



## Legislation Text

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**File #:** ORD. 2019-276, **Version:** 1

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To amend City Code §§ 26-872, concerning definitions related to license taxes, and 26-989, concerning licenses taxes for personal services businesses, and to amend ch. 26, art. XV, div. 2 of the City Code by adding therein a new section numbered 26-1003.1, concerning the license tax for technology businesses, for the purpose of creating a new business, profession, and occupation license category called “technology business” and imposing a new license tax on such businesses.

THE CITY OF RICHMOND HEREBY ORDAINS:

§ 1. That sections 26-872 and 26-989 of the Code of the City of Richmond (2015) be and are hereby **amended** and reordained as follows:

**Sec. 26-872. 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:

*Acted responsibly* means that the taxpayer:

- (1) Exercised the level of reasonable care that a prudent person would exercise under the circumstances in determining the filing obligations for the business; and
- (2) Undertook significant steps to avoid or mitigate the failure, such as 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.

*Affiliated group* means those businesses as defined in Code of Virginia, § 58.1-3700.1.

*Alcoholic beverages* includes the definition thereof contained in the Alcoholic Beverage Control Act, Code of Virginia, § 4.1-100, and includes beer, ale, porter, wine, similar fermented malt or vinous liquor, and fruit juices.

*Appealable event* means an increase in the assessment of a local license tax payable by a taxpayer, the

denial of a refund, or the assessment of a local license tax where none previously was assessed, arising out of the Assessor's:

- (1) Examination of records, financial statements, books of account or other information for the purpose of determining the correctness of an assessment;
- (2) Determination regarding the rate or classification to the licensable business;
- (3) Assessment of a local license tax when no return has been filed by the taxpayer; or
- (4) Denial of an application for correction of erroneous assessment attendant to the filing of an amended application for license.

An appealable event shall include a taxpayer's appeal of the classification applicable to a business, including whether the business properly falls within a business license subclassification established by the City, regardless of whether the taxpayer's appeal is in conjunction with an assessment, examination, audit, or any other action taken by the City.

*Architect* means every person engaged in the conduct of a profession as an architect, and every person who for compensation is engaged in the business of preparation and furnishing plans or specifications for the erection or improvement of buildings, whose office or place of business is located in the City.

*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 any 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 the taxpayer's 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 Director of Finance or designee.

*Auctioneer* means a person engaged in the business of conducting a public sale at which items are sold one by one, each going to the last and highest of a series of competing bidders.

*Base year* means the calendar year preceding the license year, except for contractors subject to Code of Virginia, § 58.1-3715 or beginning businesses subject to Section 26-880.

*Beer* includes the definition thereof contained in the Alcoholic Beverage Control Act, Code of Virginia, § 4.1-100 et seq., and includes beer, lager beer, ale, porter and similar fermented malt liquor.

*Biotechnology* and *biomedical research and development* mean the use of various processes to develop or test products for human health care, animal health, food production, food safety, food nutrition, or environmental improvement.

*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.

*Business service* means any service rendered for compensation to any business, trade, occupation or governmental agency, unless the service is specifically provided for under another section of this Code.

*Client company* means a person, as defined in Code of Virginia, § 1-13.19, who 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.

*Contractor* means that as defined in Code of Virginia, § 58.1-3714(D).

*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 licensable as a peddler or itinerant merchant.

*Direct sellers, retail and wholesale* means any 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.

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

*Events beyond the taxpayer's control* includes, but is not limited to, the following:

- (1) The unavailability of records due to fire or other casualty;
- (2) The unavoidable absence (e.g., due to death or serious illness) of the person with the sole responsibility for tax compliance; or
- (3) 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 the assessing

official provided the erroneous information.

*Financial service* means buying, selling, handling, managing, investing, and providing of advice regarding money, credit, securities, or other investments. 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.

