

Chapter 64-14 - BUSINESS LICENSE TAX

Article 64-14.2. Purpose and Authority

64-14.202 - Purpose and authority.

The purpose of this chapter is to effectuate Revenue and Taxation Code Section 7284 (CH 466, Stats. 1990; Cal. Const. Art. IV, § 8(c)(2)) in order to levy a business license tax in the unincorporated area of the county.

(Ord. 91-35 § 1).

Article 64-14.402. Definition and License Requirements

64-14.402 - Definitions.

The following words and phrases whenever used in this chapter shall be construed as defined in this section.

- (a) "Amusement and itinerant businesses" includes only those businesses which are (1) not operated or carried on regularly throughout the year in the unincorporated area of the county, such as circuses, carnivals, and other exhibitions or entertainments on an occasional basis and not otherwise licensed and (2) involve the operation of a temporary place of sale, and itinerant vendors, peddlers, hawkers and solicitors.
- (b) "Business" includes all activities engaged in or caused to be engaged in within the unincorporated area of the county with the object of gain, benefit or advantage, whether direct or indirect, to the taxpayer or to another or to others, but does not include the services rendered by an employee to his or her employer or a casual or isolated transaction.
- (c) "Employee" means every person engaged in the operation or conduct of any business whether as an owner, any member of owner's family, partner, associate, agent, manager or solicitor, and any and all other persons engaged in such business. In addition, an "employee" means any person who works for or receives a salary for work in the unincorporated area of the county, from which Federal Withholding tax or Federal Insurance Compensation Act (FICA) funds have been withheld.
- (d) "Engaging in business" means commencing, conducting or continuing in business, and also the exercise of corporate or franchise powers, as well as liquidating a business when the liquidators thereof hold themselves out to the public as conducting such business.
- (e) "Full time equivalent employee" shall be calculated by ascertaining the total number of hours of service including vacation, or other paid leave, performed by all employees of applicant within the unincorporated area of the county during the previous year ending on December 31st and dividing the total number of hours of service thus obtained by the number of hours of service constituting a year's work of one full-time employee according to the custom or laws governing such employment, in the absence of other such standards, one thousand eight hundred hours of service per year shall constitute one full-time employee.
- (f) "Tax collector" shall mean the treasurer-tax collector of the county of Contra Costa.

(Ord. 91-35 § 1).

64-14.404 - License required.

It is unlawful to engage in business in the unincorporated area of the county without first procuring a business license unless an exemption is granted.

(Ord. 91-35 § 1).

64-14.406 - Exemptions.

Exemptions must be requested and acceptable proof must be presented to the tax collector that shows the business meets one or more of the following criteria:

- (a) Nonprofit organizations as defined in Section 501 (c)(1), (2) or (3) of the Internal Revenue Code, as it currently exists or is hereafter amended;
- (b) Businesses exempt from local taxation by virtue of the Constitution or applicable statutes of the United States or the state of California;
- (c) Businesses with annual gross receipts less than twenty thousand dollars per year;
- (d) Businesses which rent or lease to others no more than four residential dwelling units;
- (e) Any public utility which pays a franchise tax to the county based on gross receipts. The exemption applies only to the business conducted under the franchise agreement;
- (f) Every peddler, solicitor or other person entitled to exemption from the payment of any license provided for in this chapter upon the ground that such license casts an unreasonable burden upon his/her right to engage in commerce with foreign nations, or among the several states, or conflicts with the regulations of the United States Congress respecting interstate commerce;
- (g) Businesses engaged in growing livestock, poultry or agricultural products for sale or disposal by the growers themselves.

(Ord. 91-35 § 1).

64-14.408 - License fee a tax— Does not permit business otherwise prohibited.

"License," as used in this chapter, does not mean a permit. Any other permits or licenses which are required otherwise than by this chapter remain in effect and are not superseded by this chapter. The fees prescribed by this chapter constitute a tax for revenue purposes, and are not regulatory permit fees. The payment of a license tax required by the provisions of this chapter, and its acceptance by the county, and the issuance of a business license to any person, shall not entitle the holder thereof to carry on any business unless he/she has complied with all of the requirements of this chapter and all other applicable laws, nor to carry on any business in any building or on any premises designated in such license in the event that such building or premises are situated in a zone or locality in which the conduct of such business is in violation of any law.

