

SANTA ANA BUSINESS LICENSE TAX AMNESTY PROGRAM

BUSINESS LICENSE REQUIREMENT

FREQUENTLY ASKED QUESTIONS (FAQs)

BUSINESSES & INDEPENDENT CONTRACTORS - FREQUENTLY ASKED QUESTIONS (FAQs)

Q: What is the City of Santa Ana Business License Tax Penalty Abatement Amnesty Program?

A: The Business License Tax Penalty Abatement Amnesty is a temporary program authorizing the abatement of penalties assessed for noncompliance with the City's business license tax to encourage all businesses including, but not limited to: all commercially based businesses, home-based businesses, commercial and residential landlords, and independent contractors, who have not yet obtained their required business license(s) to come forward and fully comply with the City's business license tax.

Q: Am I doing "business"? What does Santa Ana consider a "business" and why do they think I am operating one?

A: Santa Ana Municipal Code Section 21-3 defines business as including *"all activities engaged in or caused to be engaged in within the city, including any commercial or industrial enterprise, trade, profession, occupation, vocation, calling, or livelihood, including rental of residential or commercial real estate, and every other kind of activity whether or not carried on for gain or profit, and whether or not engaged in as a principal or as an independent contractor, but shall not include the services rendered by an employee to his employer."*

State law (Business & Professions Code Section 16300) requires cities to use the way a taxpayer reported income to the IRS and FTB to determine whether the taxpayer performed services as an employee or as a separate business entity.

Q: I received a 1099 Form instead of a W-2 from my work. Am I required to have a business license?

A: Yes, individuals that work as an independent contractor and are reported on a 1099 Form instead of a W-2 need to have a City of Santa Ana Business License.

Q: I do part-time consulting/independent contractor work from my home. Do I have to get a business license?

A: Yes, businesses both large and small are required to obtain a Santa Ana Business License to be in compliance with the Santa Ana Municipal Code. If the consulting work or other independent contractor work is done from a location within the City limits, such as your residence, you are required to obtain a City of Santa Ana Business License. *(Note: hobbyists and part-time businesses making less than \$1,200 per year may apply for a reduced gratuitous license fee.)*

Q: I am an independent operator performing services in association with a licensed Santa Ana business, or nonprofit organization or government agency. Do I have to get a separate business license?

A: Yes, engaging in business in association with, or performing services for, or in the name of a licensed Santa Ana business or nonprofit organization, or government agency does not relieve separate business entities, independent contractors, consultants or other self-employed individuals from the requirement to obtain a City of Santa Ana Business License.

Q: I live in Santa Ana, but my business is located outside of the city limits. Do I need to get a business license?

A: As long as your business location and all business activity are conducted outside the City of Santa Ana, there is no need to obtain a City of Santa Ana Business License. However, if you are conducting business based from your residence, or your residence is your business location, you will need to obtain a City of Santa Ana Business License.

Q: My business entity (Corporation, LLC, Partnership, LP, etc.) is dormant/passive and it is just paying a minimum tax to the Secretary of State. Is it required to get a business license?

A: Yes. If your business is registered as “active” with the Secretary of State and is reporting on a business return to the FTB and IRS, it will need a business license. Maintaining a business entity within the City, whether it is transacting public business or not, is considered operating a business under the municipal code and a City of Santa Ana Business License is required.

RESIDENTIAL RENTAL PROPERTIES - FREQUENTLY ASKED QUESTIONS (FAQs)

Q: What does Santa Ana consider a “residential rental business”?

A: Municipal Code Section 21-3 defines the business of rental of residential real estate as including every person who engages in the business of leasing, renting, subleasing, subletting, providing, exchanging or trading without loss of ownership or leasehold any residential property within the City for purposes of general residency.

Q: How is the residential rental business license tax assessed?

A: The business license tax for the rental of residential real estate is assessed per property, based on the ownership of the property. A separate business license is required for each separate rental property location. The business license tax assessment is made on a per unit basis and reflects the maximum number of rentable units making up the property.

Q: I am renting to family members is this still considered to be a business? Do I have to get a business license?

A: Renting to family members is considered to be a business and a license is required. If you are renting only to immediate family members and the amount you receive is not more than the “cost of said premises” you may qualify for a “fee-exempt” license. To see if you qualify, download a Family Member Rental Exemption form at http://www.santa-ana.org/TaxAmnesty/documents/RFRM4_Family_Member_Rental_Exemption_Letter_and_Application_Form.pdf