

STATE BUSINESS LICENSE

WHAT YOU NEED TO KNOW ABOUT NEVADA'S STATE BUSINESS LICENSE

Effective 7/22/03, generally, all businesses doing business in Nevada must obtain a State Business License as required by NRS 360.780. On December 6, 2004 LCB File No. R161-04 was passed that clarifies what types of businesses must secure a State Business License. Senate Bill 3 as enacted by the 22nd Special Session of the Nevada Legislature further clarifies which businesses must secure a State Business License effective July 1, 2005.

1. *Q. What is the cost of a State Business License?*
 - A. The State Business License Fee is \$100. The license must be renewed annually. A business that meets the criteria may not do business in the State of Nevada without a State Business License and effective July 1, 2005 the Department is authorized to suspend or revoke the State Business License of a person who does not comply with the laws and regulations relating to that business.

2. *Q. How much is the renewal fee and when is it due?*
 - A. The renewal fee is \$100. Taxpayers who currently have a State Business License shall pay the renewal fee based on their anniversary date. Entities no longer in business in this State must submit a written statement to the Department at least 10 days before their anniversary date in order to avoid the annual fee and a penalty for non-payment. Effective July 1, 2005 a person with multiple businesses may choose the same "anniversary date" for the renewal of the licenses as agreed to by the Department of Taxation.

3. *Q. What is the penalty for late or non-payment?*
 - A. A person who fails to submit the annual fee required by the due date shall pay a penalty in the amount of \$100 in addition to the annual fee. **This penalty goes into effect 01/01/06.**

4. *Q. Are there any other requirements for businesses obtaining a State Business License?*
 - A. NRS 372.220 now requires that every business that purchases tangible personal property for storage, use or other consumption in this State must register with the Department of Taxation for a Use Tax Account. When applying for a State Business License you may also register for the Use Tax account. An additional fee is not required.

5. *Q. What constitutes a business?*
 - A. Pursuant to SB 3 a "business" means any person, except a natural person, that performs a service or engages in a trade for profit or any natural person who performs a service and engages in a trade for profit and is required by the I.R.S. to file a Federal Schedule C (Profit or Loss from Business), Schedule F (Profit and Loss from Farming), or a Schedule E (Supplemental Income and Loss) with their annual 1040 Income Tax Return.

6. *Q. Are there any businesses **not** required to obtain a State Business License?*
 - A. There are 7 types of businesses that do not require a State Business License:
 - a) Government entities, nonprofit religious, charitable, fraternal, or other organizations that qualify as tax-exempt organizations pursuant to 26 U.S.C. § 501(c).
 - b) A business whose primary purpose is to create or produce motion pictures.
 - c) A natural person who operates a business from his home and earns from that business (net income) not more than 66 2/3 percent of the average annual wage, as computed for the preceding

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calendar year, pursuant to NRS 612, is not required to secure a State Business License for the next year. The average annual wage fluctuates; for 2003 the 66 2/3 percentage of the average annual wage was \$21,500. For 2004 the 66 2/3 percentage of the average annual wage was \$22,000. For 2005 the 66 2/3 percentage of the average annual wage was \$22,900.

- d) Certain types of legal entities that are disregarded for income tax purposes as an entity separate from its owner, such as a limited-liability company which consists of a single member or a revocable trust created for estate planning purposes. In other words, if the entity is not required to file a separate Federal Form 1120 or 1041, they are not required to secure a State Business License for that entity. However, if the owner of that business is required to report the income from that business on a Schedule C, E, or F, he is deemed to be that business and must secure a State Business License. Thus, the owner is required to secure just one license for the business.
 - e) If a natural person is required to file a Federal Schedule E for the sole purpose of reporting income or loss from a pass-through entity (reported on page 2 of the Schedule E) partnership or Sub S corporation, he is not required to obtain a State Business License for that Schedule E. In this manner the owner is required to secure just one license for the business. If the Federal Schedule E, Form 1040, is required to report income or loss from rental property located in the State, or royalty income, he is required to obtain a State Business License for that Schedule E.
 - f) If a trust or estate does nothing more than generate interest, gain or dividends on investments, it is not required to secure a State Business License.
 - g) Effective July 1, 2005, a natural person whose sole business is the rental of four or fewer dwelling units to others is not required to obtain a State Business License.
7. *Q.* What if I fall in the group of businesses that are no longer required to secure a State Business License but I have already paid the \$100 fee?
- A. If you have already paid the fee for 2004 and/or 2005 and fall in the group of entities described in #6 d), e), or f), above; you may obtain a refund of the \$100 fee by writing a letter to the Department explaining your circumstances and requesting a refund of the fee. You may address your request to:

Department of Taxation – Business License Refund
1550 E. College Parkway, Suite 115
Carson City, Nevada 89706-7937
8. *Q.* What is meant by “person who operates a business from his home”?
- A. A person who operates a business from his home means a natural person who does not own, lease, rent, or license any real property, other than his personal residence, for use in the furtherance of that business and does not hold any part of his personal residence open to the general public. However, if the person owns, leases, rents or licenses any real property that he uses strictly for the purpose of maintaining a post office box, posting a Business License in accordance with requirements imposed by a county or municipal ordinance, or periodically selling or exhibiting wares at craft shows, they can still be considered as operating a business from their home.
9. *Q.* What is meant by “open to the general public”?
- A. This refers to being open in the manner a store would be open to anyone who wants to come in. Meeting clients at home who have an appointment is not considered “open to the general public.”
10. *Q.* Are trade show or convention participants required to obtain a State Business License?
- A. A person or governmental entity that operates a facility where exhibitions are held is responsible for paying the license fee for persons who exhibit but do not have a State Business License because they are not located in this State. Trade shows, conventions, craft shows, sporting events

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or similar events involving the exhibition of property, products, goods, services or athletic or physical skill are considered "exhibitions".

The operator of the facility may elect to pay an annual license fee of \$5000 for all events held that fiscal year or remit on a quarterly basis \$1.25 per day for each business, for each event held at the facility.

11. *Q. Are businesses selling at swap meets in this State required to obtain a State Business License?*
 - A. Yes, they are considered to be renting space outside of their personal residence and are required to secure a State Business License.

12. *Q. Are real estate agents and brokers required to obtain a State Business License?*
 - A. Yes, they are not considered to be working from their personal residence and are required to secure a State Business License.

13. *Q. Are a husband and wife considered one taxpayer?*
 - A. Yes, as long as their businesses are not separately incorporated.

14. *Q. What if our partnership does not report to the IRS as a partnership on a Federal form 1065 and all the partners report their income on their separate Schedule C? Is each natural partner required to secure their own State Business License?*
 - A. No, if the association truly qualifies as a "partnership" under Nevada law, the partnership would be required to obtain just one State Business License on behalf of itself and all of its natural person partners.

15. *Q. How do I obtain a State Business License?*
 - A. You may obtain an application by downloading one from our website at <http://tax.state.nv.us> and mailing it in, or you may apply online at <http://nevadatax.nv.gov>, or you may contact the Nevada Department of Taxation office nearest you. When submitted, the application must be accompanied by the \$100 license fee. A signer's signature on an application is considered a sworn statement of his or her authority to sign on behalf of the entity being registered.

16. *Q. If I have several businesses, but they are all owned as sole proprietor businesses, do I have to get a State Business Licenses for each one?*
 - A. Sole proprietors may have more than one business and only be required to have one State Business License. However, if a person is a sole proprietor and also conducts business under a separate corporation or other entity, State Business Licenses will be required for each entity.

17. *Q. What are some examples of businesses that are now required to apply for a State Business License that were not required to apply prior to the implementation of NRS 360.780?*
 - A. Sole proprietors without employees were not previously required to obtain a State Business License prior to July of 2003. However, employer status no longer is a factor in determining which businesses must register for a State Business License. Individuals who are not employees and engaged in activities for profit such as independent contractors, consultants, direct sellers, and farming may be required to obtain a State Business License. In addition, persons who have rental property are required to secure a State Business License (see Question 6, g for more detail). All businesses are now required to obtain a State Business License unless they are exempted for one of the reasons listed above in #6.

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18. *Miscellaneous*—A Business is required to keep all records for four years. The same or similar provisions which exist for other Title 32 taxes regarding audits, confidentiality of information, administrative procedures, etc., are applicable to this license fee.