(Ord. 91-35 § 1).

64-14.410 - Contents of license.

Every person required to have a license under the provisions of this chapter must apply for a license on an application form provided by the treasurer-tax collector. After receiving the zoning verification specified Section 64-14.414, a completed application form, and payment of the prescribed fee, the treasurer-tax collector shall issue a license that contains the following:

- (a) The name of the person to whom the license is issued;
- (b) Identification of the business licensed;
- (c) The address where the business is to be carried on;
- (d) The date that the license expires; and

(e) Such other information as the tax collector may determine.

(Ord. 91-35 § 1).

64-14.412 - Annual license.

- (a) All licenses issued, except daily licenses, and the first license issued to a new business, shall be issued and due for renewal effective July 1st and shall expire on the subsequent June 30th.
- (b) New businesses shall have fees prorated to the beginning of the quarter in which the business is established and the license will expire June 30th.
- (c) All daily licenses are due in advance no later than the day prior to the start of the business activity for which the license is necessary.

(Ord. 91-35 § 1).

64-14.414 – Zoning approval

Before a business license is issued, any business newly located or relocated in the unincorporated area of the county, or any business that has changed or modified its type of business, shall obtain written verification from the Department of Conservation and Development confirming that the proposed business is consistent with all applicable zoning requirements. The issuance of a business license under this chapter does not constitute zoning approval and does not relieve anyone from the obligation to obtain all other permits or licenses required by this code and state law.

Article 64-14.6. License Procedures

64-14.602 - Transfer of license—Procedure.

No license granted or issued under any provisions of this chapter shall be in any manner transferred or assigned, or authorize any person other than the person named in the license to carry on the business therein named, or to transact such business in any place other than the place of location therein named, without the written consent of the tax collector endorsed thereon. At the time such license is assigned or transferred or the place of location for the carrying on of such business is changed, the person applying for such transfer or change shall pay to the tax collector a fee, as provided in Section 64- 14.802, for each assignment or transfer.

(Ord. 91-35 § 1).

64-14.604 - License to be conspicuously posted— Exception.

Every person having a license under the provisions of this chapter and carrying on a business at a fixed place of business shall keep such license posted and exhibited in some conspicuous part of said place of business. A copy of the license may be posted in additional business locations if the licensed business operates out of more than one location.

Every person having a license and not having a fixed place of business shall carry such license in possession at all times while carrying on the business for which the same was granted. Every peddler having a license shall keep such license prominently displayed.

(Ord. 91-35 § 1).

64-14.606 - Multiple locations.

A separate license is not required for every branch establishment or separate place of business in which a business is carried on within the unincorporated area of the county. The flat fee portion of the business license tax is assessed on one location. The per employee fee is assessed for employees at all locations.

Article 64-14.8. Fees and Penalties

64-14.802 - Rates.

Class A: All businesses not defined as amusements or itinerant businesses.

Flat fee \$100 per business entity

Plus \$ 10 per each full time

equivalent employee over one

Class B: Amusements and itinerant businesses.

Flat fee \$100 per day

Other fees:

Transfer of license or location \$10

Lost license/duplicate license \$10

(Ord. 91-35 § 1).

64-14.804 - Penalties and interest.

If a business license tax remains unpaid the tax collector shall:

- (a) Impose twenty-five-percent penalty for an annual license tax which is not paid within thirty days of the due date;
- (b) Impose twenty-five-percent penalty for a daily license tax which is not paid by the close of the day when it was due; and
- (c) In addition to the penalties imposed, any person who fails to pay any license fee within thirty days of the due date shall pay interest at the rate of one and one-half percent per month or fraction thereof, on the amount of the fee and penalties from the date on which the license fee is delinquent, until paid.

(Ord. 91-35 § 1).

64-14.806 - License a debt.

The amount of any license fee penalty, and interest imposed by the provisions of this chapter shall be deemed a debt to the county; and any person carrying on any business without first having procured a license from the county to do so shall be liable to action in the name of the county in any court of competent jurisdiction, for the amount of license and penalties and interest imposed on such business.