*Flea market* means a temporary commercial market held in a structure or open area where one or more persons are involved in the setting up of tables, platforms, racks, or similar display areas for the purpose of selling, buying, or exchanging merchandise, goods, wares, products, or other such items. This definition shall not be construed to include sidewalk sales by retail merchants; fruit or produce stands; bake sales; garage, yard,

or estate sales held in conjunction with residential uses; or sponsored activities conducted by religious, civic, charitable or other nonprofit organizations conducted not more than four times during the calendar year.

*Gross receipts* means the whole, entire, total receipts attributable to the licensed privilege, without deduction, except as may be limited by Code of Virginia, § 58.1-3700 et seq., or unless otherwise expressly provided elsewhere in this article. Gross receipts of the business shall be computed based on the same method of accounting as is used by the taxpayer for the purposes of Federal taxation, without any exception, unless otherwise expressly provided.

*Hotel and motel* mean any building or group of buildings containing guestrooms or dwelling units which are intended, used or designed to be rented, let or hired out for compensation by automobile tourists or other transients, whether such compensation is paid directly or indirectly. This includes motels, motor hotels, tourist courts, motor lodges, and the like. Daily or weekly rental of units or any sign on the premises making reference to other than monthly rates shall be considered prima facie evidence that a building is a hotel and subject to all hotel restrictions and ordinances.

*Itinerant merchant* means any person, whether principal, agent or salesperson, who engages in temporary or transient business for the purpose of selling or offering for sale goods, wares and merchandise to others at retail only and not for resale, and who for the purpose of carrying on such business hires, leases, uses or occupies any building or structure or public room or any part thereof, including rooms in hotels, lodgingshouses or houses of private entertainment, for a period of less than one year for the exhibition of or sale of such goods, wares or merchandise.

*Junk dealer* means every person selling, bartering or exchanging any kind of secondhand articles, junk, rags, rag cullings, bones, bottles, pewter, scrap, metals, metal drosses, steel, iron, old lead pipe, old bathroom fixtures, old rubber, old rubber articles, paper or other like commodities, and except furniture, clothing, shoes and stoves intended to be resold for use as such.

*License fee* means the fixed sum prescribed by a particular section of this article to be assessed on

businesses, trades, professions, occupations and callings and upon the persons, firms and corporations engaged in business in the City as provided by Code of Virginia, § 58.1-3703(A).

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

*Parking lot* means a place or lot, other than a duly licensed public garage, where space is provided for the storage or parking of motor vehicles for compensation.

*PEO (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.

*Personal service* means rendering for compensation any repair, personal, business or other services not specifically classified as "financial, real estate or professional service" under 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 (Code of Virginia, § 58.1-1 et seq.).

*Professional service* means the rendering of any service specifically enumerated in this definition or engaged in any 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 by 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 terms "profession" and "professional" imply attainments in professional knowledge, as distinguished from mere skill, and the application of knowledge to uses for others as a vocation, and including, but without limitation, such attainments attributed to the following:

- (1) Architects.
- (2) Attorneys at law.

(3) Certified public accountants.

(4) Dentists.

(5) Engineers.

(6) Land surveyors.

(7) Practitioners of the healing arts (the art or science or group of arts or sciences dealing with the prevention, diagnosis, treatment and cure or alleviation of human physical or mental ailments, conditions, diseases, pain or infirmities).

(8) Surgeons.

(9) Veterinarians.

*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.

*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 agent* means every person engaged in the business of a real estate agent or a real estate broker in the City and having an office or place of business in the City.

*Real estate service* means rendering a service for compensation as lessor, buyer, seller, agent or broker and providing a real estate service, unless the service is otherwise specifically provided for in this article, and such services include, but are not limited to, the following:

(1) Appraisers of real estate.

(2) Developer.

(3) Escrow agents, real estate.



- (4) Fiduciaries, real estate.
- (5) Lessors of real property.
- (6) Real estate agents, brokers and managers.
- (7) Real estate selling agents.
- (8) Rental agents for real estate.
- (9) Subdivider.

*Repair service* means the repairing, renovating, cleaning or servicing of some article or item of personal property for compensation, unless the service is specifically provided for under another section of this Code.

