



A Guide to the Universe of Administering Business Licenses

# Business License 101

CMRTA Division 4 Webinar Series

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John Sunkel, Retired – City of El Cajon

# The Beginning (or The BL Theory)



- Why have Business Licenses?
  - In most cases, to raise revenue for a municipality
  - May be used to regulate some businesses
    - Will vary with each city
  - To register business establishments with the city
    - Tells you who owns a business, when it started, closed, and other pertinent information
  - Creates a database for tracking businesses and providing this data to other government functions
    - Planning, Zoning, Wastewater, Fire, Police

# Where Does It Come From? (Origins)

## ■ Federal Laws

- Generally, the U.S. Constitution provides the legal basis
  - Article 1, Section 8: The Congress shall have power to lay and collect taxes, duties, imposts and excises, to pay the debts and provide for the common defense and general welfare of the United States; but all duties, imposts and excises shall be uniform throughout the United States;
  - 10<sup>th</sup> Amendment of Bill of Rights: The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.



# Where Does It Come From? (Origins)

- State Laws

- Government Code 37100: The legislative body may pass ordinances not in conflict with the Constitution and laws of the State or the United States.
- Government Code 37101(a): The legislative body may license, for revenue and regulation, and fix the license tax upon, every kind of lawful business transacted in the city, including shows, exhibitions, and games.



# Kinds of Cities (The Colony Factor)

- Charter City
  - Governing system is defined by city's own charter document, rather than by the state
  - Has supreme authority over "municipal affairs"
    - Regulation of the city police force, local elections & procedures
    - "Municipal Affairs" is not clearly defined
      - Concept is fluid and may change over time
      - Courts may decide on case-by-case basis
- General Law City
  - Bound by the state's general law, regardless of whether the subject concerns a municipal affair



# Your Municipal Code

- Get to know your code
  - Get to know the definitions
  - Is your license primarily for raising revenue, for regulating, or both?
  - Is a separate license required for each location, type of business?
  - What happens when a business moves, changes ownership?
  - What goes on the application?



# How do you Compute? (Human or Cylon)

- Gross Receipts
  - The IRS defines gross receipts as the total amounts the organization received from all sources during its annual accounting period, without subtracting any costs or expenses
  - Advantages:
    - More equitable (based on proportion of business)
    - Generally more revenue raised
    - Less impact from inflation
  - Disadvantage:
    - Higher cost to enforce (auditing more critical)



# How do you Compute? (Human or Cylon)

- Flat + Variable
  - Normally based on a flat rate plus a variable based on employees, units, vehicles, square footage
  - Advantages:
    - Normally less labor-intensive than gross receipts
    - Simpler to calculate for business
  - Disadvantages:
    - Generally a regressive tax
    - Inflation reduces value of tax as any increase must be voter approved
    - Fails the apportionment test





# Laws that Effect You (Gravity)

- Proposition 218
  - Passed by voters on November 5, 1996
  - Requires all local governments, including charter cities, to get majority voter approval for new or increased general taxes.
  - Gives voters the power to reduce or repeal any existing local tax, assessment, or charge through the initiative process.
- SB 1186 (SB means "Senate Bill")
  - A \$4 tax will be required for any application for a local business license or equivalent license or permit. This revenue will be used to fund the expanded CASp (Certified Access Specialist) program required by this bill.



# Laws that Effect You (Gravity)

- AB 2184 (AB means Assembly Bill)
  - Mandates other alternative can be provided in lieu of SSN. (CA DL, CA ID, ITIN, Muni ID)
  - Allows for Service of Process to replace Business, Mailing, and Owner Address with appropriate documentation of receiving party
  - Masks home addresses on public searches
- SB 205
  - Requires that cities and counties confirm on the business license that a regulated industrial business has a form of NPDES permit coverage for discharges of stormwater. Applies to new applications and renewals each year.



# The Paperwork (The BL Files)

- Business Name
  - Is it a fictitious name?, often called a DBA (doing business as)
- Business Location
  - Should not be a PO Box or mailbox store location (called CMRA – Commercial Mail Receiving Agency) unless SOP documentation given
- Owner Name
  - Individual (sole proprietor)
  - Partnership (two or more individuals)
  - Corporation (Inc., Corp)\*
  - Limited Liability Corporation (LLC)\*
  - Limited Partnership (LP)\*
  - Limited Liability Partnership – (LLP)\* {only those engaged in public accountancy, law, or architecture}
    - \*Registered with California Secretary of State



# The Paperwork (The BL Files)

- The Numbers

- Federal Tax Identification Number (FEIN)

- Issued by IRS
- For all businesses except sole proprietors with no employees

- California Contractor's License Number

- Issued by California Contractor's License Board
- For all state licensed contractors (plumbers, builders, etc.)

- California Seller's Permit

- Issued by California Department of Tax & Fee Admin (CDTFA)
- For all retail and wholesale businesses



# Special Licenses (Alternative Universe)

- Solicitors
  - Door to Door
  - Store Fronts
- Special Events
  - Carnivals, Circus
  - Car Shows, Craft Shows, Farmers Market
- Regulated Businesses
  - Auto dismantling, Pawn shops, Secondhand, Swap meet
  - Tobacco shops, Tattoo, Massage
  - Amusement devices, Cabarets, Bingo, Fortunetelling
  - Adult Entertainment, Cannabis
    - This will vary from city to city – Check your municipal code



# Evaluate Your City (The Outer Limits)

- Size of city
- Ratio of industrial to commercial
- Residential
  - Ratio of single family to multi-family
  - Is there a home occupation permit?
- Do you have an Economic Development Division?
- Are there unincorporated areas nearby using your municipalities' name?
- Consider Nexus
  - Means a connection
  - Physical presence



