TAX TIPS
TRANSIENT RETAILERS
CONDUCTING BUSINESS IN DELAWARE

Things You Should Know

Definition *30 Del. C., Ch. 29 and 6 Del. C., Ch. 47*
Any retailer who transacts a temporary or transient business from a building, structure, motor vehicle or real estate for a period of less than four (4) months during the year or less than 90 actual day of business is required to comply with the provisions of Chapter 47 of Title 6 of the Delaware Code regarding the licensing and bonding provisions as a Transient Retailer.

Transient retailers must obtain a business license, $90 for the first place of business and $40 for each additional location. Licenses must be renewed annually on or before December 31st of each year and may be prorated during the initial year of business. Transient retailers must also register with the Division of Revenue describing their merchandise to be sold and the name and address of his/her registered agent within Delaware. Additionally transient retailers must supply a bond in the amount of $1,000 to the Division of Revenue. The statute provides for ten exemptions from the above provisions. Retailers falling within enumerated categories in Chapter 47, Title 6, Delaware Code are not subject to the foregoing but must obtain a transient retailers license ($40) if they conduct business for ten days or less during any year and do not intend to become a permanent retailer. See Technical Information Memorandum 87-3 and 91-2 for more information.

Gross Receipts
Consideration for services rendered includes cash, checks, credit cards, gift certificates, travelers checks, money orders, barter, trade-ins manufacturer's coupons and rebates, and any other consideration of any kind. Unless specifically exempted, every type of service provided is subject to an annual license fee and an additional fee based on the gross receipts received from such services. This additional license fee is called a 'gross receipts tax'.

Gross Receipts Do Not Include:
- Tobacco products tax or motor fuel taxes paid or payable to the State of Delaware
- Gasoline or special fuel taxes paid to the Federal government
- Alcoholic beverages sold for off-premise consumption authorized by the Alcoholic Beverage Control Commission
- Home heating oil
- Returned merchandise
- Like kind exchanges
- 'In Store' or 'Doubling' of manufacturer's coupons
- Motor vehicles, trailers and motorcycles titled to the owner
- Unprocessed agricultural products including nursery and floral sold by the owner of the farm or nursery
- Sales of handmade, painted or craft objects by the artist or craftperson of less than $1,000 per year
- Crabs sold by a person who holds a Delaware license to conduct commercial crabbing
- Sales by non-profit organizations exempt from Federal taxation under 501(c) of the Internal Revenue Code
- Certain sales to the State of Delaware which are administered by the Department of Administrative Services

Gross Receipts May Not be Reduced By:
- Cost of material and/or labor
- Interest, discount or delivery costs
- State or Federal taxes

License and Gross Receipts Requirements
A transient retailer is required to obtain a business license -- $90 for the first location and $40 for each additional location -- which must be renewed annually on or before December 31st of each year. Additionally, every retailer must pay a gross receipts tax at the rate of .7543% (.007543) for taxable gross receipts received from selling tangible personal property. The first $100,000 of gross receipts received per month ($300,000 quarterly) are exempt from the gross receipts tax. Gross Receipts should be filed on-line or with a paper form. Both can be accessed from our website at www.revenue.delaware.gov To register with the Division of Revenue and obtain a business license, please complete a Combined Registration Application and mail to the Division of Revenue with the appropriate fee or file-online using OneStop. Both can be accessed from the link above.

Note: Transient retailers who are exempt from the provisions of Chapter 47 of Title 6, are subject to an annual gross receipts tax at the rate of 0.7543% (.007543) on gross receipts which exceed $3,000 annually.

Tax Rates and Exclusions

		Tax Rate	Monthly Exclusion
Transient Retailer		.007543	$100,000
Sample Calculation	Total Gross Receipts		$173,000
	Less Exclusion		100,000
	Taxable Gross Receipts		$ 73,000
	Tax Rate		x.007543
	Tax Due		$ 544

(Note: Delaware requires that tax due be rounded-off to the nearest dollar amount.)

