate.
- (3) Fiduciaries, real estate.
- (4) Lessors of real property.

(5) Real estate agents, brokers and managers.

(6) Real estate selling agents.

(7) Rental agents for real estate.

Retailer and *retail merchant* mean any person or merchant who sells goods, wares and merchandise for use or consumption by the purchaser or for any purpose other than resale by the purchaser, but does not include sales at wholesale to institutional, commercial and industrial users.

Security has the same meaning as in the Securities Act (Code of Virginia, § 13.1-501 et seq.) or in similar laws of the United States regulating the sale of securities.

Services means things purchased by a customer which do not have physical characteristics or which are not goods, wares, or merchandise.

Wholesaler and *wholesale merchant* mean any person or merchant who sells wares and merchandise for resale by the purchaser, including sales when the goods, wares and merchandise will be incorporated into goods and services for sale, and also includes sales to institutional, commercial, government and industrial users which, because of the quantity, price, or other terms, indicate that they are consistent with sales at wholesale.

(Ord. of 12-20-1996, § 10-2)

Cross References: Definitions generally, § 1-2.

State Law References: Similar provisions, Code of Virginia, § 58.1-3700.1.

Sec. 18-28. License requirement.

(a) Every person engaging in this jurisdiction in any business, trade, profession, occupation or calling (collectively referred to as "a business"), as defined in this article, unless otherwise exempted by law, shall apply for a license for each such business if:

(1) Such person maintains a definite place of business in this jurisdiction;

(2) Such person does not maintain a definite place of business anywhere but resides in this jurisdiction; or

(3) There is no definite place of business in this jurisdiction but such person operates amusement machines; is engaged as a peddler or itinerant merchant, carnival or circus as specified in Code of Virginia, § 58.1-3717, 58.1-3718, or 58.1-3728, respectively; is a contractor subject to Code of Virginia, § 58.1-3715; or is a public service corporation subject to Code of Virginia, § 58.1-3731.

(b) A separate license shall be required for each definite place of business and for each business. A person engaged in two or more businesses or professions carried on at the same place of business may elect to obtain one license for all such businesses and professions if all of the following criteria are satisfied:

(1) Each business or profession is subject to licensure at the location and has satisfied any requirements imposed by state law or other sections of this Code or provisions of the ordinances of this jurisdiction;

(2) All of the businesses or professions are subject to the same tax rate, or, if subject to different tax rates, the licensee agrees to be taxed on all businesses and professions at the highest rate; and

(3) The taxpayer agrees to supply such information as the assessor may require concerning the nature of the several businesses and their gross receipts.

(c) Each person subject to a license tax shall apply for a license prior to beginning business, if he was not subject to licensure in the town on or before January 1 of the license year, or no later than March 1 of the license year if he had been issued a license for the preceding year. The application shall be on forms prescribed by the assessing official.

(d) The tax shall be paid with the application for any license not based on gross receipts. If the tax is measured by the gross receipts of the business, the tax shall be paid on or before March 1 or 30 days after beginning business.

(e) The assessing official may grant an extension of time, not to exceed 90 days, in which to file an application for a license, for reasonable cause. The extension shall be conditioned upon the timely payment of a reasonable estimate of the appropriate tax; the tax is then subject to adjustment to the correct tax at the end of the extension, together with interest from the due date until the date paid and, if the estimate submitted with the extension is found to be unreasonable under the circumstances, with a penalty of ten percent of the portion paid after the due date.

