

**TAX TIPS FOR
A FOOD PROCESSOR
CONDUCTING BUSINESS IN DELAWARE**

Things You Should Know

Definitions 30, *Del. C., Ch. 29*

A food processor is every person engaged in the processing of food or foodstuffs which are to be resold by the person acquiring the product. Every person engaged in baking, poultry processing, or cannery business shall be considered engaged in the processing of food or foodstuffs.

"Food Processing" includes, by way of example and not by limitation, the activities of preparing food for sale and distribution including slaughtering, cutting, washing, cooking, baking, freezing and packaging. "Food" includes by way of example and not by limitation, livestock, animals, produce, crops, fruits, seafood, including farm raised, deli products, soup, liquid drinks (excluding alcoholic beverages), dairy products, food supplements, fruit juices, fruit sauces, snack foods and any other substance taken in by a human or animal which provides sustenance or nourishment.

Gross Receipts

Gross receipts include total consideration received by a food processor for goods sold within this State. A good is "sold within this State" when the title and risk of loss pass from the purchaser to the seller, regardless of the final destination of the product. 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:

- Returned merchandise
- Like kind exchanges
- 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

A food processor is required to obtain a business license -- \$75 for each location -- which must be renewed annually on or before December 31st of each year. Additionally, every food processor must pay a gross receipts tax at the rate of .1991% (.001991) on taxable gross receipts received from processed food or foodstuffs which are sold within Delaware. The first \$100,000 (\$300,000 quarterly) of gross receipts received per month are exempt from the gross receipts tax. Gross Receipt taxes 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, available on the Internet and mail to the Division of Revenue with the appropriate fee or you can file on-line at our OneStop site using 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, Exclusions and Due Dates

	Tax Rate	Monthly Exclusion
Food Processor	.001991	\$100,000
Sample Calculation	Total Gross Receipts	\$173,000
	Less Exclusion	<u>100,000</u>
	Taxable Gross Receipts	\$ 73,000
	Tax Rate	X <u>.001991</u>
	Tax Due	\$ 145

(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 20th day of the following month
Quarterly Filers last day of the first month after the end of the calendar quarter.

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 or other business entities are only entitled to one monthly or quarterly exclusion for the enterprise to the extent that the corporations or other business entities 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 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 manufacturing and wholesaling. Please note that all Delaware manufacturers are also subject to the gross receipts tax as a Wholesaler or Retailer on sales to Delaware customers. Taxpayers who may have obtained separate licenses for each product line sold or manufactured should only renew **ONE** retailer's, wholesaler's or manufacturer's license for each place of business.

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 or 302-577- 8662

File Gross Receipts On-line:
or
Print an Interactive Gross Receipts Coupon:

<https://grossreceiptstax.delaware.gov/grtpublic/>

