

AB63 Local Government Sharing Program Frequently Asked Questions (FAQs)

What is the AB63 Local Government Sharing Program?

The AB63 local government sharing program is a lead source which many cities in the State of California have been utilizing since 2002. Per Assembly Bill 63 (Cedillo), The California State Franchise Tax Board (FTB) is now authorized to disclose certain records related to business activities of residents, corporations, and other entities within the City of San Diego. By matching the FTB data to our existing records we now have an additional effective tool to identify unregistered businesses within the City of San Diego.

Why did I receive a notice letter from the San Diego Office of Small Business?

Our records indicate that you, your spouse, or the named entity referenced in the notification letter are reporting some type of business activity to the State Franchise Tax Board using a City of San Diego address. This indicates that you **may** be operating a business in the City that has not yet obtained a Business Tax Certificate (BTC).

Note: Joint filers (non-entities) may receive the notification letter addressed to both names listed on the tax return, even though one individual may have the Business Tax liability.

Why did I receive a Notice of Tax Liability statement?

Individuals that do not respond to the initial notice letter from the San Diego Office of Small Business within the 30 day period are later issued a Notice of Tax Liability (NTL) statement which includes a \$68.00 Non-Compliant Surcharge.

Does anyone verify the information before sending out notices?

Yes. Prior to sending out notices, information records from the FTB are compared against the City's Business Tax database. If no match is identified, the City's Business Tax Compliance Division sends out notices to notify the potential business that a BTC is required. If we discover that the potential business already has a current BTC or it is determined none is required, the Compliance Division cancels the account and waives all fees.

If the City's BTC doesn't regulate businesses within the City, what is its purpose?

The City of San Diego's Business Tax is a self-reporting tax on the privilege to conduct business within the City. The Business Tax assessment also raises revenue for the City's General Fund which provides Police/Fire protection, street maintenance, libraries, parks, and other city services.

I already have a BTC with the City of San Diego, but I received an NTL. What should I do?

If such is the case, you may respond via U.S. mail, fax, or email. Please be sure to list the account number that appears on your current BTC as well as the reference/notice number.

Important Note: If the notice was mailed to a separate legal entity from the one named on the BTC, the entity may be subject to pay its own business tax. A BTC is typically required for each legal entity that conducts business within the City's limits.

How long do I have to respond to the notification?

Please refer to the Office of Small Business letter or Notice of Tax Liability statement received for the specified due date, and please be aware that if you have a City of San Diego Business Tax liability and do not respond, interest and penalties will continue to accrue. To file in a timely manner and avoid interest and further penalties, the balance must be paid or a response must be received by this office.

What happens if I do not respond?

If you do not respond, your account will be forwarded to the City's Collections Division, where you may incur additional penalties, fees, and court costs.

I do not consider myself to be in business. What does the City of San Diego consider to be a business?

The SDMC (§31.0110) states:

“ENGAGED IN THE BUSINESS,” “PROFESSION,” “OCCUPATION,” “OPERATION,” OR “PRACTICE” shall include owning, conducting, operating, managing or carrying on of a commercial or industrial enterprise through which services or property are sold, furnished, or constructed.”

I receive a 1099 form instead of a W-2 for my work. Am I subject to the City of San Diego's Business Tax requirement?

The SDMC (§31.0301) states:

“Every person engaged in any business, trade, calling, occupation, operation, franchise, vocation, profession or other means of livelihood, as an independent contractor and not as an employee of another and not specifically taxed by any other business tax code of The City of San Diego, shall pay annually a business tax.”

A person who is an employee and whose compensation is reported on a Federal Form W-2 is not in business and is not subject to the business tax. However, those that work as an “independent contractor” and/or are paid by 1099 may be subject to the City of San Diego's Business Tax requirement. This may include but is not limited to Police regulated businesses, State Contractor's Bureau licensees, consultants, lawyers, artists, authors, writers, etc.

As an independent contractor, for tax purposes you are considered a separate business entity rather than an employee. Business & Professions §16300 requires the City to use the way in which a taxpayer reported income/expenses to the State to create a presumption as to whether that taxpayer acted as an employee or as a separate business entity. If your employment income comes from anything other than a Form W-2 (such as a Form 1099-MISC), then you are considered a separate business entity, and are therefore subject to the City's Business Tax requirement. The City's Business Tax requirement includes but is not limited to Police regulated businesses, State Contractor's Bureau licensees, consultants, lawyers, artists, authors, and writers.

