

**CITY OF SANTA ANA
BUSINESS TAX OFFICE (M-15)**

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SELF-MANAGED AUDIT PROGRAM (SPECIFIC TERMS – DEFINED)

Santa Ana Business License Tax Code Abstract

Specific Terms - Defined.

As used in determining the assessment of the gross receipts business license taxes, the following terms have the meaning set forth below. (These specific definitional terms are grouped together for context).

Gross receipts shall include the total amount of the sale price of all sales and the total amount charged or received for the performance of any act or service of whatever nature it may be, for which a charge is made or credit allowed, whether or not such act or service is done as a part of or in connection with the sale of materials, goods, wares or merchandise. The following shall be included in "gross receipts": all receipts, rents, cash, credits and property of any kind or nature, without any deduction therefrom on account of the cost of property sold, the cost of materials used, labor or service cost, interest paid or payable, or losses or other expenses whatsoever.

The following shall be excluded from "gross receipts":

- (a) Cash discounts allowed and taken on sales;
- (b) Credit allowed on property accepted as part of the purchase price and which property may later be sold;
- (c) Any tax required by law to be included in or added to the purchase price and collected from the consumer or purchaser;
- (d) Such part of the sale price of property returned by purchasers upon rescission of the contract of sale as is refunded either in cash or by credit;
- (e) Amounts collected for others where the business is acting as an agent or trustee to the extent that such amounts are paid to those for whom collected, provided the agent or trustee has furnished the collector with the names and addresses of the others and the amounts paid to them, other than amounts received as commissions or fees earned, or charges of any character made or compensation of any character received for the performance of any service as agent or trustee; provided that any agent or trustee dealing in stocks or other similar written instruments evidencing a right to participate in the assets of any business, or dealing in bonds or other evidences of indebtedness, who also deals in such property as a principal, shall include in the gross receipts by which the tax is measured the amount of his or her trading profits resulting therefrom. No deduction from receipts attributable to trading as a principal shall be made unless such deduction is provided for in this section;

- (f) The difference between the balance owed and paid on a defaulted purchase or finance contract upon repossession by seller and the amount received from resale of the repossessed article by the repossessing seller;
- (g) Receipts of refundable deposits, except that refundable deposits forfeited and taken into income of the business shall not be excluded;
- (h) As to alcoholic beverages, that portion of the receipts of a manufacturer, transporter, retailer or wholesale distributor generated or otherwise collected from the manufacture, transport, retail or wholesale of intoxicating liquors within the state pursuant to Article XX, Section 22 of the State Constitution;
- (i) As to a retail gasoline dealer, a portion of his or her receipts from the sale of motor vehicle fuels equal to the motor vehicle fuel license tax imposed by and previously paid under the provisions of Part 2 of Division 2 of the State Revenue and Taxation Code, as the same now exists or as hereafter amended;
- (j) As to a retail gasoline dealer, the special motor fuel tax imposed by Section 4041 of Title 26 of the United States Code, as the same now exists or as hereafter amended, if paid by the dealer or collected by him or her from the purchaser;
- (k) Cash value of sales, trades, transfers or other transactions as made between separate departments, divisions or units of any single business entity;
- (l) Sales for convenience where sales of new goods, wares or merchandise are made by a person engaged in selling such articles to another person engaged in selling like or similar articles:
 - (1) Where the primary purpose of the particular transaction of sale is to accommodate the purchaser rather than to make a sale in the ordinary course of business and the price paid is essentially the book value of the article;
 - (2) Where, in the particular kind of business involved, a similar manner of dealing is frequent or customary in the circumstances under which the particular sale is made; and
 - (3) Where goods, wares or merchandise of like or similar kind and of substantially equivalent value to that which was sold is received in consideration.

As to general contractors and other similar businesses, "gross receipts" shall not include that portion of the receipts of a general contractor which represents payments to subcontractors, provided that such subcontractors are licensed under this chapter and provided the general contractor furnishes the collector upon request with the names and addresses of the subcontractors and the amounts paid to them.

As to bail bond brokerages, commission agent brokerages, mortgage brokerages, real estate brokerages, securities brokerages, travel agencies, and other similar businesses employing agents, brokers and/or commissioned employees, "gross receipts" shall include the total gross commissions or other receipts attributable to the local office, agents, brokers and/or employees.

As to accountants, architects, attorneys, chiropractors, doctors, dentists, optometrists, podiatrists, psychologists, veterinarians and other professionals, either practicing solely or in partnership or as a professional corporation, "gross receipts" shall include the total gross fees or other receipts attributable to services performed or otherwise rendered within the city.

As to other persons having a fixed place of business within the city and providing a service or plying an occupation or trade or involved in similar businesses, "gross receipts" shall include the total fees, commissions or other receipts attributable to that local location and/or employees.

As to building and loan associations, "gross receipts" shall include:

- (1) Interest on real estate loans;
- (2) Loan fees of various kinds such as: fee for escrow, appraisal drawing papers, and other similar charges;
- (3) Bonuses received for prepayment of loans;
- (4) Penalty charges on delinquent loans;
- (5) Tax service fees;
- (6) Interest on personal loans to depositors; and
- (7) Receipts over and above the recovery of principal from the sale of mortgages or other evidence of money due from loans.

As to building and loan associations, the following shall be excluded from "gross receipts":

- (i) Interest and dividends earned from the placing of surplus funds in bonds, securities, or federal home loan banks;
- (ii) Payments received on the principal amount of outstanding loans;
- (iii) Sale of capital assets used in the conduct of the business;
- (iv) Payments made to other building and loan associations which represent their share of interest under participation agreements; and
- (v) Gains or losses on the sale of real estate acquired by foreclosure.