(f) A penalty of ten percent of the tax may be imposed upon the failure to file an application or the failure to pay the tax by the appropriate due date. Only the late filing penalty shall be imposed by the assessing official if both the application and payment are late; however, both penalties may be assessed if the assessing official determines that the taxpayer has a history of noncompliance. If an assessment of additional tax is made by the assessing official, if the application and, if applicable, the return were made in good faith and the understatement of the tax was not due to any fraud, reckless or intentional disregard of the law by the taxpayer, there shall be no late payment penalty assessed with the additional tax. If any assessment of tax by the assessing official is not paid within 30 days, the treasurer or other collecting official may impose a ten-percent late payment penalty. If the failure to file or pay was not the fault of the taxpayer, the penalties shall not be imposed or, if imposed, shall be abated by the official who assessed them. In order to demonstrate lack of fault, the taxpayer must show that he acted responsibly and that the failure was due to events beyond his control. As used in this subsection, the term "acted responsibly" means that: (i) the taxpayer exercised the level of reasonable care that a prudent person would exercise under the circumstances in determining the filing obligations for the business and (ii) the taxpayer undertook significant steps to avoid or mitigate the failure, such as requesting appropriate extensions where applicable, attempting to prevent a foreseeable impediment, acting to remove an impediment once it occurred, and promptly rectifying a failure once the impediment was removed or the failure discovered. As used in this subsection, the phrase "events beyond the taxpayer's control" includes but is not limited to the unavailability of records due to fire or other casualty, the unavoidable absence (e.g., due to death or serious illness) of the person with the sole responsibility for tax compliance, or the taxpayer's reasonable reliance in good faith upon erroneous written information from the assessing official who was aware of the relevant facts relating to the taxpayer's business when he provided the erroneous information.

(g) Interest shall be charged on the late payment of the tax from the due date until the date paid without regard to fault or other reason for the late payment. Whenever an assessment of additional or omitted tax by the assessing official is found to be erroneous, all interest and any penalties charged and collected on the amount of the assessment found to be erroneous shall be refunded together with interest on the refund from the date of payment or the due date, whichever is later. Interest shall be paid on the refund of any BPOL tax from the date of payment or due date, whichever is later, whether attributable to an amended return or other reason. Interest on any refund shall be paid at the same rate charged under Code of Virginia, § 58.1-3916. No interest shall accrue on an adjustment of estimated tax liability to actual liability at the conclusion of a base year. No interest shall be paid on a refund or charged on a late payment, provided the refund or the late payment is made not more than 30 days from the date of the payment that created the refund or the due date of the tax, whichever is later.

(Ord. of 12-20-1996, § 10-3)

State Law References: Similar provisions, Code of Virginia, § 58.1-3703.1(A)(1), (2).

Sec. 18-29. Situs of gross receipts.

(a) *General rule.* Whenever the tax imposed by this article is measured by gross receipts, the gross receipts included in the taxable measure shall be only those gross receipts attributed to the exercise of a privilege subject to licensure at a definite place of business within this jurisdiction. If activities are conducted outside of a definite place of business, such as during a visit to a customer location, the gross receipts shall be attributed to the definite place of business from which such activities are initiated, directed, or controlled. The situs of gross receipts for different classifications of business shall be attributed to one or more definite places

of business or offices as follows:

(1) The gross receipts of a contractor shall be attributed to the definite place of business at which his services are performed or, if his services are not performed at any definite place of business, the definite place of business from which his services are directed or controlled, unless the contractor is subject to the provisions of Code of Virginia, § 58.1-3715;

(2) The gross receipts of a retailer or wholesaler shall be attributed to the definite place of business at which sales solicitation activities occur or, if sales solicitation activities do not occur at any definite place of business, the definite place of business from which sales solicitation activities are directed or controlled; however, a wholesaler or distribution house subject to a license tax measured by purchases shall determine the situs of its purchases by the definite place of business at which or from which deliveries of the purchased goods, wares and merchandise are made to customers. Any wholesaler who is subject to license tax in two or more localities and who is subject to multiple taxation because the localities use different measures may apply to the state department of taxation for a determination as to the proper measure of purchases and gross receipts subject to license tax in each locality;

(3) The gross receipts of a business renting tangible personal property shall be attributed to the definite place of business from which the tangible personal property is rented or, if the property is not rented from any definite place of business, to the definite place of business at which the rental of such property is managed; and

(4) The gross receipts from the performance of services shall be attributed to the definite place of business at which the services are performed or, if not performed at any definite place of business, to the definite place of business from which the services are directed or controlled.

