

## APPENDIX 504

### TAXATION OF JOB CORPS CONTRACTORS BY STATES OR SUBDIVISIONS THEREOF

1. Section 158(d) of the Workforce Innovation and Opportunity Act (WIOA) 20 U.S.C. Sec. 9201 addresses state taxation of Job Corps contractors.

#### **Taxation of Job Corps Operations Prohibited**

Section 158(d) sets forth the following prohibition:

Transactions conducted by a private for-profit or nonprofit entity that is an operator or service provider for a Job Corps center shall not be considered to be generating gross receipts. Such an operator or service provider shall not be liable, directly or indirectly, to any state or subdivision of a State (nor to any person acting on behalf of such a State or subdivision) for any gross receipts taxes, business privilege taxes measured by gross receipts, or any similar taxes imposed on, or measured by, gross receipts in connection with any payments made to or by such entity for operating or providing services to a Job Corps center. Such an operator or service provider shall not be liable to any State or subdivision of a State to collect or pay any sales, excise, use or similar tax imposed on the sale to or use by such operator or service provider of any property, service, or other item in connection with the operation of or provision of services to a Job Corps center.

2. Whenever a State or subdivision thereof levies a tax against a Job Corps contractor which is prohibited by the provisions of WIOA, the following actions must be undertaken:
  - a. The contractor must exhaust all of its State and/or local remedies before payment is made. (This may result in the assessment of interest penalties by the State). In such cases, the payment of penalties is an allowable cost under the contract.
  - b. This must be accomplished through a written appeal based on Section 158(d) of WIOA.
  - c. After all State and/or local remedies have been exhausted, DOL/Job Corps will provide the contractor with the funds to pay the assessed taxes “under protest.” The check or any other instrument of payment must clearly state the payment is being made under protest. (This statement is necessary to permit the Department of Justice to institute legal action in federal court to recoup the funds expended if the contractor is unsuccessful in its State appeal effort.)
  - d. Any center assessed local or state tax must submit the following information to the National Office through the Regional Office:
    - (1) Title of tax assessed;
    - (2) Authority under which tax is assessed;
    - (3) Statement as to whether tax has been paid under protest;

- (4) The source of funds used to pay the tax; and
  - (5) Documentation of actions taken to recover payments made.
- e. The Regional Director will advise the center contractor to pay assessed taxes under protest as soon as all State and local remedies have been exhausted in order to keep penalties to a minimum. To the extent that this action results in costs in excess of the estimated contract amount, the Regional Director will request an amendment to the Regional Financial Operating Plan.