



NEW BUSINESS APPLICATION BUSINESS PROFESSIONAL OCCUPATIONAL LICENSE (BPOL)

Per Town Ordinance § 97-4, it shall be unlawful to engage in such business, employment, or profession without first obtaining the required license.

BUSINESS INFORMATION

BUSINESS ENTITY NAME

BUSINESS TRADE NAME (DBA)

FEDERAL EMPLOYER ID # *(For Sole Proprietors and Single-Member LLCs, provide Social Security Number)*

BUSINESS LOCATION TYPE

☐ HOME BASED

☐ COMMERCIAL

START DATE IN TOWN OF MIDDLEBURG

BUSINESS LOCATION

MAILING ADDRESS

CONTACT NAME

CONTACT PHONE

CONTACT EMAIL

WEBSITE URL

BUSINESS ACTIVITY *Describe the business*

BUILDING TRADES CONTRACTORS *Physically located in the Town of Middleburg*

Provide copies of the following documents with application. Business Licenses cannot be issued until documents are received.

1. VA Department of Professional and Occupational Regulation (DPOR) Current State License
2. Virginia Worker's Compensation Commission Coverage Certification

BUSINESS LICENSE TAX

A. LICENSE TAX *First year business licenses are \$30.00.* **\$ 30.00**

B. FLAT RATE TAXES *Select all that apply.*

RETAIL - ON PREMISES BEER	\$ 25.00	☐	MIXED BEVERAGE - SEATING 50-100 PERSONS	\$ 200.00	☐
RETAIL - OFF PREMISES BEER	\$ 25.00	☐	MIXED BEVERAGE - SEATING 100-150 PERSONS	\$ 350.00	☐
RETAIL - ON PREMISES WINE & BEER	\$ 37.50	☐	MIXED BEVERAGE - SEATING 150 + PERSONS	\$ 500.00	☐
RETAIL - OFF PREMISES WINE & BEER	\$ 37.50	☐	OTHER:	\$	☐

C. TOTAL TAX DUE *Business License Tax (A) + Flat Rate Taxes (B) = Total Tax Due (C)*

\$

It is a Class 1 misdemeanor for any person to intentionally submit an application that he does not believe to be true and correct as to every material matter (VA Code §58.1-11). Businesses are subject to audit by the Town of Middleburg pursuant to VA Code §58.1-3109. I declare that this information is true, full, and correct to the best of my knowledge and belief.

SIGNATURE OF OWNER/CEO/PARTNER/OFFICER

PRINTED NAME

DATE

Contact Us

Monday - Friday, 8:30AM - 4:30PM

PHONE: (540) 687-5152
EMAIL: treasurer@middleburgva.gov
MAIL: PO Box 187, Middleburg, VA 20118-0187

Payments

Cash or Check made payable to "Town of Middleburg"
Dropbox is located at front door for drop-off during non-business hours

IN OFFICE: Monday - Friday, 8:30AM - 4:30PM
USPS MAIL: PO Box 187, Middleburg, VA 20118-0187
OVERNIGHT MAIL: 10 W Marshall St., Middleburg, VA 20117

Filing Instructions

BUSINESS ENTITY NAME

The name that was registered with the IRS when the Federal Employer Identification Number (FEIN) was received. If your business is a Corporation, Limited Liability Company, or Limited Partnership, you are required to register with the Virginia State Corporation Commission (SCC). Businesses engaged in Retail or Wholesales are required to register with the Virginia Department of Taxation.

REGISTERED BUSINESS TRADE NAME (DBA)

Registered name used for the business if other than the Business Entity Name. Effective January 1, 2020, businesses operating in Virginia using a fictitious Business or Trade Name must register with the Virginia State Corporation Commission (SCC). Per VA Code §59.1-74(B), Business Licenses may not be issued until the taxpayer provides evidence that the Business Trade Name has been registered.

