

P.D. 00-03

January 1, 2000

Enclosed are the 2000 *BPOL Guidelines* for the Business, Professional, and Occupational License (BPOL) Tax. Legislation enacted by the General Assembly in 1996 directed that the *BPOL Guidelines* be updated triennially to provide a current interpretation of *Code of Virginia § 58.1-3700 et seq.* This edition incorporates the statutory and administrative changes that have occurred since the 1997 *Guidelines* were issued.

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*.

I would like to thank members of the business community, local government representatives and other interested parties who participated in the updating of these *Guidelines*. Comments and suggestions from these individuals played a vital role in their publication.

I look forward to our working together as we continue our progress in achieving the goal of uniform application of the Business, Professional, and Occupational License Tax in Virginia.

Sincerely,

Danny M. Payne,  
Tax Commissioner

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**INTRODUCTION: A BRIEF HISTORY OF THE BPOL TAX**

The Business, Professional and Occupational License Tax is a local option tax on the privilege of doing business within a locality. It has evolved over time from a state license tax to a local license fee or a gross receipts tax. For purposes of an introduction to the *2000 BPOL Guidelines*, a brief history of recent changes in the structure of the BPOL tax is summarized here. A more detailed summary of the legislative and administrative history of the tax can be found in Appendix C.

The General Assembly amended the statute in 1964 to eliminate the language restricting local licenses to instances in which a state license was required, permitting counties and those cities and towns without general tax powers in their charters, to impose a license tax regardless of whether the state taxed the particular business. After seeking the counsel of local officials and interested groups and holding public hearings, the original *Guidelines* were published and dated January 1, 1979. The Department of Taxation updated the *Guidelines* effective January 1, 1980, July 1, 1984, and again on July 1, 1995.

In 1996, *Code of Virginia* § 58.1-3700 *et seq.* was significantly amended. The intent of the 1996 amendments and the new *Guidelines* was to help ensure a more uniform local administration of BPOL taxes. Although an update of the *Guidelines* was not required until 1998, the scope of the changes in the 1996 statutory amendments necessitated that they be modified to reflect these changes. The revised *Guidelines* were issued on January 1, 1997.

*Code of Virginia* § 58.1-3703.1 establishes uniform ordinance provisions. Localities levying a BPOL tax must include provisions in their local ordinances substantially similar to the uniform ordinance provisions. The uniform ordinance provisions include: due dates for BPOL license applications and license tax payments; penalty and interest provisions; waiver provisions for penalty and interest; taxpayer appeal procedures at the local and state level; rules for determining the situs and apportionment of gross receipts; and provisions allowing taxpayers and commissioners of the revenue to receive advisory opinions from the Tax Commissioner in addition to allowing taxpayers to obtain advance rulings from their local commissioners of the revenue.

The 2000 *BPOL Guidelines* are issued pursuant to *Code of Virginia* § 58.1-3701 and are effective January 1, 2000. 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. The *Guidelines* will be followed by the Department of Taxation in deciding all appeals under *Code of Virginia* § 58.1-3703.1 (A)(5)(c) and in issuing advisory written opinions pursuant to *Code of Virginia* § 58.1-3701. The department reserves the right to modify the *Guidelines* to reflect changes in interpretations, judicial opinions, and the law. Any changes to the *Guidelines* will be made consistent with *Code of Virginia* § 58.1-3700 *et seq.* which requires the Department to seek public comment. The *Guidelines* have been updated to

reflect statutory and administrative changes and to be more “user friendly.” All references in the 2000 *BPOL Guidelines* are based on the 1997 *BPOL Guidelines* and Chapter 37 of the *Code of Virginia* unless otherwise noted.

Numerous examples and charts have been provided to aid local assessing officers and taxpayers in understanding and applying the BPOL law and its new provisions. The examples contained in these *Guidelines* are for illustrative purposes only. Requests for opinions often present unique factual circumstances, so the resulting analysis and conclusions will not necessarily be the same as that in the examples. Nevertheless, as a general rule, the examples are a useful tool in determining how Chapter 37 and the *Guidelines* should be interpreted.

The appendices have been expanded to assist in the interpretation of several provisions in the statute. They include an updated topical outline of Public Documents, an updated list of the Opinions of the Attorney General, and a standard form to use in preparing requests for advisory opinions. To further assist *Guidelines* users, the Department has prepared editorial comments containing cross references, annotations and other comments. The appendices and comments are subject to periodic updates.