

EXCLUSION WORKSHEETFOR USE WITH THE FAIRFAX COUNTY _____ BPOL
(Tax Year)

This worksheet should be used to identify all exclusions claimed on the business license applications to include forms: 8TA-FF, 8TA-E1, 8TA-E2, 8TA-AJ, and 8TA-NE. This worksheet does not replace the business license application(s). It is intended to be used as an attachment to detail certain adjustments claimed on your business license application(s) that are permitted by statute. If your company is a new business or estimating gross receipts please estimate as accurately as possible.

Fairfax County Ordinance Section	Description of Exclusion	Documentation To be Provided (See Worksheet Instructions 8TA-EX-IN)	Enter amount claimed for each exclusion
4-7.2-1b (1) B or D	Gross Receipts attributable to taxable business activity in another jurisdiction or state.	I	
4-7.2-1b (1) F	Virginia retail sales and use tax or Federal and State excise tax on motor vehicle fuel Account Number Assigned by State:	II	\$
4-7.2-1b (1) G	Reseller of hardware or software to Federal or State Government entity (Enter cost of hardware/software)	III	\$
4-7.2-1b (1) L	Membership dues received by a nonprofit trade, business, professional, service, or civic associations	IV	\$
4-7.2-1b (1) N or O	501(c)(6) or 501(c)(3) (Enter related business income)	V	\$
4-7.2-1b (1) Z	Software developer enter receipts from the lease, license, or sale of software product(s) designed, developed, or created in Fairfax County	VI	\$
4-7.2-24	Contractors (i.e. structural or building, paving, excavating, plumbing, painting, wiring, etc.)	VII	\$
Code of Virginia §58.1-3732.2	Limitation on Gross Receipts; Real Estate Brokers	VIII	\$
Code of Virginia §58.1 – 3732.4	Limitation on Gross Receipts; Staffing Firms	IX	\$
Other: (please specify code section)		X	\$
Total Exclusion(s) claimed : (Enter this figure on Line 2/Box 2 on forms 8TA-FF, 8TA-NE, 8TA-AJ, 8TA-E1 or Line 4 on form 8TA-E2)			\$

ATTACH THIS WORKSHEET WITH YOUR SUPPORTING DOCUMENTATION (AS DETAILED IN THE FOLLOWING INSTRUCTIONS) AND RETURN WITH YOUR COMPLETED BUSINESS LICENSE APPLICATION.

Company Name: _____ Contact Person (please print): _____

Phone # / Fax #: _____ Email Address: _____

Account #: _____ Ordinance Section: _____

EXCLUSION WORKSHEET INSTRUCTIONS

FOR USE WITH THE FAIRFAX COUNTY BPOL

General Information:

Exclusions are deductions from a company's gross receipts that are allowed by the Fairfax County Business, Professional and Occupational License (BPOL) Ordinance. Sections 4-7.2-1(b)(1) (A) – (Z) of the Fairfax County Code and Sections 3732 – 3734.1 of Title 58.1 of the Code of Virginia list the only deductions that can be claimed on the Fairfax County BPOL filing. (See attached Exhibits E-1 through E-5)

Documentation is required to be supplied for ALL exclusions your company is claiming. Listed below are the requested item(s) that should be filed with your BPOL application and Exclusion Worksheet. Documentation should be submitted on a calendar year basis (January through December). If a company is on a fiscal year basis ending other than December 31st, please indicate fiscal year end date and provide sufficient information to]=convert receipts to the calendar year. Based upon a review of the documentation submitted, the County may require additional information before any deduction is allowed. Failure to provide the necessary documentation may result in denial of the claimed exclusion(s).

Each exclusion on the Exclusion Worksheet refers to a section number (I - IX) which identifies the necessary working papers, financial statement, invoices, etc., required to document your exclusion. As BPOL is based upon the gross receipts of the proceeding calendar year, so should the documentation supporting the exclusion.

Sections I-IX Documentation Required:

I. Gross Receipts attributable to taxable business activity in another Virginia jurisdiction, state or foreign country [4-7.2-1(b)(1)(B) or 4-7.2-1(b)(1)(D)]:

- 1) Federal Income tax filing
- 2) State and/or local tax returns filed with other jurisdiction(s), to include supporting state apportionment schedules.
- 3) List of gross receipts by jurisdiction or state.
- 4) Detailed year-end financial statements (i.e. General Ledger or Income Statement) that identify total gross receipts reported on the BPOL application.

