

## **TAX TIPS FOR VENDING MACHINE LICENSE**

### **Things You Should Know**

#### **Definitions** *30 Del. C., Chs 23, 29,&53*

Every owner of a coin operated vending machine in this State, including amusement machines, music machines, cigarette vending machines and all merchandising machines regardless of the product dispensed, shall affix a label identifying the owner of the machine and the owners address, which identifying label shall not be less than 2 square inches in area. At the time of registration and at the request of the Division of Revenue on or before May 1<sup>st</sup> of each year, the owner is required to provide the Division of Revenue a report with the number and type of machines (vending, amusement, cigarette, other), the name of their customers and their locations either by completing Form 5004 or submitting an electronic version containing substantially this same information.

Effective for licenses beginning January 1, 2004, the Division of Revenue no longer issues decals which prior to that time were required to be affixed to each vending machine. Vending machine owners continue to pay an annual license fee for each machine and a business license will be issued indicating the number of machines which the owner may operate. . In addition, every vending machine owner is required to obtain a license as a retailer.

A retailer is every person engaged as owner or agent in the business of selling or exchanging goods for cash or barter or any other consideration on the assumption that the purchaser of such goods has acquired the goods for ultimate consumption and not resale; and includes automatic merchandising machine operators regardless of the product dispensed or vended, retail plant nurserymen and florists, hucksters, peddlers, trading stamp redemption stores, catalog stores and branch stores.

'Goods' includes merchandise, wares, metals, wood, gems or any tangible personal property whether new or used.

Gross receipts include total consideration received by a retailer for all goods sold or services rendered within the State. Consideration for goods sold or 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.

#### **Gross Receipts Do Not Include:**

- Tobacco products tax paid or payable to the State of Delaware
- Returned merchandise
- Like kind exchanges
- 'In Store' or 'Doubling' of manufacturer's coupons
- Sales of handmade painted or craft objects by the artist or craftsman of less than \$1,000 per year
- 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 property sold
- Cost of material and/or labor
- Interest, discount or delivery costs
- State or Federal taxes

**License and Gross Receipts Requirements**

Vending machine owners are required to pay an annual \$5 fee (\$3 for cigarette vending machines) for each vending machine-- which must be renewed annually on or before December 31st of each year. A cigarette retail license is also required for operator selling cigarettes. The fee is \$15 for a three-year period and must be renewed on or before December 31<sup>st</sup> every third year.

A retailer's license is also required -- \$90 for the first location and \$40 for each additional location -- 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) on taxable gross receipts received from selling tangible personal property. The first \$100,000 (\$300,000 quarterly) of gross receipts received per month 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](http://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.

**SPECIAL NOTE: ALL SALES TO THE STATE OF DELAWARE, THE UNITED STATES AND THEIR INSTRUMENTALITIES, AGENCIES AND POLITICAL SUBDIVISIONS ARE CONSIDERED WHOLESALE SALES.**

**Tax Rates and Exclusions**

	<b>Tax Rate</b>	<b>Monthly Exclusion</b>
Retailer	.007543	\$100,000
Sample Calculation	Total Gross Receipts	\$ 173,000
	Less Exclusion	<u>100,000</u>
	Taxable Gross Receipts	\$ 73,000
	Tax Rate	x <u>.007543</u>
	Tax Due	\$ 551

(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 20<sup>th</sup> day of the following month
- Quarterly Filers 20<sup>th</sup> day of the 1<sup>st</sup> month after the end of the quarter

Beginning January 1, 1999

- Monthly Filers 20<sup>th</sup> 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.

**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:

<b>Wilmington</b>	<b>Dover</b>	<b>Georgetown</b>
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. Suite 2 Georgetown DE 19947  (302) 856-5358

or by e-mail at: [matt.fay@state.de.us](mailto:matt.fay@state.de.us) (302) 577-8450

File Gross Receipts On-line:  
[www.grossreceiptsfiling.delaware.gov](http://www.grossreceiptsfiling.delaware.gov)

or

Print an Interactive Gross Receipts Coupon:  
[http://www.revenue.delaware.gov/services/Business\\_Tax/Forms\\_New.shtml#gr](http://www.revenue.delaware.gov/services/Business_Tax/Forms_New.shtml#gr)