

**TAX TIPS FOR
GENERAL RETAILERS
CONDUCTING BUSINESS IN DELAWARE
Things You Should Know**

Definitions 30 Del. C., Ch. 29

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, liquids, gas, alcoholic beverages, motor vehicles, gems, products, produce, trees, shrubs, plants, flowers, crops, livestock, animals 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 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 craft person 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 property sold, cost of material and/or labor, interest, discount, delivery costs, and State or Federal taxes

License and Gross Receipts Requirements

A retailer is required to obtain a business license -- \$90 for the first location and \$45 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 .7468% (.007468) on 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.

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

	Tax Rate	Monthly Exclusion
Retailer	.007468	\$100,000
Sample Calculation	Total Gross Receipts	\$173,000
	Less Exclusion	<u>100,000</u>
	Taxable Gross Receipts	\$ 73,000
	Tax Rate	<u>x.007468</u>
	Tax Due	\$ 545

(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 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 added to the following State of Delaware business licenses: **General retail** business licenses and **grocery store** licenses.

House Bill 458 establishes a "Retail Crime Unit" in the Office of the Attorney General to prosecute retail crime throughout the state. The Retail Crime Unit is solely be funded by the annual \$15.00 Retail Crime Fee. All general retail and grocery store business licenses include the annual \$15.00 Retail Crime Fee in their total annual cost. Retail businesses will pay the Retail Crime Fee when they obtain or renew their State of Delaware business license. 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

<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 Suite 2 Georgetown DE 19947 (302) 856-5358

or by email at: rev_busaudit@delaware.gov or 302-577- 8662

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