

BUSINESS LICENSE FEE SUMMARY – SB 252
March 16, 2015

1. Summary

Rescinds the \$200 flat business license fee and replaces it with a sliding scale business license fee based on gross revenue and business type. Minimum fee of \$400.

2. Payees of the BLF (Secs. 3, 18)

- Any person who performs services or engages in a trade for profit;
- A natural person who must file a Schedule C, E or F; or
- Any Title 7 entity (LLC, LLP, Partnership, Corporation)

3. Doing Business in Nevada (Sec. 13)

- Organized under Title 7
- Office or base of operation in Nevada
- Registered agent in Nevada
- Payment of wages to person who works in Nevada

4. Exempt Entities (Secs. 3, 12)

- Governmental entities
- 501(c) entities
- Qualifying home based businesses
- Rental of four or less dwellings
- Non-profits under NRS 82 or 84
- Credit unions
- Charitable trusts (unless taxable as a business)
- Estates (except trusts taxable as a business)
- Real estate investment trusts
- Real estate mortgage investment conduits
- 401(a) trusts
- Passive entities
 - A passive entity must be a general, limited or limited liability partnership, or a non-business trust, and the federal gross income consists of at least 90% of the following:
 - dividends, interest, foreign currency exchange gain, periodic and non-periodic payments with respect to notional principal contracts, option premiums, cash settlement or termination payments with respect to a financial instrument, and income from a LLC;

- capital gains from the sale of real property, gains from the sale of commodities traded on a commodities exchange and gains from the sale of securities; and
- royalties, bonuses or delay rental income from mineral properties and income from other non-operating mineral interests.

5. Calculation of Gross Revenue (Secs. 5-6)

- The total amount realized from the conduct of business in Nevada, without deduction for cost of goods sold or other expenses incurred. The amount includes:
 - revenue from the sale, exchange or other disposition of business property;
 - revenue from the performance of services by a business;
 - revenue realized from the possession of another person of business property or capital.
- Revenue does not include receipts from the sale or disposition of intellectual property.

6. Exclusions from Gross Revenue (Secs. 8, 20)

- Revenue prohibited from taxation by the US or NV Constitution or laws.
- Interest on government bonds
- If subject to gaming tax, gross revenue used to calculate the gaming tax
- If subject to mining tax, gross proceeds used to calculate the mining tax
- If subject to insurance premium tax, total income used to calculate the insurance premium tax.
- Revenue received by a health care provider from Medicaid, Medicare, Children's Health Insurance Program, the Fund for Hospital Care to Indigent Persons, TRICARE, worker's compensation services, or for actual cost of health care when the provider is not compensated.
- If a health care institution, 50% of the revenues received in the prior bullet point.
- If an employee leasing company, any payments from a client company for wages, payroll taxes on wages, employee benefits and worker's compensation benefits for employees leased to the client company.
- Pass-through revenue, which includes:
 - Revenue which, by law, must be distributed to another person or governmental entity;
 - Taxes collected from a third party and remitted by a business to a taxing authority;
 - Reimbursements for advances made by a business on behalf of a client or customer, unrelated to goods and services;
 - Revenue received by a business that is mandated by contract or subcontract to be distributed to another, if the revenue is: (1) sales commissions paid to a non-employee; (2) the tax basis of securities underwritten by the business, as determined for purposes of federal income tax; and (3) subcontracting payments under a contract or subcontract to provide services, labor or materials in connection with the actual or proposed design, construction, remodeling, remediation or repair or improvements on real property.
 - Revenue received by a legal services entity that is required by law to be distributed to a client or another as damages, subject to subrogation, due to another attorney who provided services and is not part of the firm, or reimbursements from a claimant for expenses.
 - Revenue received by a business that is part of an affiliated group, from a member of the affiliated group. An affiliated group means:
 - A group of two or more businesses, each of which is controlled by one or more common owners or by or more members of the group.
 - To be controlled means direct or indirect ownership, control or possession of the power to vote 50% of outstanding voting securities of a business.
- The tax basis of securities and loans sold by the business.

