RECOURSE FOR NON-FILERS

Robert Rush

Business Tax Auditor

City of Charlottesville

rushrt@charlottesville.gov

WHAT TAXES ARE BUSINESSES NOT FILING?

- Business License - Yearly
- Fiduciary Taxes – Meals, Transient Occupancy – Monthly or Quarterly depending on local ordinances
- Short-Term Rental - Quarterly
- Business Tangible Personal Property - Yearly

WHAT CAN WE DO ABOUT IT?

- Reach out to the taxpayer for the information – call, letter, e-mail…Time consuming but necessary!!!
- No Response??? – Here are some options:
- Non-filer letter – issued ten days after due date for meals and transient occupancy tax. If no response after 10 days, we issue statutory and send bill!
- 10-Day Letter – giving taxpayer ten days to respond to issues concerning tax liability (any kind of tax). Inform taxpayer that failure to respond will result in an Administrative Summons.

Commissioner of the Revenue
City of Charlottesville
605 E. Main Street, Room A130
P O Box 2964
Charlottesville, VA 22902-2964
434-970-3170

7/29/2021

[redacted]

Re: Delinquent Transient Occupancy Tax
Account Number: [redacted]

To Whom It May Concern:

Our records indicate that you have not filed your Transient Occupancy Tax for June, 2021 that were due on July 20th, 2021.

To avoid a statutory assessment or summons, you must file this information and remit full payment to include 10% late filing penalty on or before 8/10/2021. You may file and pay your taxes online at www.charlottesville.gov/COR.

If you have any questions, or need assistance, please contact our business tax office:

- By phone: at (434) 970-3170;
- By e-mail: at mailto:citycorbiz@charlottesville.gov;
- In person: Drop in drop box located near the 7th street entrance to City Hall, 605 East Main Street, Charlottesville, VA 22902.

Thank you for your prompt attention to this matter.

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Charlottesville, VA 22902
434-970-3170
citycorbiz@charlottesville.gov

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December 8, 2020

[redacted]

RE: Meals Tax Account - [redacted]

Dear Owner,

This letter is being sent to address the following items:

- **Unfiled Meals Taxes -** You must complete a monthly filing to submit with your check. The filing may be completed online. Provide all monthly documentation showing gross sales, broken down monthly from January 2020 until current. Meals Tax filings are due the 20th of the month for prior month.

- **Unfiled and Delinquent Business License** – Provide gross receipts and pay balance due.

- **PROVIDE ALL DOCUMENTATION LISTING GROSS SALES BY MONTH.**

You have 10 (TEN) days to address this matter.

Failure to handle this matter will result in a SUMMONS TO APPEAR Pursuant to Virginia Code Section 58.1-3110, **FAILURE TO APPEAR OR REFUSAL TO COMPLY WITH A SUMMONS IS A CRIMINAL OFFENSE** and will result in a summons to Charlottesville General District Court.

Brenda Thornton
Brenda Thornton
Business Tax Supervisor

For further information contact:
Business Tax Department
Phone (434) 970-3170
Fax (434) 970-3663

OPTIONS CONTINUED

- Statutory Assessments – for all tax types
- Contacting local Virginia Alcoholic Beverage Control Office – specific to establishments selling/serving alcoholic beverages (beer/wine/mixed spirits) §4.1-225(6)
- Administrative Summons – per Title 58.1-3110 of the Code of Virginia – requiring taxpayers to appear in office with books and records to answer questions regarding tax liability.
- Court -

STATUTORY ASSESSMENTS

- Code Sections – 58.1-3903 – Authority to issue statutory assessments
- Business License – Look at previous year's gross receipts and bump it by 5-10%. Generally about 30-45 days after the filing payment deadline have passed, most jurisdictions are set up to do a mass statutory assessment on all the non-filed license tax accounts. Otherwise, if not able to do a mass assessment, then must do individually.
- Meals and Transient Occupancy tax – letters are sent to non-filers at the end of each month – giving ten days to file and pay. If there is no response, then a statutory assessment is levied usually based on the previous month with a slight increase. Bills are produced and sent to taxpayer. At some point, it is hoped that the taxpayer will wake up and file actual gross receipts.