FEDERAL EMPLOYER IDENTIFICATION NUMBER (FEIN)

The Federal Tax Identification Number for the business if the business is a Corporation, Limited Partnership, or Limited Liability Company. The business owner's **Social Security Number** is to be provided if the business is a Sole Proprietorship or a Single-Member Limited Liability Company.

BUSINESS LOCATION

The physical location of the business located within the Town of Middleburg. Businesses must apply for and obtain a Zoning Occupancy Permit.

MAILING ADDRESS

The mailing address that all Business Professional Occupational License correspondence may be mailed to.

CONTACT NAME, EMAIL, PHONE

The authorized business representative who may be contacted with Business Professional Occupation License questions, concerns, or correspondence.

BUILDING TRADES CONTRACTORS

Building Trades Contractors with a physical business location in the Town of Middleburg, are required to renew their Business License annually and must provide a copy of the business' VA Department of Professional and Occupational Regulation (DPOR) current state license and a copy of the Virginia Worker's Compensation Commission Coverage Certification. Business Licenses cannot be issued until required documents are received.

CLASSIFICATION, RATE

Business License classification is determined by the Town of Middleburg, along with the corresponding tax rate. A Business License is required for each separate line of business.

GROSS RECEIPTS

The fee for a first year Business Professional and Occupational License is \$30. All subsequent Business License Renewals are based on Gross Receipts of the prior calendar year.

TAX

The Tax owed is calculated by dividing the Gross Receipts by 100 and then multiplying the solution by the corresponding Rate. Per Middleburg Code §97-7.6, the amount due annually is the greater of the Business License Tax or \$30.00. Per VA Code §58.1, the Town of Middleburg may request Federal and/or State Tax Returns as required support for the Business License Filing.

FLAT RATE TAXES

Select all Flat Rate Taxes that apply. A Flat Rate License does not permit the action, but is a tax for the privilege of operation and does not convey rights.

TOTAL TAX DUE

The Total Tax Due is calculated by adding the Tax (Section D) and the selected Flat Rate Taxes (Section E). Business Professional Occupational License Renewal Filings are due and payable on or before March 1 of each year for businesses subject to licensing within the Town of Middleburg on or before January 1 of the current license year. Failure to file by March 1, results in a 10% Late Filing Penalty. Failure to pay by March 1, results in a 10% Late Payment Penalty. Any such penalty when assessed, shall become part of the tax with interest accruing on both the tax and penalty at a rate of 10% annually. Payments are credited for the date they are received, and post mark dates are accepted. Failure to receive appropriate forms does not relieve the taxpayer of the obligation to file and pay by the applicable due date.

SIGNATURE OF OWNER/CEO/PARTNER/OFFICER, PRINTED NAME, DATE

Signature, Printed Name, and Date must appear on the filing to be processed in full.

Business Tangible Personal Property Tax (BPPT)

All business owners, including owners of home-based businesses, are subject to Business Tangible Personal Property Tax and are required to annually declare Business Tangible Personal Property for taxation to the Loudoun County Commissioner of Revenue's Office. BPPT includes property owned by the business, property owned personally and used in the business on a full or part-time basis, property received as a gift, property that is leased or rented, and property that is fully depreciated or expensed for Federal Tax purposes. BPPT filings are due March 1, with payment being due May 5 and October 5.



General Business License Requirements

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Classification Quick Reference Guide

Every business operating within the Town of Middleburg, including home-based businesses, is required to obtain a business license for each separate function of business and each separate location of business within the Town. It is the Finance Director/Treasurer's responsibility to determine each taxpayer's classification based on the function of business and whether a taxpayer is engaged in multiple business functions based upon Code. If a function of business is determined to be 'not separate' from the main function of business, it is deemed ancillary. Ancillary business activities are subordinate, subservient, auxiliary, or in aid of the business' principal business activity.

Business License Classifications

Professional Service Classification – All services rendered by a person or entity employing professionally licensed or certified individuals. Some examples include, but are not limited to architects, attorneys-at-law, certified public accountants, dentists, engineers, land surveyors, surgeons, veterinarians, and practitioners of the healing arts (i.e. pharmacists and occupational and physical therapists, chiropractors, and dieticians).