The county may collect the debt through any legal means including attachment and seizure of business property.

(Ord. 91-35 § 1).

Article 64-14.10. Enforcement, Appeals, and Refunds

64-14.1002 - Enforcement.

It is the duty of the tax collector, and he/she is directed, to enforce each and all of the provisions of this chapter.

In the exercise of the duties imposed upon him/her under this chapter, and acting through deputies or duly authorized assistants, the tax collector shall examine or cause to be examined from time to time all places of business in the unincorporated area of the county to ascertain whether the provisions of this chapter have been complied with.

The tax collector, and each and all of the his/her assistants and any deputy sheriff, shall have the power and authority to enter, free of charge and at any reasonable time, any place of business required to be licensed in this chapter and demand an exhibition of its license certificate. Any person, having such license certificate heretofore issued in his/her possession or under his/her control, who willfully fails to exhibit the same on demand, shall be guilty of an infraction. It shall be the duty of the tax collector and each of his/her assistants to cause a complaint to be filed against any and all persons found to be violating any of said provisions.

(Ord. 91-35 § 1).

64-14.1004 - Remedies cumulative.

The conviction and punishment of any person for transacting any business without obtaining a license shall not excuse or exempt such person from the payment of any license tax due or unpaid at the time of such conviction, and nothing in this chapter shall prevent a criminal prosecution of any violation of the provisions of this chapter. All remedies prescribed under this chapter are cumulative and the use of one or more remedies by the county shall not bar the use of any other remedy for the purpose of enforcing the provisions of this chapter.

(Ord. 91-35 § 1).

64-14.1006 - Appeals.

- (a) Any person aggrieved by any decision of an administrative officer or agency with respect to the issuance or refusal to issue a license, or the amount of a license tax, may appeal the county administrator by filing a written notice of appeal setting forth in full the grounds of the appeal, with the clerk of the board of supervisors.
- (b) The county administrator is authorized to issue such regulations as may be reasonable and necessary to hear and determine such appeals. Such regulations shall be in writing, approved by the board of supervisors and available to any person so requesting them.
- (c) The amount of any license tax finally determined, as provided in this section, or any other section of this chapter, shall be due and payable as of the date the original license fee was due and payable, together with any penalties and interest that may be due thereon; provided, however, if the amount of such license tax is fixed in accordance with the original statement of the applicant, then no penalty shall attach by reason of any delinquency.

(Ord. 91-35 § 1).

64-14.1008 - Examination of books, records, witnesses — Information confidential — Penalty.

The tax collector, or any authorized employee of the tax collector is authorized to examine the books, papers and records of any person subject to this chapter for the purpose of verifying the accuracy of any application or, if no application was made, to ascertain the license fees due under this chapter. Every licensee or business operating in the unincorporated area of the county is directed and required to furnish to the tax collector, or his/her duly authorized agent or employee, the means, facilities and opportunity for making such examination and investigations as are authorized by this section. The tax collector is authorized to examine any person, under oath, for the purpose of verifying the accuracy of any application made, or, if no application was made, to ascertain the license fees due under this chapter, and for this purpose may compel the production of books, papers and records and the attendance of all persons before him/her, whether as parties or witnesses, whenever he/she believes such persons have knowledge of such matters. The refusal of such examination by any employer or person subject or presumed to be subject to the license fees shall be deemed a violation of this chapter.

(Ord. 91-35 § 1).

64-14.1010 - Refund claim.

Whenever the amount of any tax, penalty or interest has been paid more than once or has been erroneously or illegally collected or received by the county under this chapter, it may be refunded provided a verified claim in writing therefor, stating the specific grounds upon which said claim is founded, is filed with the tax collector within one year from the date of payment. The claim shall be audited by the tax collector and shall be made in accordance with current county refund procedures. If the claim is approved, the refund may be refunded or may be credited on any amounts then due and payable from the person from whom it was collected or by whom paid, and the balance may be refunded to such person or to his/her administrators or executors.

(Ord. 96-5 § 4).