*Restaurants, eating houses, lunchstands, lunchrooms, etc.*, means an establishment which sells, offers for sale, cooks or otherwise furnishes for compensation, diet, food or refreshments of any kind at a house or place of business for consumption therein.

*Retail merchant, consignment*, means any retail merchant who sells or offers for sale goods, wares and merchandise which such merchant has acquired from others on a consignment or other such basis.

*Retail merchant, vending*, means every person who sells merchandise by means of machines operated on the coin-in-the-slot principle.

*Retailer* and *retail merchant* mean any person or merchant who sells goods, wares and merchandise for use or consumption by the purchaser, including flea markets, as defined in this section, or for any purpose other than resale by the purchaser, but does not include sales at wholesale to institutional, commercial and industrial users, and peddlers as defined in Section 6-418.

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

*Speculative builder* means every person who is engaged in the business of erecting a building for the purpose of selling or renting the building and who makes no contract with a duly licensed contractor for the erection of the building, whether or not such person contracts with one or more such contractors for one or

more portions, but does not contract with any one person for all of the work of erecting any one of the buildings.

*Staffing firm* means a person, as defined in Code of Virginia, § 1-13.19, who provides PEO services or temporary help services.

Technology business means a business that derives its gross receipts primarily from the sale, lease, license, or provision of technology based products, processes, or services created, designed, developed, produced, manufactured, or performed by such business. Such products, processes, and services must incorporate or support the use of technologies having applications in one or more of the following categories:

- (1) Cybersecurity, personal security, and property security.
- (2) Sea level rise and recurrent flooding.
- (3) Medical devices, medical diagnostics, pharmaceuticals, biotechnology, biochemical engineering, and other life sciences and health care technologies.
- (4) Advanced materials and advanced manufacturing.
- (5) Computer hardware and software.
- (6) Electronics and instrumentation.
- (7) Photonics and sensors.
- (8) Internet and e-commerce.
- (9) Educational and training technologies including modeling and simulation.
- (10) Bioinformatics and data analytics.
- (11) Logistics and maritime commerce.
- (12) Information technology, telecommunications, and wireless technologies.
- (13) Green technologies, renewable energy research and development, and energy conservation.
- (14) Advanced transportation technologies.
- (15) Nanotechnology.

(16) Financial technology.

(17) Aerospace engineering, systems, and products and parts manufacturing.

The use of computers, telecommunications services, or a web page or internet site is not, in itself, sufficient to qualify as a technology business.

*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.

*Travel agent* means every person engaged in the business of:

- (1) Buying, selling or exchanging for passengers railroad, steamship, bus or airplane tickets;
  - (2) Securing or arranging for passengers transportation on a railroad, steamship, bus or airplane;
- or
- (3) Managing, arranging or conducting tours for five or more persons in any one tour or trip by railroad, steamship, automobile, bus or airplane, or by a combination of any of them.

*Wholesaler* and *wholesale merchant* include 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 and industrial users which, because of the quantity, price, or other terms, indicate that they are consistent with sales at wholesale.

*Wine* includes the definition thereof contained in the Alcoholic Beverage Control Act, Code of Virginia, § 4.1-100, and includes wine and similar fermented vinous liquor and fruit juices.

**Sec. 26-989. Personal services generally.**

(a) For the purposes of this section, the term “personal service” shall include personal service, repair service and business service, as defined in Section 26-872, and all other businesses and occupations not

specifically listed or exempted in this chapter.

(b) Every person engaged in one or more personal service businesses shall obtain a license for the privilege of doing business in the City and shall pay a license fee as set forth in Appendix A to this Code or a license tax equal to \$0.36 per \$100.00 of the gross receipts of the business, as provided in Section 26-871.

