

Franchise Tax Board Notices: Frequently Asked Questions (FAQs)

Q: What is the City's Franchise Tax Board business tax enforcement program?

A: As a result of recent state legislation, 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. By matching the data to our existing records we now have an additional, effective tool to identify unregistered businesses within the City.

Q: Why did I receive a FTB notification?

A: Our records from the FTB show that you are or the named entity is reporting some type of business activity to the FTB using a Huntington Beach address. This indicates you may be operating a business in the City that has not yet obtained a Business License Tax certificate.

Q: I am not doing "business." What does the City of Huntington Beach consider to be a business and why do they think I am operating one?

A: Most activities conducted within the City with continuing and regular basis are considered engaging in business and subject to business tax. Specifically, City Municipal Code defines business as: "Business" means professions, trades, and occupations and all and every kind of calling whether or not carried on for profit. (Municipal Code §5.04.010 (f))

State law (Business and Professions §16300) requires cities to use the way a taxpayer reported income to the IRS and Franchise Tax Board to determine whether the taxpayer performed services as an employee or as a separate business entity. A person who is an employee and whose compensation is reported on a Federal W-2 is not in business and is not subject to the business tax.

Q: I do some minor consulting on a part-time basis. Do I have to get a Business License?

A: Yes, businesses both large and small are required to obtain a Business License Tax Certificate to be in compliance with the Municipal Code. If the consulting work is performed as an independent contractor and attributable to a location within the City limits, such as your residence, a tax liability exists.

Q: I receive a 1099 form instead of a W-2 from my work. Am I required to have a City of Huntington Beach Tax Certificate?

A: Yes, those that work as an independent contractor and are paid by 1099 versus W-2 need to have a City of Huntington Beach Tax Certificate. State law (Business & Professions Code §16300) prohibits the imposition of business license tax on employees. In the case of a dispute between a taxpayer and the local agency, the local agency must defer to how the taxpayer reported income to the FTB.

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

A: Yes. If your business is registered active with the Secretary of State and reporting on a business return with the FTB and IRS, it will need a license. By maintaining a business entity within the City, whether it is transacting public business or not, is considered operating a business under the Municipal Code.

Q: I live in Huntington Beach, but my business is located outside the city limits. What are my liabilities for the City of Huntington Beach?

A: As long as all business activity is conducted outside the City of Huntington Beach, there is no need to obtain a City of Huntington Beach Business License. Please note the receipt of business mail at a PO Box in Huntington Beach is business in the City.

If you have additional questions please e-mail Business License at jslobojan@surfcity-hb.org.