

**City Manager's Office**  
**Administrative Order No: 063**  
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Approved by: Joe Sbranti, City Manager

**Description and Listing of Businesses and Activities that are Exempted from the Payment of Business License Tax and Fees.**

**Purpose:**

Provide a guide and listing of businesses and activities generally exempted from the payment of business license tax and business license fees that are not clearly defined in the business license ordinance.

**Policy:**

According to Section 5.04.090 of the City's Business Licenses and Regulations Ordinance, any person transacting and carrying on a business exempt by virtue of the Constitution or applicable statutes of the United States or of the state are generally exempt from the payment of a business license tax.

There are two types of exemptions:

**Federal**

- Interstate Commerce
- Religious Activities
- Charitable Institutions & Non Profit Organizations

**State**

- Charitable Institutions & Non Profit Organizations
- Sale of Alcoholic Beverages
- Bank & Financial Institutions
- Insurance Companies & Insurance Broker-Agents
- Bail Bond Agents
- Mortgage Lenders
- Residential Care Centers & Family Day Care for Children
- Laundry Equipment & Coin Vending Machines
- Disabled Veterans
- Blind Persons
- Real Estate Auctioneers
- For-Hire Motor Carriers of Property

The State of California requires certain classes of business to pay a tax to the state called an In-Lieu Tax. It is an amount greater than the standard corporate rate, paid to the State in-lieu of local city or county tax.

**Listing of businesses and/or persons transacting activities that are generally exempted from the payment of business license tax and fees:**

**Federal and state agencies**

Any person transacting on any business on behalf of any agency, department or political subdivision of the United States or of the State of California.

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**Charitable and nonprofit organizations**

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The organization or activity has received or has formally applied for tax exempt status from the State Franchise Tax Board and Internal Revenue Service. The proposed activity will not be in conflict with any provisions of the City's PMC, state or federal law. A copy or proof of exempt status must be provided.

However, being exempt from the fees does not exempt charitable and nonprofit organizations from obtaining a business license with the City. They must follow all regulations within the City. The City needs to know of the activities of any business or organization that conducts business in its jurisdiction regardless of its profit status. A business license application still needs to be completed and submitted to the City and renewed annually.

This exemption shall not apply to promoters and fund raising companies employed by such charitable and nonprofit organizations. They may be soliciting on behalf of charitable and nonprofit organizations, but this does not qualify them for an exemption, unless they are also a nonprofit group.

**Sale of Alcoholic Beverages**

The State of California has exclusive right and power to license and regulate within the State. The Sale of Alcohol, wholesale or retail, may not be taxed. Wholesale distribution businesses located in the City may be taxed.

**Banks and Financial Institutions**

Banks and financial institutions are exempt from paying the business tax assessment if they pay the State of California an "in lieu" tax. California State Revenue and Taxation Code §23182 allows financial corporations to pay a tax to the state in-lieu of all other state, county, and municipal taxes and licenses, except for the following: tax on their property, local utility use tax, sales and use

tax, state energy resources surcharge, and state emergency telephone user surcharge, and motor vehicle fees. As proof, Banks or Financial Corporations may provide a copy of Form 100 (California Corporation Franchise or Income Tax Return).

### **Insurance Companies**

Insurance companies are exempt if they provide proof of payment of the in-lieu tax to the State of California, Department of Insurance (CDI) as set forth in the California Constitution, Article 13, sec 28(f). Proof would be a copy of the most recent payment to the CDI and the forms submitted with the payment.

### **Insurance Broker-Agents**

Any broker-agent acting as an agent for an insurance provider is exempt from paying the business tax assessment. These are "agents" appointed by insurance companies to represent the insurance company and to sell their products. To be an "agent" the insurer is required by law to file an appointment document known as a "Notice of Agency Appointment" with the California Insurance Commissioner's Office. The agent exemption is applicable to the agency activity. If the appointed agent is engaged in other business activities, such as court service, estate planning, etc, the agent is not exempt from paying the business tax assessment on those activities. If any part of an insurance business derives revenues in a capacity other than an agency relationship with an insurer, the business is subject to the business tax. The broker-agent must provide copy of the "Notice of Agency Appointment" and payment filed with the California Insurance Commissioner's Office.

### **Bail Bond Agents**

Bail bondsmen are considered an agent of an insurance company and are therefore exempt from paying the business tax assessment if this is their only business activity. The same proof should be required.

### **Mortgage Lenders**

Only some mortgage brokers pay the in-lieu tax. Most do not. Most loan officers are independent contractors whose gross receipts are not included in their companies' tax filing.

### **Residential Care Centers**

A residential and community care facility, which serves six or fewer persons, shall not be subject to the business tax assessment. Copy of the state license to operate a board and care/nursing home must be provided.

### **Family Day Care for Children**

A home that provides family day care for eight or fewer children (when counting, include children under the age of 10 years old who live in the home) shall be exempt from the business tax assessment if the day care provider has obtained a day care license with the State of California. Day care provider must provide a copy of state day care license.

### **Disabled Veterans**

Any veteran who is unable to obtain a livelihood by manual labor due to any physical disability may obtain a license to hawk or peddle any goods, wares or merchandise without payment of any license fee, by applying and producing a certificate from a duly licensed physician showing the applicant to be physically disabled, evidence of being a legal voter of the state, and a copy of an honorable discharge is required (Cal. Bus. & Prof. Code §16001.7).

### **For-Hire Motor Carrier of Property**

"For-hire motor carrier" is a person engaged in the transportation of property for compensation. If a for-hire motor carrier pays the Department of Motor Vehicles (DMV) tax set forth in the State Revenue and Taxation Code §7231 - §7236 and the tax paid is in-lieu of all city and county business taxes (Revenue and Taxation Code §7233 and 7234), the business would be exempt from paying the business tax assessment. Proof would be documentation showing the state tax was paid. Reference: Revenue & Taxation Code §7234. The exemption only applies to "transportation" activities and any other business activities being performed are taxable.

#### **Examples of For-Hire Carriers**

- Truckload carriers of someone else's goods
- Small package and/small load carriers
- Dump trucks
- Tow Trucks
- Couriers