I conduct a business from my home. Am I subject to the City of San Diego's Business Tax requirement?

Yes. Home-based businesses are subject to the City's Business Tax requirement. In almost all cases, businesses located within the City of San Diego are subject to the Business Tax whether they are located at a commercial or residential location.

Throughout the year, I am involved in consulting on a part-time basis. Am I subject to the City of San Diego's Business Tax requirement?

Yes. Businesses both large and small are required to obtain and annually renew their BTCs in order to be in compliance with the SDMC.

I operate a childcare service. Am I subject to the City of San Diego's Business Tax requirement?

Any person conducting business as a childcare provider is required to obtain a City of San Diego BTC. However, if you are conducting business as a Small Family Day Care licensed for 8 children or less through the State of California, the daycare is exempt provided that you furnish our office with a current copy of your state license for verification. In order to expedite your exemption, fax our office a copy of your current state license and reference the notice number listed on your NTL statement. Your request may be faxed to (619) 533-3274, **ATTN:** Business Tax Compliance Division.

I own a residential or commercial property that I lease or rent out within the City of San Diego. Is that considered a business?

Possibly. The revenue collected from such properties located within the City is considered business income earned and is taxable under the SDMC. If the City's Business Rental Unit Tax has already been paid for the residential property in question, please **contact us** to discuss whether your business is still subject to the Business Tax requirement.

In reference to a commercial property, the tax typically only applies if you have a management office (business or residence) located within the City's limits. Please **contact us** to discuss whether your business is still subject to the Business Tax requirement.

I live in San Diego but my business address is located outside the City's limits. What are my liabilities for the City of San Diego's Business Tax?

Generally, if **all** business activity is conducted outside of the City of San Diego, there is no liability for the City of San Diego Business Tax. To assist us with this determination, please **contact us**.

What if I received this notification and I no longer have a business?

If you previously conducted business in the City of San Diego and never filed a BTC, please provide us with a letter outlining the years that you conducted business in the City. We will adjust the billing accordingly and mail you an adjusted billing statement. Once the balance is paid in full, we will cancel the account.

I am liable for City Business Tax for the past several years. What kind of interest and penalties are involved?

The City collects back taxes owed from the start of business. Per the SDMC §31.0110, the City may seek principal, interest, and penalties for the current tax year and the prior three years if applicable.

Further, "Business taxes are past due on the fifteenth (15th) day following the day they become due. Any person who fails to make a payment before the fifteenth (15th) day following the due date will be assessed a late penalty of twenty-five dollars (\$25) or ten percent (10%) of the total business tax due, whichever is greater. In addition, beginning one calendar month from the due date, a penalty charge of one percent (1%) per month, or any part of a month, will be added to any past due taxes and penalties."

I was unaware of the Business Tax requirements for the City of San Diego and my business has been in operation for some time. Am I still subject to any late fees?

Yes. All non-compliant Business Tax accounts are subject to penalty and interest assessments.

If I have a business that needs to be registered but the notification was addressed to the previous owner, what do I do?

If you are the new business owner and need to apply for a BTC, please **contact us** so we may assist you.

I do not feel I conduct business in the City of San Diego or none of the aforementioned situations apply to my case, what remedies are available to me?

You may mail, fax, or email our office a letter outlining the reasons for why you feel the Business Tax assessment does not apply to you. Please be as thorough as possible, reference your notice number, provide a contact email/ mailing address, and include any relevant supporting documentation. Send your letter to **ATTN: Business Tax Review Request**. Your letter will be reviewed and a determination will be issued.

How do I contact the Business Tax Compliance Division?

Office Location:

Office of the City Treasurer
1200 3rd Avenue, Suite 100
San Diego, CA 92101
Business hours: Monday through Friday, 8:00 a.m. to 5:00 p.m.

U.S. Mail:

City of San Diego
Office of the City Treasurer
Business Tax Compliance Division
P.O Box 122289
San Diego, CA 92112-2289

Phone: (619) 615-1539

Fax: (619) 533-3274.

Email: compliance@sandiego.gov

Note: Applications are only accepted via mail or in person.