(c) Every person engaged in the business of preparing bodies for burial, an embalmer, conducting funerals, or an undertaker and duly licensed as such under this section shall be allowed to deduct from the gross receipts of this business all payments made on account of customers or clients for burial lots, for doctors, hospital or nurses' services, for newspaper notices, for transportation expenses or other like expenses, provided that no such item shall be deducted with respect to which the taxpayer has received or become entitled to receive any commission, fee, discount or profit whatsoever.

(d) Personal services generally include, but are not limited to, the following types of businesses:

- (1) Abattoirs.
- (2) Advertisement placement service.
- (3) Alarms: installing, selling or leasing.
- (4) Ambulance service.
- (5) Analytical laboratory.
- (6) Artist or artisan.
- (7) Assayer.
- (8) Auctioneer.
- (9) Barbershop.
- (10) Beauty parlor or hair styling salon.
- (11) Blue printer.
- (12) Boilermaking.
- (13) Bookkeeper.

- (14) Bowling center.
- (15) Building cleaning services (exterior or interior).
- (16) Business or statistical research services.
- (17) Cable television businesses.
- (18) Caterer.
- (19) Chemist.
- (20) Chimney services.
- (21) Clothing, hats, carpet or rug services: cleaning, dyeing, pressing, repairing, sponging or spotting.
- (22) Collection business.
- (23) Commercial advertising on taxicabs and other passenger-carrying for-hire vehicles, except buses operated on the City streets.
- (24) Commercial sign painter.
- (25) [~~Computer systems designer, programmer or manager.~~]
- (26) Construction manager.
- [(27)] (26) Credit bureau.
- [(28)] (27) Custom making drapes or window curtains.
- [(29)] (28) Data processing services.
- [(30)] (29) Day care center or nursery.
- [(31)] (30) Detective services.
- [(32)] (31) Diaper services.
- [(33)] (32) Duplicating, photostating or copying services.
- [(34)] (33) Electrologist.
- [(35)] (34) Engineering laboratory.

[(36)] (35) Frozen food locker plant.

[(37)] (36) Funeral, embalming and undertaking services.

[(38)] (37) Furnace cleaning.

[(39)] (38) Gardener.

[(40)] (39) Graphics service.

[(41)] (40) Health club.

[(42)] (41) Home improvement services.

[(43)] (42) Hotel.

[(44)] (43) House cleaning services.

[(45)] (44) Installation or repair of equipment on automobiles, trucks or other motorized vehicles or equipment.

[(46)] (45) Interior decorator or designer.

[(47)] (46) Investigative services.

[(48)] (47) Janitorial services.

[(49)] (48) Kennel or small animal hospital.

[(50)] (49) Landscape architect.

[(51)] (50) Laundry.

[(52)] (51) Lawn maintenance.

[(53)] (52) Locksmith or lock repair services.

[(54)] (53) Machine shops.

[(55)] (54) Manicurist.

[(56)] (55) Manufacturer's agent.

[(57)] (56) Mercantile agent.

[(58)] (57) Merchandise broker.

- ~~[(59)]~~ (58) Messenger services.
- ~~[(60)]~~ (59) Motion picture producer.
- ~~[(61)]~~ (60) Motor vehicle services of any kind.
- ~~[(62)]~~ (61) Nursing or adult homes.
- ~~[(63)]~~ (62) Operating/leasing halls, other than dancehalls.
- ~~[(64)]~~ (63) Optician.
- ~~[(65)]~~ (64) Parking lot.
- ~~[(66)]~~ (65) Permanent or full-time employment service.
- ~~[(67)]~~ (66) Pet grooming.
- ~~[(68)]~~ (67) Photographer.
- ~~[(69)]~~ (68) Photostater.
- ~~[(70)]~~ (69) Picture framing or gilding.
- ~~[(71)]~~ (70) Plating metals or other materials.
- ~~[(72)]~~ (71) Protective agents.
- ~~[(73)]~~ (72) Public relations business.
- ~~[(74)]~~ (73) Public stenographer.
- ~~[(75)]~~ (74) Recording studio.
- ~~[(76)]~~ (75) Recycling businesses.
- ~~[(77)]~~ (76) Refuse collection services.
- ~~[(78)]~~ (77) Renting tangible personal property (not qualified as daily rental business).
- ~~[(79)]~~ (78) Recorder of proceedings in any court, commission or other organization.
- ~~[(80)]~~ (79) Repair service.
- ~~[(81)]~~ (80) Repair shop.
- ~~[(82)]~~ (81) Safety deposit box.