Financial Service Classification – The buying selling, handling, managing, investing, and providing of advice regarding money, credit, securities and other investments by a broker or dealer. Some examples include, but are not limited to loan or mortgage brokers, factoring, financing accounts receivable, consumer financing, credit card services, installment financing, industrial loan companies, stockbrokers and working capital financing.

Real Estate Service Classification – Assistance with the purchase, sale, lease, rental, or appraisal of real property commonly offered by a real estate agent or broker.

Business Service Classification – All services rendered that are not classified within financial services, real estate services or professional services that are offered to commercial entities, institutions, industrial or governmental facilities. Some examples include, but are not limited to advertising agencies, employment services, commercial janitorial service, project management, procurement, and installation.

Personal Service Classification – All services rendered that are not classified within financial services, real estate services or professional services that are offered to an individual rather than an entity. Some examples include, but are not limited to beauticians, house cleaning service, delivery service, dog grooming, childcare service, photography and dance studios.

Repair Service Classification – All services rendered that are not classified within financial services, real estate services or professional services that offer to repair or make whole an item for use, such as an automobile mechanic.

Retail Merchant Classification – A person or business who sells tangible goods, wares and merchandise for use or consumption by the purchaser or for any other purpose other than resale by the purchaser. Some examples include, but are not limited to restaurants, clothing retail, bookstore, and grocery stores.

Wholesale Merchant Classification - A person or business who sells tangible goods, wares and merchandise for resale by the purchaser, including sales when the goods, wares and merchandise will be incorporated into goods for sale, and also includes sales to institutional, commercial, industrial, and governmental users when the sales quantity, price and terms are indicative of sales at wholesale.

Direct Seller Classification – A person who (1) engages in the trade or business of selling or soliciting the sale of consumer products primarily in private residences and maintains no public location for the conduct of such business; (2) receives remuneration for such activities, with substantially all of such remuneration being directly related to sales or other sales-oriented services, rather than to the number of hours worked; and, (3) performs such activities pursuant to a written contract between such person and the person for whom the activities are performed and such contract provides that such person will not be treated as an employee with respect to such activities for federal tax purposes. Some examples include cosmetics or essential oils independent contractors. Direct sellers having less than \$4,000 in gross receipts in a calendar year are not required to register.

Contractor or Contracting Trades Classification – Any person, firm or corporation (1) accepting or offering to accept orders or contracts for doing any work on or in any building or structure, requiring the use of paint, stone, brick, mortar, wood, cement, structural iron or steel, sheet iron, galvanized iron, metallic piping, tin, lead, or other metal or any other building material; (2) accepting or offering to accept contracts to do any paving, curbing or other work on sidewalks,

streets, alleys, or highways, or public or private property, using asphalt, brick, stone, cement, concrete, wood or any composition; (3) accepting or offering to accept an order for or contract to excavate earth, rock, or other material for foundation or any other purpose or for cutting, trimming or maintaining rights- of-way; (4) accepting or offering to accept an order or contract to construct any sewer of stone, brick, terra cotta or other material; (5) accepting or offering to accept orders or contracts for doing any work on or in any building or premises involving the erecting, installing, altering, repairing, servicing, or maintaining electric wiring, devices or appliances permanently connected to such wiring, or the erecting, repairing or maintaining of lines for the transmission or distribution of electric light and power; or (6) engaging in the business of plumbing and steam fitting. Contractors include any person who engages others to perform any of the activities mentioned above, as well as persons who subdivide and improve real estate, and speculative builders who build houses or other buildings with the intention to offer the subdivided lots or completed buildings for sale. A local business license cannot be issued without a confirmation of registration with the Department of Professional and Occupational Regulation, as well as confirmation of completion of the Virginia Workers Compensation form 61-A with the VA Workers Compensation Commission.