II. Virginia Retail Sales and Use Tax or Federal and State Excise Tax on motor vehicle fuel [4-7.2-1(b)(1)F]:

(This exclusion can only be claimed if the sales and use tax collected has been included in your total gross receipts or if the excise tax collected on motor vehicle fuel has been included in your total gross receipts.)

- 1) Account number as assigned by the State.
- 2) Copies of the monthly or quarterly sales and use tax or excise tax filing(s). For excise tax exclusion, provide the number of gallons sold and total gas sales.
- 3) Detailed year-end financial statements (i.e. General Ledger or Income Statement) that identify the total gross receipts reported on the BPOL application. Provide calculation used to arrive at exclusion amount.

III. Reseller of hardware and software to a Federal or State Government entity [4-7.2-1(b)(1)G]:

*(To qualify for this exemption, the law requires that the purchaser be contractually obligated to resell such property **AT THE TIME** the purchaser acquired it.)*

- 1) Detailed listing designating the government agency purchasing the equipment, the contract number, detailed description of the hardware/software, date equipment purchased, cost, sales price, and date sold.
- 2) Copies of the section(s) of the contract, which specify the names of the parties to the contract, the date the contract commenced, and the Statement of Work.
- 3) Copies of invoices of property purchased for resale, and copies of sales invoices.
- 4) Brief description of the nature of your business or your company's web site address.

IV. Membership dues received by nonprofit trade, business, professional, service or civic associations or other similar nonprofit organizations. [4-7.2-1(b)(1)L]:

- 1) Copy of most recently filed Federal Form 990 (Return of Organization Exempt from Income Tax)
- 2) Copy of most recently filed Federal Form 990T (Exempt Organization Business Income Tax Return)
- 3) Financial statements
- 4) Description of your organization

V. 501(c)(6) or 501(c)(3) organizations [4-7.2-1(b)(1)N or 4-7.2-1(b)(1)O]:

(Fairfax County Code states that gross receipts do not include the income of a charitable nonprofit organization except to the extent an organization has receipts from an unrelated trade or business income which is taxable under Internal Revenue Code Section 511 et seq.)

- 1) Copy of most recently filed Federal Form 990 (Return of Organization Exempt from Income Tax)
- 2) Copy of most recently filed Federal Form 990T (Exempt Organization Business Income Tax Return)
- 3) Financial statements
- 4) Description of your organization

VI. Software Developer [4-7.2-1(b)(1)Z]:

(The software product(s) must be developed at a definite place of business in Fairfax County. Qualified developers retain ownership and the right to license, sell, or lease the software. Receipts derived from computer related activities such as systems analysis, systems integration, documentation on the software developed, and training on the software are not part of this exclusion. Third party programming businesses are not eligible for this exclusion.)

- 1) A listing of the Fairfax County locations where the software is designed, developed, or created.
- 2) Description of any other business activities controlled from the Fairfax County site.
- 3) Copies of the lease or license agreement or sales contract detailing the nature of work performed and the software product developed. (No more than three contracts or license agreements showing a representative sampling of the software product developed need be submitted)
- 4) Detailed year-end financial statements (i.e. General Ledger or Income Statement) that identify the company's total gross receipts and the receipts directly attributed to the lease, sale, or license of its software.
- 5) Brief description of the nature of your business. If your company has a web site that provides this information, please give us the web page address.
- 6) List of software products developed. Please provide the name of the software, system requirements, and operating function.

VII. Contractors [4-7.2-24]:

(This applies only to contractors with a principal office located in Fairfax County)

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 Fairfax County may deduct from their gross receipts all work done in another licensing jurisdiction in which a similar tax is paid, and where the amount of business done by the contractor has exceeded the sum of \$25,000 for the same license year.

- 1) Listing of gross receipts by jurisdiction.
- 2) Copies of BPOL filings, showing gross receipts reported to other jurisdiction.
- 3) Detailed year-end financial statements (i.e. General Ledger or Income Statement) that identify total gross receipts reported on the BPOL application.