(b) *Apportionment.* If the licensee has more than one definite place of business and it is impractical or impossible to determine to which definite place of business gross receipts should be attributed under the general rule, the gross receipts of the business shall be apportioned between the definite places of businesses on the basis of payroll. Gross receipts shall not be apportioned to a definite place of business unless some activities under the applicable general rule occurred at, or were controlled from, such definite place of business. Gross receipts attributable to a definite place of business in another jurisdiction shall not be attributed to this jurisdiction solely because the other jurisdiction does not impose a tax on the gross receipts attributable to the definite place of business in such other jurisdiction.

(c) *Agreements.* The assessor may enter into agreements with any other political subdivision of this state concerning the manner in which gross receipts shall be apportioned among definite places of business. However, the sum of the gross receipts apportioned by the agreement shall not exceed the total gross receipts attributable to all of the definite places of business affected by the agreement. Upon being notified by a taxpayer that its method of attributing gross receipts is fundamentally inconsistent with the method of one or more political subdivisions in which the taxpayer is licensed to engage in business and that the difference has, or is likely to, result in taxes on more than 100 percent of its gross receipts from all locations in the affected jurisdictions, the assessor shall make a good faith effort to reach an apportionment agreement with the other political subdivisions involved. If an agreement cannot be reached, either the assessor or taxpayer may seek an advisory opinion from the state department of taxation pursuant to Code of Virginia, § 58.1-3701; notice of the request shall be given to the other party. Notwithstanding the provisions of Code of Virginia, § 58.1-3993, when a taxpayer has demonstrated to a court that two or more political subdivisions of this state have assessed taxes on gross receipts that may create a double assessment within the meaning of Code of Virginia, § 58.1-3986, the court shall enter such orders pending resolution of the litigation as may be necessary to ensure that the taxpayer is not required to pay multiple assessments even though it is not then known which assessment is correct and which is erroneous.

(Ord. of 12-20-1996, § 10-4)

State Law References: Similar provisions, Code of Virginia, § 58.1-3703.1(A)(3).

Sec. 18-30. Limitations and extensions.

(a) Where, before the expiration of the time prescribed for the assessment of any license tax imposed pursuant to this article, both the assessing official and the taxpayer have consented in writing to its assessment after such time, the tax may be assessed at any time prior to the expiration of the period agreed upon. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

(b) Notwithstanding Code of Virginia, § 58.1-3903, the assessing official shall assess the local license tax omitted because of fraud or failure to apply for a license for the current license year and the six preceding license years.

(c) The period for collecting any local license tax shall not expire prior to the period

specified in Code of Virginia, § 58.1-3940, two years after the date of assessment if the period for assessment has been extended pursuant to this section, two years after the final determination of an appeal for which collection has been stayed pursuant to section 18-31(b) or (d), or two years after the final decision in a court application pursuant to Code of Virginia, § 58.1-3984 or a similar law for which collection has been stayed, whichever is later.

(Ord. of 12-20-1996, § 10-5)

State Law References: Similar provisions, Code of Virginia, § 58.1-3703.1(A)(4).

Sec. 18-31. Appeals and rulings.

(a) Any person assessed with a local license tax as a result of an audit may apply within 90 days from the date of such assessment to the assessor for a correction of the assessment. The application must be filed in good faith and sufficiently identify the taxpayer, audit period, remedy sought, each alleged error in the assessment, the grounds upon which the taxpayer relies, and any other facts relevant to the taxpayer's contention. The assessor may hold a conference with the taxpayer if requested by the taxpayer or require submission of additional information and documents, a further audit, or other evidence deemed necessary for a proper and equitable determination of the application. The assessment shall be deemed prima facie correct. The assessor shall undertake a full review of the taxpayer's claims and issue a determination to the taxpayer setting forth its position. Every assessment pursuant to an audit shall be accompanied by a written explanation of the taxpayer's right to seek correction and the specific procedure to be followed in the jurisdiction (e.g., the name and address to which an application should be directed).

