

# TAX TIPS FOR AUCTIONEERS CONDUCTING BUSINESS IN DELAWARE

## Things You Should Know

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

An auctioneer includes every person engaged in the business of 'crying' sales of real or personal property on behalf of other persons for profit. No auctioneer is authorized to employ any other person to act as an auctioneer in his behalf, except in his own store or warehouse or in his presence. The term 'auctioneer' does not apply or extend to a judicial or executive officer making sales in accordance with an execution, judgment or decree of any court nor to public sales made by executors or administrators.

### 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 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 resident auctioneer 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. Non-Resident Auctioneers must pay an annual fee of \$225 for each county in which they work. Additionally, the licensee must pay a gross receipts tax at the rate of .3983% (.003983) on taxable commissions and fees received from services provided. 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](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.

### Tax Rates and Exclusions

	Tax Rate	Monthly Exclusion
Auctioneer\	.003983	\$100,000
Sample Calculation	Total Gross Receipts	\$173,000
	Less Exclusion	<u>100,000</u>
	Taxable Gross Receipts	\$ 73,000
	Tax Rate	X <u>.003983</u>
	Tax Due	\$ 291

(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	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.

**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. Suite 2 Georgetown DE 19947  (302) 856-5358

or by e-mail at: [rev\\_busaudit@delaware.gov](mailto:rev_busaudit@delaware.gov) or 302-577- 8662

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)