VIII. Limitation of Gross Receipts; Real Estate Brokers [§58.1-3732.2]

Pursuant to Chapter 4, Article 7.2 of the Fairfax County Code, Real estate brokers must report all receipts on their BPOL filing, as individual real estate agents are not licensed separately in Fairfax County. In accordance with the State Code §58.1-3732.2 an exclusion for the desk fee and other overhead cost paid by the agent to a broker shall not be included in the broker's gross receipts if the 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.

- 1) Detail year-end financial statements (i.e. Operating Statement or Income/Expense Report) that identify the total gross receipts on the BPOL application and the real estate agent desk fee and other overhead cost paid by the agents that is being claimed as the exclusion.
- 2) Copies of a sample contract with the real estate agent, which identify that the agent receives full commission and outlines which fees they paid.

IX. Limitation on Gross Receipts; Staffing Firms [§58.1-3732.4]

Gross receipts for license tax purpose shall not include employee salary and 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.

- 1) Copies of at least three samples of PEO services contracts or temporary help services contracts, which identify the employment responsibilities of the staffing firm and the contract employee.
- 2) At least three samples of time cards (copies of both the front & back) or electronic time approval screens.
- 3) Detailed year-end financial statements (i.e. General Ledger or Income/Expense Statement) that identify the total gross receipts reported on the BPOL application and the employee salary and benefit deductions that are being claimed.

X. All Other Exclusions:

- 1) Identify by either Virginia State Code reference or Fairfax County Ordinance section the exclusion that is claimed by your business.
- 2) Provide adequate documentation to support your exclusion, such as working papers and detailed financial statements that identify both total gross receipts and the exclusion you are claiming.
- 3) Brief description of the nature of business in which your company is engaged.
- 4) Any other documentation that supports your exclusion.

EXCERPTS FROM FAIRFAX COUNTY BPOL ORDINANCE
Section 4-7.2-1 (b) (1) (A) – (Z) and 4-7.2-24

Section 4-7.2-1. Definitions and requirements.

- (b) Special definitions, exclusions and provisions. The general definitions provided by this Article shall be subject to the following limitations, unless a different meaning clearly is required by the context:
- (1) Exclusions from the definition of gross receipts:
- (A) Gross receipts do not include those receipts excluded by Virginia law pursuant to Code of Virginia Section 58.1-3703(C).
 - (B) Gross receipts do not include revenues that are attributable to taxable business activity conducted in another jurisdiction within the Commonwealth of Virginia and the volume attributable to that business activity is deductible pursuant to Code of Virginia Sections 58.1-3708 and 58.1-3709.
 - (C) Pursuant to Code of Virginia Section 58.1-3732, gross receipts do not include those amounts not derived from the exercise of the licensed privilege to engage in a business or profession in the ordinary course of business.
 - (D) Gross receipts do not include revenues that are attributable to business activity with a taxable situs in another jurisdiction not within the Commonwealth of Virginia which shall include any amount 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.
 - (E) Gross receipts do not include those receipts which are subject to a license tax on the same business activity imposed by a town government in accordance with Code of Virginia Section 58.1-3711.
 - (F) Gross receipts do not include any 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, for any federal or state excise taxes on motor fuels.
 - (G) Gross receipts do not include 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 said 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.
 - (H) Gross receipts do not include licenses, admission taxes or pari-mutual wagering pools established under Code of Virginia Sections 59.1-392 or 59.1-393 in accordance with the provisions of Code of Virginia Section 58.1-3732.1.