(b) Provided a timely and complete application is made, collection activity shall be suspended until a final determination is issued by the assessor, unless the assessor determines that collection would be jeopardized by delay or that the taxpayer has not responded to a request for relevant information after a reasonable time. Interest shall accrue in accordance with section 18-28(g), but no further penalty shall be imposed while collection action is suspended. The term "jeopardized by delay" includes a finding that the application is frivolous, or that a taxpayer desires to:

(1) Depart quickly from the locality;

(2) Remove his property therefrom;

(3) Conceal himself or his property therein; or

(4) Do any other act tending to prejudice, or to render wholly or partially ineffectual, proceedings to collect the tax for the period in question.

(c) Any person assessed with a local license tax as a result of an audit may apply within 90 days of the determination by the assessing official on an application pursuant to subsection (a) of this section to the state tax commissioner for a correction of such assessment. The state tax commissioner shall issue a determination to the taxpayer within 90 days of receipt of the taxpayer's application, unless the taxpayer and the assessing official are notified that a longer period will be required. The application shall be treated as an application pursuant to Code of Virginia, § 58.1-1821, and the state tax commissioner may issue an order correcting such assessment pursuant to Code of Virginia, § 58.1-1822. Following such an order, either the taxpayer or the assessing official may apply to the appropriate circuit court pursuant to Code of Virginia, § 58.1-3984. However, the burden shall be on the party making the application to show that the ruling of the state tax commissioner is erroneous. Neither the state tax commissioner nor the state department of taxation shall be made a party to an application to correct an assessment merely because the tax commissioner has ruled on it.

(d) On receipt of a notice of intent to file an appeal to the state tax commissioner under subsection (c) of this section, the assessing official shall further suspend collection activity until a final determination is issued by the state tax commissioner, unless the assessor determines that collection would be jeopardized by delay or that the taxpayer has not responded to a request for relevant information after a reasonable time. Interest shall accrue in accordance with section 18-28(g), but no further penalty shall be imposed while collection action is suspended. The term "jeopardized by delay" shall have the same meaning as set forth in subsection (b) of this section.

(e) Any taxpayer may request a written ruling regarding the application of a local license tax to a specific situation from the assessor. Any person requesting such a ruling must provide all the relevant facts for the situation and may present a rationale for the basis of an interpretation of the law most favorable to the taxpayer. Any misrepresentation or change in the applicable law or the factual situation as presented in the ruling request shall invalidate any such ruling issued. A written ruling may be revoked or amended prospectively if (i) there is a change in the law, a court decision, or the guidelines issued by the state department of taxation upon which the ruling was based or (ii) the assessor notifies the taxpayer of a change in the policy or interpretation upon which the ruling was based. However, any person who acts on a

written ruling which later becomes invalid shall be deemed to have acted in good faith during the period in which such ruling was in effect.

(Ord. of 12-20-1996, § 10-6)

State Law References: Similar provisions, Code of Virginia, § 58.1-3703.1(A)(5).

Sec. 18-32. Recordkeeping and audits.

Every person who is assessable with a local license tax shall keep sufficient records to enable the assessor to verify the correctness of the tax paid for the license years assessable and to enable the assessor to ascertain what is the correct amount of tax that was assessable for each of those years. All such records, books of accounts and other information shall be open to inspection and examination by the assessor in order to allow the assessor to establish whether a particular receipt is directly attributable to the taxable privilege exercised within this jurisdiction. The assessor shall provide the taxpayer with the option to conduct the audit in the taxpayer's local business office, if the records are maintained there. If the records are maintained outside this jurisdiction, copies of the appropriate books and records shall be sent to the assessor's office upon demand.

(Ord. of 12-20-1996, § 10-7)

State Law References: Similar provisions, Code of Virginia, § 58.1-3703.1(A)(6).

Sec. 18-33. Exclusions and deductions from gross receipts.

(a) *General rule.* Gross receipts for license tax purposes shall not include any amount not derived from the exercise of the licensed privilege to engage in a business or profession in the ordinary course of the business or profession.