**Installation is not considered contracting when the installation uses existing openings and connections. Installation work does not constitute "contracting" unless the installation work requires making openings in a wall to run ductwork, wires or plumbing.*

*** Solicitation of business for a contractor is not contracting, but rather a business service.*

**** Procurement, the act of obtaining goods and services, is a business service.*

Research and Development Classification – Any person, firm or corporation designated as the principal or prime contractor designated as the awardee on a Federal Research and Development contract receiving identifiable federal appropriations for research and development services as defined in §31.205-18(a) of the Federal Acquisition Regulation in the areas of (i) computer and electronic services; (ii) computer software; (iii) applied sciences; (iv) economic and social sciences and (v) electronic and physical sciences, 3 cents per \$100 of federal funds received in payment of such contracts upon documentation provide by such person, firm or corporation to the Finance Director/Town Treasurer confirming the applicability of this classification.

Flat Rate Classifications

Alcoholic Beverage – Any person or business selling retail on premise beer, retail off premise beer, retail on premise wine and beer, retail off premise wine and beer, and retail on premise mixed beverages based upon seating capacity.

Itinerant Merchant – Any person who engages in, does, or transacts any temporary or transient business in any locality and who, for the purpose of carrying on such business, occupies any location for a period of less than one year.

Savings and Loan Associations – Savings institutions or state-charters credit unions, other than banks.

Special Event Vendor – Any person or business participating as a vendor or craftsman selling at a community and/or church event on a limited or temporary basis.

Traveling Photographer – Any person, partnership or corporation having no regularly established place of business in the Commonwealth who provides services consisting of the taking of pictures or the making of pictorial reproductions in the Commonwealth.



General Situs Requirements -- & -- Gross Receipt Attribution for Business License Tax

The purpose of this document is to give an overview of the definition and application of “situs” as it relates to the Business License Tax.¹ **Situs** of gross receipts means the **definite place of business that generated taxable gross receipts**. If activities are conducted outside a definite place of business, gross receipts are taxable at the definite place of business where these activities are initiated, directed, or controlled. In order to determine situs, the definite place(s) of business must first be determined. **Definite place of business** means an **office or a location at which occurs a regular and continuous course of dealing where one holds one's self out or avails one's self to the public for 30 consecutive days or more, exclusive of holidays and weekends**. A person's residence shall be deemed to be a definite place of business if there is no commercial business location maintained elsewhere and the person is not subject to licensure as a peddler or itinerant merchant.

Situs is Dependent on Classification

Per State Code, the attribution of gross receipts (i.e. situs) is dependent upon the business license classification. (See the *“General Business License Requirements & Classification Quick Reference Guide”* for more information regarding business license classifications.) The situs of gross receipts based upon business license classification applies as follows:

Professional, Financial, Real Estate, Business, Personal, Repair Service and Research and Development Classifications

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, then to the definite place of business from which the services are directed or controlled. A client site is not the service provider's “definite place of business”, unless the service provider can show documented proof that they held themselves out for business for 30 days or more at their client's site.

Retail Merchant and Direct Sellers Classifications

The gross receipts of a retail merchant or direct seller 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, then the definite place of business from which sales solicitation activities are directed or controlled.

Wholesale Merchant Classification

A wholesale merchant subject to license tax measured by gross 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 (i.e. attribution is based upon shipping point).

Contractor or Contracting Trades Classification

The gross receipts of a contractor shall be attributed to the location at which the work was performed, if the sum of remuneration for all work performed in that jurisdiction is greater than \$25,000. If the sum of remuneration for work performed in any jurisdiction is less than \$25,000, then the work shall be attributed to the definite place of business from which the services are directed or controlled.

Situs with One Definite Place of Business

For service providers and most sales merchants with one definite place of business (i.e. business location), the gross receipts filed for their business license renewal will match the gross receipts listed in Box 1 of the business' Federal tax return.