- (I) Gross receipts do not include any amounts received by a real estate broker which arise from real estate sales transactions to the extent that such amounts are paid to a real estate agent as a commission and the agent is subject to a business license tax on such gross receipts in accordance with the provisions of Code of Virginia Section 58.1-3732.2. Real estate brokers must include all such receipts within their taxable gross as individual real estate agents are not licensed separately under Chapter 4, Article 7.2 of the Fairfax County Code. In addition, gross receipts, when used in connection with Section 4-7.2-34 of this Article, means all commissions received by real estate brokers with respect to the purchase, sale or purchase and sale of any real estate and the management fees paid by real estate agents to real estate brokers as established in accord with a contractual agreement between the broker and the agents of that broker. After December 31, 1995, gross receipts, when used in connection with Section 4-7.2-34 of this Article, do not include management fees paid by real estate agents to real estate brokers as established in accord with a contractual agreement between the broker and the agents of that broker. Such receipts are taxable in accordance with Section 4-7.2-23 of this Article. **See Code of Virginia Section 58.1-3732.2 (page E-5)**
- (J) Gross receipts do not include the value of any trade-in vehicle accepted in trade by a motor vehicle dealer who accepts a trade-in as part of a sale of a motor vehicle pursuant to Code of Virginia Section 58.1-3734.1.
- (K) Gross receipts do not include all amounts received in the course of conducting the state lottery by a lottery sales agent licensed by the State Lottery Board, but gross receipts do include the compensation actually paid to a lottery sales agent in accordance with the provisions of Code of Virginia Section 58.1-4011.
- (L) Gross receipts do not include membership dues collected by trade, business, professional, service or civic associations, or other similar nonprofit organizations.
- (M) Gross receipts do not include amounts paid by advertising agents and agencies for any customer for advertising space, radio time, television time, electrical transcription, pressing, art work, engraving, plate, mats, printing stock and postage.
- (N) Gross receipts do not include income which is exempt from the federal income tax pursuant to § 501(c)(6) of the United States Internal Revenue Code, as amended. However, this exclusion pertaining to organizations which are exempt from the federal income tax pursuant to § 501(c)(6) of the United States Internal Revenue Code does not exempt unrelated business income received by those organizations which is taxable pursuant to § 501(b) of the United States Internal Revenue Code, as amended.
- (O) Gross receipts do not include:
 - (i) the income of a charitable nonprofit organization except to the extent an organization has receipts from an unrelated trade or business the income of which is taxable under Internal Revenue Code § 511 et seq. For the purpose of this subsection, "charitable nonprofit organization" means an organization which is described in Internal Revenue Code § 501(c)(3) and to which contributions are deductible by the contributor under Internal Revenue Code § 170, except that educational institutions shall be limited to schools, colleges and other similar institutions of learning.

- (ii) On or measured by gifts, contributions, and membership dues of a nonprofit organization. Activities conducted for consideration which are similar to activities conducted for consideration by for-profit businesses shall be presumed to be activities that are part of a business subject to licensure. For the purpose of this subsection, "nonprofit organization" means an organization exempt from federal income tax under Internal Revenue Code § 501, other than charitable nonprofit organizations.
- (P) Gross receipts do not include receipts which are the proceeds of a loan transaction in which the licensee is the obligator, or the return of principal of a loan transaction in which the licensee is the creditor. Gross receipts also do not include the return of principal or basis upon the sale of a capital asset. Gross receipts, when used in connection with or in respect to financial transactions involving the sale of notes, stocks, bonds or other securities or the loan, collection or advance of money or the discounting of notes, bills or other evidence of debt, mean the gross interest, gross discount, gross commission or other gross receipts earned by means of, or resulting from such financial transactions, but gross receipts do not include any amount received as payment of debt.
- (Q) Gross receipts do not include the pass-through funds of any money lender duly organized, registered and doing business as a cooperative association under the Virginia Cooperative Association Act or any corresponding cooperative association act of any other state or the District of Columbia. However, all funds used for operating expenses, retained margins and reserves of any such cooperative association are gross receipts which are taxable in accordance with Section 4-7.2-31 of this Article. Any cooperative money lender whose gross receipts are subject to taxation in accordance with this subparagraph shall submit such documentary proof as required by the Director that the cooperative money lender is duly organized, registered and doing business as a cooperative association in the manner provided herein.
- (R) Gross receipts do not include donations, gifts or contributions made without consideration to a nonprofit organization described in Internal Revenue Code § 501.
- (S) Gross receipts do not include any amounts received from withdrawals from inventory for purposes other than sale or distribution and for which no consideration is received and the occasional sale of assets other than inventory whether or not a gain or loss is recognized for federal purposes.
- (T) Gross receipts do not include 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.
- (U) Gross receipts do not include general and administrative intra-company receipts or intra-company reimbursements or transfer payments.
- (V) Gross receipts do not include receipts on any venture capital fund or other investment fund, except commissions and fees of such funds. Gross receipts from the sale and rental of real estate and buildings remain taxable.

