

City of Santa Barbara Business License Information Sheet for the Art Community

The City of Santa Barbara is currently in the process of addressing questions and concerns regarding the Business License requirements for Artists. The most recent mass mailing from the City's audit firm, Muni Services, has created some confusion with the Artist Community. City staff would like the opportunity to address these concerns and clarify any misunderstanding of the City's business license program.

The City has contracted for business license audit services with Muni Services for the past two years. The Business License Audit Program is a comprehensive revenue audit program and general mailings are sent out to all the businesses identified by Muni Services as potentially non-compliant with the City's Municipal Code related to the assessment and collection of business license taxes. Muni Services does not target specific groups or segments of the business community.

City staff anticipates working with the various Artist organizations over the next several weeks to help continue to clarify the business license requirements and to provide an opportunity for feedback. We recognize that many local artists are likely not aware that they may have been subject to a City business license tax, so we will be flexible with respect to the penalties that would normally be assessed.

In the meantime, the following questions and answers may help to better inform the artist community of the City's business license regulations.

When is a business license required?

If an artist is conducting business within the City of Santa Barbara and meets one or more of the following criteria, they are subject to a business license tax. If none of these criteria are met, they are exempt.

1. The artist holds a Seller's Permit with the State Board of Equalization.
2. The artist has filed a Fictitious Name Statement (DBA-Doing Business As) with the County Clerk Recorder's Office.
3. The artist conducts business in the City of Santa Barbara. This would include the following scenarios:
 - a. They have a storefront in SB.
 - b. Their place of business is their home and they live in SB.
 - c. They live outside SB and have no storefront in SB, but sell their art in SB.
 - d. They have created a website for the purpose of selling their art and deliver their art to customers in SB.
4. The artist files a 'Schedule C -Business Profit/Loss Statement' with their State/Federal Tax returns.

These criteria are designed to distinguish between those who are **actively engaged in the sale of art as a business enterprise** vs. those for whom it is just a hobby. We believe the criteria are a good indication of whether someone is "in the business" of selling art or not. Obviously, there can be some gray areas, so we also apply some judgment when necessary.

For example, there are many artists who sell their art at consignment shops or galleries but otherwise are not actively engaged in the business (as determined by the criteria above). These artists will not need to obtain a business license.

How much is the business license tax?

For those artists who consider themselves a “professional artist”, the amount of tax is \$100.00 per year, pursuant to the Municipal Code section 5.04.420.

For all other artists, the amount of tax is based on gross receipts with a minimum tax of \$30 for the Arts/Crafts – Home Occupation category (5.04.450). However, for businesses with annual gross receipts of \$1,200 or less, the amount of tax is \$5.00 (Section 5.04.730)

Are there any exemptions?

The Municipal Code does exempt certain businesses from the tax entirely.

1. Charitable, Educational, or Religious Organizations (Section 5.04.690)
2. Minors – Sixteen (16) years and younger (Section 5.04.740)
3. Disabled Veterans (Section 5.04.750)
4. Disabled Persons (Section 5.04.760).

An exemption is also provided for all Veterans per the State Business and Professions Code Section 16001.7

How much are the penalties for late payment or a failure to pay?

Pursuant to the Municipal code section 5.04.370, the penalties for failure to pay the tax on or before the delinquency date shall be 10% for each month the tax is delinquent and an additional 10% for each month thereafter; provided, that the amount of the such penalty added shall in no event exceed 100% of the tax to which penalty rates herein provided for have been applied.

Do I have to pay penalties if I was unaware of the BL requirement?

City staff has some discretion on assessing penalties for those businesses not in compliance with the Business License ordinance. Staff will continue to evaluate to what extent penalties can be waived in these cases.

What if I am donating art that is later sold?

Donating art to a non-profit does not constitute a sale by the artist. So, the mere act of donating art does not subject an artist to the tax even if the non-profit sells it and makes money on it. Again, it’s whether the artist meets any of the criteria above that determine whether an artist is subject to the tax. Additionally, while non-profits are required to register with the City as a “business”, they are NOT subject to a business license tax.

What if I live outside of the City limits and sell my art in the City?

The rules governing the application of business license taxes mirror the rules and laws established by the State governing the collection and allocation of sales taxes.

The general rule is that the place of business is determined not by where the artist lives but where the business is conducted. So, if an artist lives in Goleta but sells their art within the City of Santa Barbara, they would be subject to the City business license tax.

If an artist has a website through which he/she sells artwork, the place of business is determined by the point of delivery. Again, this is consistent with State laws governing the collection and allocation of sales taxes arising from internet transactions.

Note that if an artist is conducting business in multiple jurisdictions, the artist may want to contact the other jurisdictions to determine the applicable business license requirements.

What if I am participating in a special event?

If you do not have a City Business License, a One Day Vendor's License can be issued for special events in the amount of \$10 per day by the City. The One Day Vendor's License application and \$10 per day fee can also be collected by the event promoter for remittance to the City. If you have a City Business License, a special event "One Day Vendor's License" is still required for display at the event; however, the \$10 per day fee is waived.

What if I only sell my art or craft at the Santa Barbara Arts and Crafts Show?

Artists and craftsmen who sell their goods solely at that Santa Barbara Arts and Crafts show are specifically exempt from paying a business license tax pursuant to Municipal Code section 15.08.160. However, they are required to pay the applicable fees to the Santa Barbara Parks and Recreation Department pursuant to the same code section.

Why did I receive a letter from the audit firm, Muni Services?

Our audit firm, Muni Services, has access to various public records identifying businesses that meet the criteria above – that is, businesses that have filed a DBA with the County, have a seller's permit, have filed a Schedule C with the IRS and FTB, or have a website for the purpose of selling. If an artist does not meet any of these criteria, they would not be identified by our auditors.

Does the audit firm share the Business License information with the IRS or the Franchise Tax Board?

No, Muni Services does not provide business tax information to the IRS or the Franchise Tax Board.

Who do I contact if I have any questions regarding the business license tax?

City of Santa Barbara, Business License Office
735 Anacapa St, Santa Barbara, CA 93102
Ph: 805-564-5346

http://www.santabarbaraca.gov/business/license/tax_application/default.asp