STATUTORY ASSESSMENTS

- Business Tangible Personal Property Tax – statutory done based on previous years filings. Some jurisdictions do a slight % increase to reflect new acquisitions. There is a nice software package that we use in the City of Charlottesville – Cost Asset Valuation System, CAVS for short. The system has templates for a number of types of businesses. It is a snapshot of what a typical business would have as equipment . It has the capacity to adjust based on depreciated values and number of employees. It is particularly good to determine property for businesses based in the home.
- You have the ability to print out a custom template to enclose with a letter to the non-filing entity of our findings.

Commissioner of the Revenue
City of Charlottesville
605 E. Main Street, Room A130
P O Box 2964
Charlottesville, VA 22902-2964
434-970-3160

Dear Taxpayer,

We have determined that your 2020 Business Tangible Personal Property filing is incomplete. For this office to determine a proper assessment, we require additional documentation as attached to be received by this office **immediately**.

If no response is received, this office will be required to assess your business tangible personal property taxes based on the attached Cost Analysis Valuation System (CAVS) total in accordance with the Code of Virginia **58.1-3519.** Please be aware that an on-site visit may be required to verify the information reported.

58.1-3519 : *If any taxpayer, liable to file a return of any of the subjects of taxation mentioned in this chapter neglects or refuses to file such return for any year within the time prescribed, the commissioner of the revenue shall, from the best information he can obtain, enter the fair market value of such property and assess the same as if it had been reported to him.*

REQUIRED DOCUMENTATION:

Detailed listing of ALL **Business Tangible Personal Property**
58.1-3109(6) – *Requires taxpayers or their agents or any person, firm or officer of a company or corporation to furnish information relating to tangible or intangible personal property, income or license taxes of any and all taxpayers; and require such persons to furnish access to books of account or other papers and records for the purpose of verifying the tax returns of such taxpayers and procuring the information necessary to make a complete assessment of any taxpayers tangible and intangible personal property, and license taxes for the current tax year and the three preceding tax years;*

- List all property used to operate your business. (Signage, computer, desk, chair, cell phone, etc,)
- Include the original cost of each item and date purchased.
- If any property is leased, please provide leasing company's name and contact information.
- Include the date of disposal for any asset no longer in possession.

If you have any questions regarding this correspondence, please contact this office at 434-970-3170.

Regards,

Business Tax Section
Office of the Commissioner of the Revenue

CAVS Business Estimate

CITY OF CHARLOTTESVIL
PO Box 2964
Charlottesville, VA, VA 2290?
434-970-3893

Business Contact:

,

Primary Contact:

Estimate Year	Account #	Started On	NAICS Code	Map/Parcel Number	Business Type
2020			541219		Accounting Service/Bookkeeping (Home Based)

ASSETS	COST
Computer Equipment	2,700
Filing Cabinets	945
Furniture & Fixtures	600
Phone System	150
Shredder	740

ABC AGENTS

- § 4.1-225(6)
- This section will only apply to establishments selling/serving any alcoholic beverages.
- Contact local office of ABC and request a Special Agent visit establishment. Part of their visit is to inquire as to the status of all local taxes. Part of their state license requirement is to keep current with all taxes. If over 90+ days in arrears, they must make payment arrangements with the jurisdiction or face an administrative hearing at ABC offices as to determine whether or not the ABC license will be suspended.