Situs with More than One Definite Place of Business

When a business has more than one definite place of business (i.e. business location), the first step in determining attributable gross receipts is to determine all the definite places of business. Once the business locations have been determined, the next step would be to determine what work was performed at each location. Once the work done at each location has been determined, the gross receipts associated with the work performed can be attributed to each location.

¹ For more information, see Code of Virginia §58.1, Chapter 37

The gross receipts associated with the work performed at each location are the gross receipts to be filed to the jurisdiction in which each definite place of business is located.

Situs & Gross Receipt Attribution – Special Circumstances

- An employee's home is not considered a definite place of business for an employer, even if the employee telecommutes every day, because the business is not "holding itself out for business" at their employee's home. All work performed by the employee from their home would be attributed to the definite place of business where the "activities are initiated, directed, or controlled."
- The place of performance for a contracted or sub-contracted entity or individual is not considered a definite place of business for the entity or individual that contracted or subcontracted the work.
 - o Amounts paid for contracted work are **not** deductible from taxable gross receipts for the person or entity who contracted the work.
- A contracted or sub-contracted individual, who is not considered an employee for Federal tax purposes, would be liable for business license tax in the jurisdiction from which they perform work. As they are considered much like a sole proprietorship, if they do not have a business location, their residence shall be deemed to be their definite place of business.
 - o Amounts received by contracted or sub-contracted entities or individuals are taxable gross receipts to be claimed by the by contracted or sub-contracted entity or individual.



Limitations & Exclusions from Taxable Gross Receipts

The purpose of this document is to describe certain amounts which should not be included within the calculation of taxable gross receipts. Limitations are generally business type specific and exclusions are more general and can apply to many different types of businesses. Some require advanced approval or that additional documentation be submitted with the business license tax filing.

Limitations on Taxable Gross Receipts

Real Estate Brokers & Agents

Real estate brokers are not required to claim or include gross receipts for commissions paid to a real estate agent, when the real estate agent is liable for the business license tax on their commissions. The broker claiming the exclusion shall identify on its license application each agent to whom the excluded receipts have been paid, and the jurisdiction in the Commonwealth of Virginia to which the agent is subject to business license taxes.

Similarly, if a real estate agent receives the full commission from the broker less an adjustment for the business license tax paid by the broker on such commissions and the agent pays a desk fee to the broker, the desk fee and other overhead costs paid by the agent to a broker shall not be included in the broker's gross receipts. If the agent files separately, the agent must identify on its license application the broker to whom such excluded receipts have been paid, and the amount of such receipts that were included in the broker's license application.

Staffing Firms

Gross receipts shall not include employee benefits paid by a staffing firm to, or for the benefit of, any contract employee for the period of time that the contract employee is actually employed for the use of the client company pursuant to the terms of a PEO services contract or temporary help services contract. The taxable gross receipts of a staffing firm shall include any administrative fees received by such firm from a client company, whether on a fee-for-service basis or as a percentage of total receipts from the client company. The taxpayer must have been designated as a "staffing firm" by the Finance Director, prior to claiming the limitation. Documentation is required to meet the designation.

Pass Through Funds with Agency Agreements

Pass through funds may only be excluded from gross receipts if the following described conditions are met. (1) A contractual relationship exists between the taxpayer and both the client and the contracted third party, and there is a stated relationship between the client and the contracted third party; (2) the taxpayer does not commingle its "agency" funds with other sources; rather it must have a separate accounting system or a fiduciary account where the pass through receipts from its clients are recorded and; (3) the taxpayer does not report these "pass through costs" on its federal income tax returns. Documentation supporting the contractual agreements and the fiduciary account is required to use the limitation described.

Exclusions from Taxable Gross Receipts

The following items are excluded from taxable gross receipts:

1. Amounts received and paid to the United States, the Commonwealth or any county, city or town for the Virginia retail sales or use tax, for any local sales tax or any local excise tax on cigarettes, or amounts received 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 customers.
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 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 business subject to licensure 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.