(b) *Exclusions.* The following items shall be excluded from gross receipts:

(1) Amounts received and paid to the United States, the commonwealth or any county, city or town for the commonwealth retail sales or use tax, or for any local sales tax or any local excise tax on cigarettes, for any federal or state excise taxes on motor fuels.

(2) Any amount representing the liquidation of a debt or conversion of another asset to the extent that the amount is attributable to a transaction previously taxed (e.g., the factoring of accounts receivable created by sales which have been included in taxable receipts even though the creation of such debt and factoring are a regular part of its business).

(3) Any amount representing returns and allowances granted by the business to its customer.

(4) Receipts which are the proceeds of a loan transaction in which the licensee is the obligor.

(5) Receipts representing the return of principal of a loan transaction in which the licensee is the creditor, or the return of principal or basis upon the sale of a capital asset.

(6) Rebates and discounts taken or received on account of purchases by the licensee. A rebate or other incentive offered to induce the recipient to purchase certain goods or services from a person other than the offeror and which the recipient assigns to the licensee in consideration of the sale of goods and services shall not be considered a rebate or discount to the licensee, but shall be included in the licensee's gross receipts together with any handling or other fees related to the incentive.

(7) Withdrawals from inventory for purposes other than sale or distribution and for which no consideration is received and the occasional sale or exchange of assets other than

inventory, whether or not a gain or loss is recognized for federal income tax purposes.

(8) Investment income not directly related to the privilege exercised by a licensable business not classified as rendering financial services. This exclusion shall apply to interest on bank accounts of the business and to interest, dividends and other income derived from the investment of its own funds in securities and other types of investments unrelated to the licensed privilege. This exclusion shall not apply to interest, late fees and similar income attributable to an installment sale or other transaction that occurred in the regular course of business.

(c) *Deductions.* The following shall be deducted from gross receipts or gross purchases that would otherwise be taxable:

(1) Any amount paid for computer hardware and software that are sold to a United States federal or state government entity, provided that such property was purchased within two years of the sale to such entity by the original purchaser who shall have been contractually obligated at the time of purchase to resell such property to a state or federal government entity. This deduction shall not occur until the time of resale and shall apply to only the original cost of the property and not to its resale price, and the deduction shall not apply to any of the tangible personal property which was the subject of the original resale contract if it is not resold to a state or federal government entity in accordance with the original contract obligation.

(2) Any receipts attributable to business conducted in another state or foreign country in which the taxpayer is liable for an income or other tax based upon income.

(Ord. of 12-20-1996, § 10-8)

Sec. 18-34. License fee and tax.

Every person or business subject to licensure under this article shall be assessed and required to pay annually in accordance with the following:

(1) Contractors and persons constructing for their own account for sale, \$0.16 per \$100.00 of gross receipts.

(2) Retailers, \$0.20 per \$100.00 of gross receipts.

(3) Financial, real estate and professional services, \$0.35 per \$100.00 of gross receipts.

(4) Repair, personal and business services and all other businesses and occupations not specifically listed or exempted in this article or otherwise by law, \$0.36 per \$100.00 of gross receipts.

(5) Wholesalers, \$0.05 per \$100.00 of purchases.

(6) Fortunetellers, clairvoyants and practitioners of palmistry, \$1,000.00 per year.

(7) Massage parlors, \$1,000.00 per year.

(8) Itinerant merchants or peddlers, \$500.00 per year.

(9) Photographers, \$10.00 per year.

(10) Savings institutions and state-chartered credit unions whose main office is in the town, \$50.00 per year.

(11) Direct sellers, as defined in Code of Virginia, § 58.1-3719.1, with total annual sales in excess of \$4,000.00, \$0.20 per \$100.00 of total annual retail sales or \$0.50 per \$100.00 of total annual wholesale sales, whichever is applicable.

(12) Water, heat, light and power companies, whether by means of electricity or gas, one-half of one percent of the gross receipts, as provided for in Code of Virginia, § 58.1-3731, as amended.

(Ord. of 12-20-1996, § 10-9; Ord. of 1-13-1998; Ord. of 10-10-2000(1))