ADMINISTRATIVE SUMMONS

- Per Code of Virginia 58.3110 Power to summons taxpayers and other persons

- The commissioner has the power to summons taxpayers to the office to respond to questions touching the tax liability in question,
- Further it requires to bring all books and records relating to such tax liability.
- Summons can be served by the commissioner, his deputy or the sheriff pursuant to 8.01-292 – executed and returned in like manner of the civil process of a court of competent jurisdiction.
- Failure to respond will result in a summons being issued to the General District Court. See 58.1-3111 – Class 3 misdemeanor

Commissioner of the Revenue
City of Charlottesville
605 E. Main Street, Room A130
P O Box 2964
Charlottesville, VA 22902-2964
434-970-3170

July 16, 2021

SERVE:
[redacted]

SUMMONS TO APPEAR

In light of insufficient response to our earlier attempts to contact you, **YOU ARE HEREBY SUMMONED TO APPEAR** at the Commissioner of the Revenue's office located at 605 E. Main Street, Room A130, Charlottesville, Virginia on:

DATE: August 9, 2021 **TIME:** 1:00 PM

TO ANSWER UNDER OATH, QUESTIONS PERTAINING TO:

Short-Term Residential Rental Property at [redacted]
Business License Tax
Transient Occupancy Tax

Please have available records indicating your annual gross receipts, including your gross revenue report from AirBnB (or other online platform) from May 2021 to the present and be prepared to pay all taxes and penalties. Personal appearance is not necessary if the matter is taken care of prior to the summons date.

Pursuant to Virginia Code Section 58.1-3110, **FAILURE TO APPEAR OR REFUSAL TO COMPLY WITH THIS SUMMONS IS A CRIMINAL OFFENSE** and will result in a summons to Charlottesville General District Court.

Todd D. Divers
Commissioner of the Revenue

For further information contact:
Business Tax Department
Phone (434) 970-3170
Fax (434) 970-3663

MAGISTRATE/COURT

- § 58.1-3907. Willful failure to collect and account for tax – Class 1 misdemeanor
- File Criminal Complaint with Magistrate (Form DC-311) – find it online or let magistrate fill it out. Swear under oath and sign in presence of magistrate.
- Usually hearing date is set, and deputies start looking to serve the defendant.
- At General District Court…
- Make sure your i's are dotted and t's crossed.
- If taxpayer complies before court, nol pros. THIS IS THE GOAL!

CRIMINAL COMPLAINT
Commonwealth of Virginia

RULES 3A:3 AND 7C:3

[ ] General District Court
.... [ ] Juvenile and Domestic Relations District Court
CITY OR COUNTY

Under penalty of perjury, I, the undersigned Complainant swear or affirm that I have reason to believe that the Accused committed a criminal offense, on or about

.... in the [ ] City [ ] County [ ] Town
DATE OFFENSE OCCURRED

of ....

I base my belief on the following facts: (Print ALL information clearly.)

....

....

....

....

....

....

....

....

....

....

....

The statements above are true and accurate to the best of my knowledge and belief.

In making this complaint, I have read and fully understand the following:

- By swearing to these facts, I agree to appear in court and testify if a warrant or summons is issued.
- The charge in this warrant cannot be dismissed except by the court, even at my request.

....
NAME OF COMPLAINANT (LAST, FIRST, MIDDLE)
(PRINT CLEARLY)

____
SIGNATURE OF COMPLAINANT

Subscribed and sworn to before me this day.

....
DATE AND TIME

____
[ ] CLERK [ ] MAGISTRATE [ ] JUDGE

FORM DC-311 REVISED 07/11

CRIMINAL COMPLAINT

ACCUSED: Name, Description, Address/Location

....
LAST NAME, FIRST NAME, MIDDLE NAME

....

....

COMPLETE DATA BELOW IF KNOWN

RACE	SEX	BORN			HT.		WGT.	EYES	HAIR
		MO.	DAY	YR.	FT.	IN.			

SSN

[ ] Complainant is not a law-enforcement officer or animal control officer. Authorization prior to issuance of felony arrest warrant given by
[ ] Commonwealth's attorney
[ ] Law-enforcement agency having jurisdiction over alleged offense

....
NAME OF PERSON AUTHORIZING ISSUANCE OF WARRANT

....
DATE AND TIME AUTHORIZATION GIVEN

QUESTIONS?