# Play Catch (May the Enforcement be with You)

- Search databases
  - Internet (Google, Yelp, Craigslist, Classified ads, Newspapers)
- Data Exchange
  - Franchise Tax Board (SB1186)
  - CA Dept of Tax & Fee Administration (AB990)
- Hit the Pavement
  - Revenue Clusters
    - Beauty salon
    - Mall
    - Medical Offices
  - Street by Street
    - Take Pictures (Signs)



# Data Bases



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- Fictitious Business Name (County Clerk)
- Health Department (Restaurants)
- City's Vendors
- Contractor License Board
- Consumer Affairs
  - Auto repair, Chiropractors, Other professional categories
- Residential Care Licensing
- Residential Management Listings (HOA's)
- County Assessor - Property Tax
- Websites:
  - Yelp
  - Facebook
  - Next Door
  - Corporate sites (They list locations)
- Discussion:
  - What websites have you found useful?





# Consider the Small (Little Green Men)

- Independent Contractors
  - Paid with IRS Form 1099
- Booth rentals at salons/barber shops, manicurists, massage
- Kiosks at the mall
- Consignment stores
- Real estate agents
  - Ask your City Attorney
- Mobile businesses
  - Car detailing, Food trucks, Gardeners, Ice cream carts, pet grooming; to name only a few



# The Avoiders (Tax Dodgers in the 21<sup>st</sup> Century)

- The Types
  - The Ignorant
    - “I didn’t know I was required to have a business license”
  - Non-Responders
    - Will never respond to written correspondence
  - The Compliant
    - Tell me how much I owe!
- Treat everyone the same
  - Don’t rely on your intuition to tell the difference
  - If you waive a penalty for one, why not everyone else?
  - If there is to be an exception, let your supervisor make the call
- It can get messy
  - Politics is a reality in government
  - You are not a politician!



# Form Alliances (Innerspace)

- Your co-workers in other departments can assist in compliance
  - Building Permits
  - Purchasing (contracts with your city)
  - Fire Inspections, Wastewater, Code Enforcement
- Shopping center management
- Chamber of Commerce
- Economic Development
- CMRTA



# Evidence (The Proof is Written in the Stars)

- Site Visits
  - Picture with date
- Business Cards
- Letterheads
- Business Bank Account
  - Example: Check used for permit
- Professional License
- Active Corporation, LLC filing with Sec. State
- Schedule 'C' tax filing
- Property ownership (For rentals)



# Evidence (The Proof is Written in the Stars)

- How does your Municipal Code Define:
  - ECMC 5.04.070: When any person shall by use of signs, circulars, cards, telephone book, or newspapers, advertise, hold out, or represent that he is in business in the city, or when any person holds an active license or permit issued by a governmental agency indicating that he is in business in the city, and such person fails to deny by a sworn statement given to the license tax collector that he is conducting a business in the city, after being requested to do so by the license tax collector, then these facts shall be considered prima facie evidence that he is conducting a business in the city.



# Exemptions (A Tax Odyssey)

- Interstate Commerce
- Religious
- Employees of a Company (AB5)
- Charitable / Non-profit
  - Tax exempt status from IRS (501c3)
- State Law
  - Insurance companies
  - Banks, Credit unions
  - Alcohol beverages (from gross receipts)
  - Veterans
  - Café musicians
  - For-hire motor carriers
  - Laundry equipment & coin vending machines
  - Towing (when not located in your city)
  - Child care (8 or fewer)
  - Residential care (6 or fewer)
- Check your municipal code & city attorney
- This is an overview only



# Annual Renewals (Return of the License)

- Normally done once a year
  - Timing will be determined by your municipal code
    - Year to Year from initial application
    - Calendar Year (all expire December 31<sup>st</sup>)
    - Fiscal Year (Exp. June 30<sup>th</sup>)
      - Is first year pro-rated?
- Steps
  - Clean up database
  - Email notices
  - Print & mail notices
  - Internally or 3<sup>rd</sup>-party
  - Open mail (or e-mail) & process payment
  - Check for accuracy
  - Return incomplete or those with balance due
    - Is it on time or is a late penalty due?
  - Print and mail or email Business License
- Take a Vacation 😊



# Moving Ahead (Stargate)

- Keep your job interesting
  - Education (Learn & then learn some more)
    - Attend CMRTA Division meetings & annual conference
    - Become a Certified Revenue Officer (CRO)
    - Serve on your local division board
  - Never hesitate to ask
- Pass your knowledge on
  - To co-workers
  - Network with Business License staff in neighboring cities
- Think out of the Box
  - Adapt to Technological Changes
  - Always look for ways to Improve





# Nine Websites (Plan 9 from Outer Space)

- Legislative Bill Search
  - <http://leginfo.legislature.ca.gov/>
- Corporation/LLC Search
  - <https://businesssearch.sos.ca.gov/>
- Consumer Affairs License Verification
  - <https://search.dca.ca.gov/?RD=Y>
- Seller's Permit Verification
  - [https://onlineservices.cdtfa.ca.gov/\\_/](https://onlineservices.cdtfa.ca.gov/_/)



# Nine Websites (Plan 9 from Outer Space)

- Real Estate License Lookup
  - <http://www2.dre.ca.gov/PublicASP/pplinfo.asp>
- Community Care Licensing Lookup
  - <https://www.cclld.dss.ca.gov/carefacilitysearch/>
- California Contractor License
  - <https://www2.cslb.ca.gov/OnlineServices/CheckLicense/CheckLicense.aspx>
- California Municipal Revenue & Tax Association
  - <https://cmrta.memberclicks.net/>





Thank you for attending CMRTA Business License 101.

**The End (The Final Frontier)**