

TAX TIPS FOR LESSORS OF TANGIBLE PERSONAL PROPERTY CONDUCTING BUSINESS IN DELAWARE

Things You Should Know

Definitions *30 Del. C., Ch. 43*

A lessor of tangible personal property is a person who grants to a lessee the right to use property for a specified period. A lease may be written or oral and any agreement which purports to be a sale but which in substance is a lease shall be considered a lease. Leases of tangible personal property are subject to a use/lease tax at the rate of 1.9914% which is imposed on the lessee and collected and remitted by the lessor. Additionally every lessor must obtain a business license and pay a tax based on gross receipts.

Gross Receipts

Consideration for services rendered includes cash, checks, credit cards, gift certificates, traveler's checks, money orders, barter, trade-ins, manufacturer's coupons and rebates, and any other consideration of any kind.

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 lessor of tangible personal property 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. Additionally, a gross receipts tax is levied at the rate of .2987% (.002987) on the amount of rental income received from the leased property. The first \$300,000 of rents received per quarter are exempt from the gross receipts tax. Specific instructions will be sent to new registrants with your personalized gross receipts coupon book. You will receive two coupon books, one to report the gross receipts tax and one to remit the tax collected from the lessee. To register with the Division of Revenue and obtain a business license, complete a Combined Registration Application, available on the Internet, and mail to the Division of Revenue with the appropriate fee.

Important Information for Lessors of Motor Vehicles

Beginning January 1, 1998, House Bill No. 400 requires that the lessee use tax and lessor license tax on leases of motor vehicles be reported separately from the leases of other tangible personal property. The total receipts received from leasing motor vehicles must be segregated from the receipts received on leases of other tangible personal property.

Tax Rates and Exclusions

| | Tax Rate | 2014 Quarterly Exclusion |
|--------------------------------------|---------------------------------|---|
| Lessor of Tangible Personal Property | .002987 | \$300,000 |
| Sample Calculation | | |
| | Rental Receipts | \$ 373,000 |
| | Less Exclusion | <u>300,000</u> |
| | Taxable Rental Receipts | \$ 73,000 |
| | Tax Rate | x .002987 |
| | Tax | \$ 218 |
| | Motor Vehicle Rental | 50,000 |
| | Tax Rate | x .002987 |
| | | <u>\$149</u> |
| | Total Tax Due | \$367 |
| Lessee of Tangible Personal Property | .0199140 | |
| | Rents Other Than Motor Vehicles | \$373,000 x .019914 = \$ 7,428 |
| | Rents from Motor Vehicles | \$ 50,000 x .019914 = <u>966</u> |
| | Amount Due | \$ 8,424 |

(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.

Beginning January 1, 1999

Quarterly Filers – last day of the first month after the end of the calendar quarter.

Taxable and Exempt Leases

Section 4302 of Title 30 of the Delaware Code imposes a 1.92 percent (0.0192) use tax on leases of tangible personal property where such property is used within Delaware. The tax is imposed on the lessee and collected and remitted by the lessor. Unless it can be shown to the contrary, ALL amounts received under rental agreements including early termination charges are subject to the use tax, except as indicated below. If the lessee/user exercises the option to purchase the item being leased, then the amount received from the 'Final Option Price Payment is to be treated as apayment of the purchase price and is subject to taxation under the provisions of a wholesaler/retailer. Separately stated charges for such items as insurance, gasoline and delivery charges are not subject to the lease tax. However, these charges may be subject to other license fees. Taxable leases also include by way of example and not by limitation, telephones (fixed and portable), paging devices, video cassettes, canned software, uniform rentals and agricultural equipment. **Note: Leases of agricultural production equipment are exempt effective 1/1/99.**

The following leases of tangible personal property are exempt from the use tax:

- ▶ Household Furniture
- ▶ Household Fixtures
- ▶ Household Furnishings
- ▶ Hospital/Medical Equipment, Aids and Devices leased to ill, injured or handicapped persons.

All items leased to:

**The Federal Government
This State and its Agencies**

**Political Subdivisions of this State
State and Local Public Schools**

It should be noted that while the leases of the above items are not subject to collection of the use tax, the receipts received by the lessor for the lease of such items are subject to the lessor gross receipts tax.

Gross Receipts Tax Exemption

Effective January 1, 1997, House Bill No. 678, exempts from business license gross receipts tax transactions between small, closely held firms. To qualify, the subject firms must be 80% owned by the same five or fewer shareholders, or 100% owned by the same family.

Common Ownership/Direction

Businesses which operate their separate branches by the use of separate operating corporations are only entitled to one monthly or quarterly exclusion for the enterprise to the extent that the corporations 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 location or stores should aggregate the receipts from all goods leased at all locations and subtract only one quarterly exclusion. Separate licenses are required and separate exclusions are permitted if a taxpayer conducts more than one **ACTIVITY**, such as leasing and selling at retail.

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> |
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| 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 Suite 2 422 North DuPont Highway Georgetown, DE 19947 (302) 856-5358 |

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

File Gross Receipts Online:
www.grossreceiptsfiling.delaware.gov