- (W) Gross receipts do not include 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 offer, 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.
- (X) Gross receipts do not include 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).
- (Y) Gross receipts do not include any amount representing returns and allowances granted by the business to its customer.
- (Z) Effective January 1, 1999, gross receipts derived solely from the design, development or other creation of computer software for lease, sale or license shall be subject to an exclusion in the amount set forth in the table below. This exclusion shall apply only to those receipts attributed to computer software design, development or creation activities actually performed at a definite place of business within Fairfax County as specified by Section 4-7.2-6.

The amount of gross receipts excluded by this section shall be determined as follows:

TAX YEAR BEGINNING	PERCENTAGE EXCLUSION
JANUARY 1, 1999	33% of software receipts
JANUARY 1, 2000	66% of software receipts
JANUARY 1, 2001 <i>" & thereafter "</i>	100% of software receipts

Section 4-7.2-24. Contractors and contracting; license tax rate.

Every person conducting or engaging in contracting occupations, businesses, trades or callings shall be considered a contractor and shall pay an annual license tax of Eleven Cents for each One Hundred Dollars of gross receipts. For the purposes of this Article, the meaning of the term "contractor" provided by Code of Virginia Section 58.1-3714(B) is incorporated by reference. The provisions of Code of Virginia Section 58.1-3715 relating (i) to licensing exemptions, (ii) to licensing requirements for businesses located outside of the County which do more than \$25,000 per year in the County and (iii) to credits for business done in other counties, cities and towns in which a similar tax is paid are incorporated by reference.

**EXCERPTS FROM THE CODE OF VIRGINIA
TITLE 58.1-3732.2 through 58.1-3732.4**

Code of Virginia § 58.1-3732.2 Limitation of gross receipts; Real Estate Brokers

Gross receipts of real estate brokers for license tax purposes under Chapter 37 (§ 58.1-3700 et seq.) of this title shall not include amounts received by any broker that arise from real estate sales transactions to the extent that such amounts are paid to a real estate agent as a commission on any real estate sales transaction and the agent is subject to the business license tax on such receipts. 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.

In the event that 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 cost 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. (1994, c. 397; 2002, c. 532.)

Code of Virginia § 58.1-3732.3 Limitation of gross receipts of providers of funeral services.

Gross receipts of providers of funeral services for license tax purposed under Chapter 37 (§ 58.1- 3700 et seq.) of this title shall not include amounts collected by any provider of funeral services on behalf of, and paid to, another person providing goods or services in connection with a funeral. The exclusion provided by this section shall apply if the goods or services were contracted for by the provider of funeral services or his customer. A provider of funeral services claiming the exclusion shall identify on its license application each person to whom the excluded receipts have been paid and the amount of the excluded receipts paid by the provider of funeral services to such person. As used in this section, "provider of funeral services" means any person engaged in the funeral service profession, operating a funeral service establishment, or acting as a funeral director or embalmer. (1998, c.220)

Code of Virginia § 58.1-3732.4 Limitation on Gross Receipts: staffing firms.

A. Gross receipts for license tax purposes under this chapter 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.

B: For the purpose of this section:

"*Client company*" means a person, as defined in § 1-13.19, that enters into a contract with a staffing firm by which the staffing firm, for a fee, provides PEO services or temporary help services.

"*Contract employee*" means an employee performing services under a PEO services contract or temporary help services contract.

"*Employee benefits*" means wages, salaries, payroll taxes, payroll deductions, workers' compensation costs, benefits, and similar expenses.

"*PEO services*" or "*professional employer organization services*" means an arrangement whereby a staffing firm assumes employer responsibility for payroll, benefits, and other human resources functions with respect to employees of a client company with no restrictions or limitations on the duration of employment.

"*PEO services contract*" means a contract pursuant to which a staffing firm provides PEO services for a client company.

"*Staffing firm*" means a person, as defined in § 1-13.19, that provides PEO services or temporary help services.

"*Temporary help services*" means an arrangement whereby a staffing firm temporarily assigns employees to support or supplement a client company's workforce.

"*Temporary help services contract*" means a contract pursuant to which a staffing firm provides temporary help services for a client company. (1998, c. 347)