As to a business established outside the city but maintaining an office within the city through an agent, broker or employee, "gross receipts" shall include the total sales or receipts attributable to the local office or facility, agent, broker or employee.

In the event separate sales or receipt records are not maintained for said local office or facility, agent, broker or employee, or in the event any retailing, wholesaling, manufacturing or processing activity conducted thereat does not generate gross receipts as hereinabove defined, or in the event said local office or facility, agent, broker or employee is engaged in providing administrative or management related services, to include, but not limited to, record keeping, data processing, research and development, advertising, public relations, personnel administration or legal services, in connection with sales or services performed or rendered elsewhere, the business tax shall be based upon an amount which bears the same proportion to the total gross receipts of the business which cost of maintaining said local office, facility, local agent, broker or employee bears to the total cost of maintaining said business.

As to a business established within the city but maintaining a local branch office or establishment through an agent, broker or employee engaged in providing administrative or management related services within the city, the business tax shall be based on an amount equivalent to the cost of doing business.

As to a business established outside the city but transacting and carrying on business within the city, or otherwise performing or rendering services negotiated or contracted for within the city, whether or not by a principal or through an agent or employee, "gross receipts" shall include the total fees, commissions or other receipts attributable to the business activity conducted.

Cost of doing business shall mean that amount which is equivalent to the volume of business performed, where the business of any local office, facility, agent, broker or employee is that of performing administrative or management related services in connection with sales or services performed or rendered elsewhere. Said amount shall be computed by determining the total cost of maintaining said local office, facility, agent, broker or employee. Said total cost of maintaining said local office, facility, agent, broker or employee shall include, but is not limited to, the wages, salaries, commissions, bonuses, rent, and/or depreciation, telephone, postage, utilities, janitorial and other expenses allocated for maintenance of said office, facility, agent, broker or employee.

Sale shall include the transfer, in any manner or by any means whatsoever, of title to property for a consideration; the serving, supplying or furnishing for a consideration of any property; and a transaction whereby the possession of property is transferred and the seller retains the title as security for the payment of the price shall likewise be deemed a sale. The foregoing definitions shall not be deemed to exclude any transaction which is or which, in effect, results in a sale within the contemplation of law.

Sale at retail and *retail sale* shall mean every sale of tangible personal property (including articles produced, fabricated or imprinted) other than sale to one who (1) purchases for the purpose of resale as tangible personal property in the regular course of business, or (2) purchases for the purpose of consuming the property purchased in producing for sale a new article of tangible personal property or substance, of which such property becomes an ingredient or component, or as a chemical used in processing, when the primary purpose of such chemical is to create a chemical reaction directly through contact with an ingredient of a new article being produced for sale.

Retailer shall mean any person engaging in the business of selling goods, wares or other merchandise to consumers or end-users thereof.

Sale at wholesale and *wholesale sale* shall mean any sale of tangible personal property which is not a "sale at retail." Sales otherwise classified hereinabove as "retail sales" may, nevertheless, be classified as "wholesale sales" under this section, if the vendor can establish to the satisfaction of the collector that the sale was made to a government agency, public utility, manufacturer, processor or contractor who consumed the articles in the course of his or her own operations and did not offer the articles for resale to the general public except as an integral part of manufacturing, construction or service.

Wholesaler shall mean any person engaging in the business of selling goods, wares, merchandise or other products for the purpose of resale and not to consumers or users thereof.

Manufacture or process shall embrace all the activities of a commercial or industrial nature wherein labor or skill is applied, by hand or machinery, to materials so that as a result thereof a new, different or useful article of tangible personal property or substance of trade or commerce is produced and shall include the production or fabrication of specially made or custom made articles.

Manufacturer shall mean any person who, directly or by contracting with others for the necessary labor or mechanical services, manufactures for sale or for commercial or industrial use from his or her own materials or ingredients any articles, substances or commodities.

Processor shall mean any person engaging in the business of converting an article, substance or commodity into marketable form for the purpose of resale by changing its physical form or chemical composition.

Services shall mean the business of providing, maintaining or performing labor for the benefit of another within the city; of supplying some general demand for the benefit of another within the city which does not produce a tangible commodity; or furnishing of services and all activities in which any person for any other person performs any personal service and all services in which any real or personal property, stocks or bonds, or other financial instruments or evidences of debt, or contracts of insurance or any money or credits are exchanged, leased, transferred or loaned; as well as every business of maintaining, storing, cleaning, improving or repairing tangible commodities within the city whether or not such business is conducted from a premises, vehicle or mobile location within or outside the city. Services include recreation services but do not include theatrical performances, exhibitions or temporary amusements, nor do they include professional services or telephone services within the terms of this chapter.

Recreational services shall mean any person engaged in the business of providing facilities for recreational use; such services to include, but not be limited to: amusement machine arcades, bowling alleys, driving ranges, golf courses (including miniature), motion picture theaters (including drive-in), pool halls (including billiards and snooker), riding stables, skating rinks, social clubs, sports clubs (including spas, health clubs and conditioning gyms), swimming pools and tennis and racket clubs.

Telephone services shall mean any person engaged in the business of providing telephone services as a "telephone company" pursuant to Article XIII, Section 19 of the State Constitution.

Utility and public utility mean any person furnishing the public with communication, water, light, heat or power, subject to regulation by the Public Utilities Commission of the State of California.