

## **BUSINESS & OCCUPATION TAX FREQUENTLY ASKED QUESTIONS (FAQ'S)**

### **Q. WHO IS REQUIRED TO FILE?**

**A.** All persons who are engaged in business within the City of Charleston are required to file *B&O Tax returns*. Persons domiciled outside the city limits who (a) lease tangible personal property to lessees in the municipality, or (b) perform construction or installation contracts in the municipality, or (c) render services to others therein, are doing business in the municipality, irrespective of the domicile of such persons, and irrespective of whether or not such persons maintain a permanent place of business in the City of Charleston.

In addition, persons domiciled outside the City of Charleston who sell or deliver tangible personal property to persons inside the city limits are doing business in the city, irrespective of the domicile of such persons, and irrespective of whether or not such persons maintain a permanent place of business in the City of Charleston.

Persons domiciled in and having a place of business in Charleston who (a) sell or lease personal property to buyers or lessees outside the municipality, or (b) perform construction or installation contracts outside the municipality, or (c) render services to others outside the city, are doing business both within and without the city. Whether or not such persons are subject to B&O Tax depends on the kind of business and the manner in which it is transacted. The following general principles determine tax liability under the municipal B&O Tax.

#### Selling Personal Property:

Gross income or gross proceeds of sales derived from sales within West Virginia, which is not taxed or taxable by any other municipality are included in the measure of Charleston B&O Tax if the sales are either directed from a city location, or if the taxpayer's principal West Virginia offices is located in the Charleston.

If the taxpayer has only one office location, and this office is located within the City of Charleston, and its activities elsewhere in West Virginia are neither taxed nor taxable by another municipality, the gross income or gross proceeds from those activities are taxable by the city.

#### Construction or Installation Contracts in the City of Charleston:

When the business involves a construction or installation contract in Charleston, no deduction from the measure of the tax is permitted, even though the contractor is domiciled outside the city, and maintains a place of business outside the municipality.

#### Construction or Installation Contracts Outside the City of Charleston:

When the business involves a construction or installation contract outside the City of Charleston, the tax does not apply to any part of the income derived therefrom, even though the contractor is

domiciled in the city, and maintains a place of business therein, which may contribute to the contract performed outside the municipality.

Rendering Services:

Gross income or gross proceeds of sales derived from services within West Virginia, which is not taxed or taxable by any other municipality are included in the measure of Charleston B&O Tax if the services are either directed from a city location, or if the taxpayer's principal West Virginia office is located in the City of Charleston.

If the taxpayer has only one office location, and this office is located within Charleston, and its activities elsewhere in West Virginia are neither taxed nor taxable by another municipality, the gross income or gross proceeds from those activities are taxable by the city.

If you are uncertain if your business activity is subject to B&O Tax, please contact our office.

**Q. MY BUSINESS IS ALREADY REGISTERED WITH THE STATE OF WEST VIRGINIA. DO I STILL NEED TO REGISTER WITH THE CITY OF CHARLESTON?**

**A.** Yes. The City of Charleston is a separate and distinct entity from the State of West Virginia.

**Q. WHAT IS GROSS INCOME?**

**A.** Gross income means the gross receipts of the taxpayer, without any deduction on account of the cost of property sold, the cost of materials used, labor costs, taxes, royalties paid in cash or in kind or otherwise, interest or discount paid or any expense whatsoever.

**Q. WHEN ARE B&O TAX RETURNS DUE?**

**A.** B&O Tax returns are due within one month following the end of the taxable quarter. Quarterly payments are due in April, July, October and January. Penalty and interest will be applied against any return that is received after these months.

**Q. WHAT ARE THE TAX RATES?**

**A.** The tax rate depends on the classification of your business activity. See tax table below:

<u>Classification</u>	<u>Rate Multiplier</u>
1. Production of Natural Resources (1%)	0.01
2. Manufacturing (0%)	0.00
3. Retailers (1/2 of 1%)	0.005
4. Wholesalers (15/100 of (1%)	0.0015
5. Electric Power (sales & lighting) (4%)	0.04
6. Electric Power (other sales/demand charges) (3%)	0.03
7. Natural Gas Companies (3%)	0.03
8. Water Companies (4%)	0.04
9. All Other Public Utilities (2%)	0.02
10. Contracting (2%)	0.02
11. Amusement (1/2 of 1%)	0.005
12. Service/All Other Businesses (1%)	0.01
13. Rent/Royalties (1%)	0.01
14. Banking/Other Financial (1%)	0.01

**Q. WHAT ARE THE PENALTY & INTEREST RATES?**

A. The tax, if not paid when due, shall bear interest at the rate of 8% per annum from the date the return is due. The penalty shall be 5% for the first month, or fraction thereof, and 1% of the tax for each succeeding month or fraction thereof.

**Q. AM I REQUIRED TO FILE EVEN IF I HAD NO INCOME DURING A PERIOD?**

A. Yes. All individuals who usually conduct taxable business activity within the Charleston, but have no business activity during a particular reporting period must file a “zero” return.

**Q. CAN I USE MY CREDIT OR DEBIT CARD TO PAY THE TAX?**

A. Yes. Payments can be made on-line at <https://charlestonpaymentsonline.org/>

**Q. CAN I FILE MY RETURN ELECTRONICALLY?**

A. Yes. You can file your return on-line and make your payment at <https://charlestonpaymentsonline.org>.

**Q. WHAT IF I OVERPAID THE TAX, CAN I RECEIVE A REFUND?**

A. Yes. Any taxpayer claiming to have overpaid any tax, interest, or penalty shall file a claim in writing to the City Collector within three years after the due date of the return or within two years from the date the tax was paid, whichever such period expires the later, or if no return was filed by the taxpayer, within two years from the time the tax was paid.

**Q. WHAT IF I UNDERPAY OR FAIL TO PAY THE TAX?**

A. If you underpay or fail to pay the tax, the City Collector may, at any time, issue an assessment. Upon receiving an assessment, you have thirty (30) days to: (1) remit the assessment balance due, or (2) contest the assessment and file a Petition for Reassessment, either in person or via certified mail. If you fail to comply with either number (1) or (2) above, the assessment will become final and conclusive, and a lien will be filed against you.

**Q. HOW DO I CONTEST AN ASSESSMENT?**

A. To contest an assessment, you must file a *Petition for Reassessment* with the City Collector, either in person or by certified mail within 30 days from the date of the assessment. Upon receipt of a timely filed petition, the City Collector will schedule an administrative hearing within 90 days of the filing of the *Petition for Reassessment*, and provide the taxpayer written notice of the date, time, and location of the hearing. The hearing will be informal, and conducted in an impartial manner by the City Collector, or a hearing examiner designated by the City Collector. The burden of proof shall be upon the taxpayer to show the assessment is incorrect and contrary to law, in whole, or in part.