Due Dates of Returns
New licensees will file on a quarterly basis through their first calendar year. The Division of Revenue will then perform a 'lookback' procedure and determine if the filing frequency should be changed.

Monthly Filers	20th day of the following month
Quarterly Filers	last day of the first month after the end of the calendar quarter.

Gross Receipts Tax Exemption
Gross receipts (and for purposes of the tax imposed by Chapter 43, Title 30 of the Delaware Code "rent" and "lease rental payments") from transactions between related entities are not subject to gross receipts tax. For this purpose, entities are "related" only if (i) the same five or fewer natural individuals own, directly, indirectly or beneficially, 80% or more of each entity, or (ii) 100% of each entity is owned by member or members of a single family. *See* Section 2120(b) of Title 30 of the Delaware Code for further details, including the definition of family member for purposes of this exclusion.

Common Ownership/Direction
A business that operates through more than one branch or legal entity is only entitled to one monthly or quarterly exclusion from gross receipts, if the branches or entities making up the enterprise have common ownership or common direction and control.

Caution Concerning Multiple Exclusions
Nearly all licensees are permitted to reduce their monthly or quarterly gross receipts by certain specific exclusions in determining their taxable gross receipts. The Delaware Code limits the number of allowable exclusions for each general business activity. A taxpayer conducting a business activity for which an exclusion is provided is entitled to **ONLY ONE** monthly or quarterly exclusion regardless of the number of locations at which such activity is conducted. For example, a taxpayer who operates multiple convenience stores at which gasoline is also sold should aggregate the receipts from all goods sold at all locations and subtract only one monthly exclusion. Separate retail licenses are not required for the sale of food and petroleum products. While the Division of Revenue may assign a unique business code which reflects the primary product sold, retailers, wholesalers and manufacturers may sell or manufacture multiple product lines without obtaining a separate license for each product line. However, separate licenses are required and separate exclusions are permitted if a taxpayer conducts more than one **ACTIVITY**, such as retailing and wholesaling.

Retail Crime Fee
Effective September 16, 2008, an annual fifteen dollar ($15.00) Retail Crime Fee has been added to General retail business licenses and Grocery store retail licenses. There are no additional forms to complete in order to remit this fee.
As a result of the Retail Crime Fee: 1) The annual and three year license fees for all general retailers and grocery store retailers with a primary license location will increase from $75 to $90 and $225 to $270, respectively, beginning September 16, 2008, and 2) The annual and three year license fees for all general retailers and grocery store retailers with secondary, branch or transient location will increase from $25 to $40 and $75 to $120, respectively, beginning September 16, 2008.

Regulatory and Local Requirements
The Business License Issued by the Division of Revenue is not a regulatory license and the issuance of such license does not attest to the qualifications of the applicant to perform the activity described on such license. Many local jurisdictions have requirements for a business license and may have restrictions concerning the locations of conducting the referenced business activity. Please check with the local government office in the town, city or county in which you will conduct your business.

The State of Delaware also has a Division of Professional Regulations. Many occupations and some types of equipment have regulatory requirements. Please contact the Division of Professional Regulation for more information.

General
If you have any questions, please contact one of the following offices.

Wilmington	***Dover***	***Georgetown***
Division of Revenue Carvel State Office Building 820 North French Street Wilmington DE 19801 (302) 577-8205	Division of Revenue Thomas Collins Building 540 South DuPont Highway Suite 2 Dover DE 19901 (302) 744-1085	Division of Revenue 20653 Dupont Blvd Ste 2 Georgetown DE 19947 (302) 856-5358

or by e-mail at: richard.jezyk@state.de.us (302) 577-8265

File Gross Receipts On-line:
www.grossreceiptsfiling.delaware.gov

or

Print an Interactive Gross Receipts Coupon:
http://www.revenue.delaware.gov/services/Business_Tax/Forms_New.shtml#gr