- [(83)] (82) Sales agent or agency (except real estate agent).
- [(84)] (83) Scalp treatment business.
- [(85)] (84) Scientific data services.
- [(86)] (85) Sculptor.
- [(87)] (86) Security services.
- [(88)] (87) Shoe repair services.
- [(89)] (88) Shoeshine business.
- [(90)] (89) Skating rink.
- [(91)] (90) Stevedoring.
- [(92)] (91) Supplying clean linens, coats, aprons or uniforms.
- [(93)] (92) Survey services.
- [(94)] (93) Tax preparer.
- [(95)] (94) Taxidermist.
- [(96)] (95) Telephone message services.
- [(97)] (96) Telephone sanitizing services.
- [(98)] (97) Temporary employment services.
- [(99)] (98) Theater.
- [(100)] (99) Tire retreading or disposal services.
- [(101)] (100) Tour conductor.
- [(102)] (101) Towing services.
- [(103)] (102) Trading stamp business.
- [(104)] (103) Transporting goods or chattels for others and related services.
- [(105)] (104) Travel agent.
- [(106)] (105) Tree pruner.



~~[(107)]~~ (106) Typesetting.

~~[(108)]~~ (107) Weight control salon, club or service.

~~[(109)]~~ (108) Welcoming or greeting services.

~~[(110)]~~ (109) Welding services.

~~[(111)]~~ (110) Window dresser.

~~[(112)]~~ (111) Window or window shade cleaning services.

~~[(113)]~~ (112) Written communication services.

~~[(114)]~~ (113) Other personal, repair and business services.

~~[(115)]~~ (114) All other businesses and occupations not specifically listed or excepted.

(e) Persons engaged in activities which are not listed in Subsection (d) of this section but fitting within the scope and intent of the definition of personal, business or repair services in Section 26-872 and those who are not elsewhere provided for in this section nor specifically exempted by law from payment of such license tax shall be subject to a license tax for providing personal services as provided in Subsection (a) of this section.

(f) Notwithstanding anything to the contrary in this section, no license shall be required of a child care center, a nursery, a nursing home, an adult home, a foster home, a child placing agency, or a family care home unless a regulatory license is required under the rules of the State Department of Social Services. Failure to obtain a license from the State will not exonerate such person from the liability of payment of license taxes.

(g) No license shall be issued to anyone as the operator of a bowling center, skating rink, motion picture theater, theater, or as one furnishing detective services without a permit from the Chief of Police, as provided in Section 26-875.

(h) The license taxes prescribed in this section shall be in addition to the license taxes prescribed elsewhere in this Code upon slot machines or other vehicles of any kind.

(i) No license shall be issued to a detective without a permit from the Chief of Police under Section 26-875.

§ 2. That Chapter 26, Article XV, Division 2 of the Code of the City of Richmond (2015) be and is hereby amended and reordained by **adding therein a new** section numbered 26-1003.1 as follows:

**Sec. 26-1003.1. Technology businesses.**

Every person engaged in a technology business, for the privilege of doing business in the City, shall pay an annual license tax for such privilege, based on the following types of businesses and in the following amounts:

- (a) Persons engaged in biotechnology, research and development, and information services shall pay a license tax equal to \$0.10 per \$100.00 of gross receipts of the technology business.
- (b) Federal contractors engaged in research and development services shall pay a license tax equal to \$0.03 per \$100.00 of gross receipts of the technology business.
- (c) Persons engaged in computer services shall pay a license tax equal to \$0.03 per \$100.00 of gross receipts of the technology business.

§ 3. This ordinance shall be in force and effect upon adoption.