

**TAX TIPS FOR
COMMERCIAL LESSOR
CONDUCTING BUSINESS IN DELAWARE**

Things You Should Know

Definitions *30 Del. C., Ch. 23*

A commercial lessor includes every person who, as a lessor or sublessor, receives rental income pursuant to an agreement transferring a title interest or possessory interest in real property under a lease of a commercial unit for any term. A commercial unit means a structure or part of a structure which is used for purposes other than a dwelling unit or a farm unit.

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.

Gross Receipts Do Not Include:

- Amounts paid to other lessors for rent on the same property that is being leased
- Rental income received by a commercial lessor who has paid the realty transfer tax on such property

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 commercial lessor is required to obtain a business license -- \$75 for the first location and \$25 for each additional location -- which must be renewed annually on or before December 31st of each year. For example, ABC Rentals has two offices from which it conducts its leasing activities, one in Newark and one in Rehoboth, and owns 10 commercial properties. Two licenses are required, \$75 for the Newark office and \$25 for the Rehoboth office. Individual licenses are not required for the 10 commercial properties. Additionally, a gross receipts tax is levied at the rate of .3983% (.003983) on the amount of rental income received from the leased property. The first \$100,000 of commissions and fees 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, complete a Combined Registration Application and mail to the Division of Revenue with the appropriate fee or file on-line using OneStop, both which can also be accessed from the link above.

Tax Rates and Exclusions

	Tax Rate	Monthly Exclusion
Commercial lessor	.003983	\$100,000
Sample Calculation	Total Gross Receipts	\$171,000
	Less Exclusion	<u>100,000</u>
	Taxable Gross Receipts	\$ 71,000
	Tax Rate	X <u>.003983</u>
	Tax Due	\$ 283

(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 th 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 2210(b) of Title 30 of the Delaware Code for further details, including the definition of family member for purposes of this exclusion.

Imposition of the Gross Receipts Tax

The gross receipts tax is imposed on the commercial lessor but by statute, 30Del.C, §2301(e)(6)(a), the commercial lessor is permitted to require that the lessee reimburse the lessor for license fees, gross receipts tax, real estate taxes, or other governmental assessments, charges or fees.

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 beauty shops should aggregate the receipts from all services provided 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 service sold, the service provider may sell multiple services 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 providing a service and retailing or 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

<i>Wilmington</i>	<i>Dover</i>	<i>Georgetown</i>
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: stephen.seidel@state.de.us (302) 577-8455

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