- Revenue that is directly derived from the operation of a facility that is located on property owned or leased by the federal government and managed or operated primarily to house members of the military.
- Interest other than interest on credit sales.
- Dividends and distributions from corporations and income from a pass through entity.
- Revenue from certain asset sales.
- Revenue from certain hedging transactions.
- Revenue attributable to the principal of a loan or repurchase agreement.
- Revenue from the sale of the businesses own stock.
- Insurance proceeds, except insurance proceeds to cover loss of business revenue.
- Litigation damages unless they would have been considered revenue without litigation.
- Bad debts.
- Returns or refunds.
- Cash discounts.
- Value of goods and services provided free of charge.
- Revenue from the sale of an account receivable if the account receivable was included as gross revenue.
- Value of in state ownership of a passive entity.

7. Apportionment (Sec. 21)

- Revenue from rent, royalty or sale of real property situated to Nevada if the real property is in Nevada.
- Revenue from sale or lease of tangible personal property situated to Nevada if the tangible personal property is located or used in Nevada (lease) or if delivered or shipped to a buyer in Nevada (sales).
- Revenue from transportation services situated to Nevada if origin and destination are located in Nevada.
- Revenue from services situated to Nevada in proportion to the benefit in Nevada, as compared to the purchaser's benefit everywhere else from the service.
- Revenue not otherwise described situated to Nevada if from business done in Nevada.
- A business may petition the Department of Taxation for different situsing.

8. Administration (Secs. 4, 14-19, 50-58)

- The BLF is administered by the Nevada Department of Taxation. The Secretary of State will not administer state business licenses, except for revocations due to a failure to pay the BLF.
- The fee is reported and paid quarterly, beginning on July 1, 2015. The first report and payment is due November 15, 2015. Reports are due 45 days after the quarter covered in the report.
- The fee is tied to a fiscal year from July 1 through June 30.
- The BLF is deposited in the state general fund and is not earmarked.
- A business must use the same accounting method for the BLF and federal income tax.
- Claims for refunds due to overpayment have a 3 year period of limitations.

9. Industry Rates (Secs. 7, 19, 23-49)

- Businesses are classified pursuant to the 2012 version of the NAICS code.
- The appropriate NAICS code is the industry in which the business is "primarily engaged."
- Each industry classification has 67 gross revenue ranges, with differing fees based on the revenue range.

- Fees are imposed on a per quarter basis.
- The smallest revenue range is \$0-31,250 per quarter.
- The largest revenue range is \$275,572,755 and over per quarter.
- Industry classifications and maximum quarterly rates include:
 - Agriculture, Forestry and Hunting (NAICS 11). \$203,296
 - Mining, Quarrying, and Oil and Gas Extraction (NAICS 21). \$164,573
 - Utilities (NAICS 22). \$438,860
 - Construction (NAICS 23) \$296,477
 - Manufacturing (NAICS 31-33) \$293,649
 - Wholesale Trade (NAICS 42) \$325,918
 - Retail Trade (NAICS 44-45) \$358,187
 - Air Transportation (NAICS 481) \$188,774
 - Truck Transportation (NAICS 484) \$653,450
 - Rail Transportation (NAICS 482) \$1,071,335
 - Other Transportation (NAICS 483, 485-488, 491-492) \$417,885
 - Warehousing and Storage (NAICS 493) \$413,045
 - Publishing, Software, Data Processing (NAICS 511-512, 515, 518) \$818,022
 - Telecommunications (NAICS 517) \$974,528
 - Finance and Insurance (NAICS 52) \$359,801
 - Real Estate Rental and Leasing (NAICS 53) \$806,728
 - Professional, Scientific, or Technical Services (NAICS 54) \$584,071
 - Management of Companies and Enterprises (NAICS 55) \$442,087
 - Administrative and Support Services (NAICS 561) \$498,558
 - Waste Management and Remediation Services (NAICS 562) \$847,065
 - Educational Services (NAICS 61) \$909,989
 - Health Care and Social Assistance (NAICS 62) \$614,727
 - Arts, Entertainment and Recreation (NAICS 71) \$774,459
 - Accommodations (NAICS 721) \$645,383
 - Food Services and Drinking Places (NAICS 722) \$626,021
 - Other Services (NAICS 81) \$458,222
 - Unclassified Business \$484,037