

Spencer County Net Profit License Fee Instructions

01/01/2012

These instructions are a working tool for interpreting and administering the Spencer County Ordinance 22 Fiscal Year Series 2010. We have made every attempt to address the most common concerns. However, every question is not addressed.

General Instructions:

The following instructions are provided to aid the taxpayer in the completion of the Net Profit License Fee Return. They are not intended to be all-inclusive and therefore should be used only as a supplement to the existing ordinances. If you have any questions that are not addressed in these instructions, please refer to the Occupational License Fee Ordinance 22-2010.

Who must file Form a Net Profit License Fee Return:

Each separate corporation, limited liability company, partnership, limited partnership, registered limited liability partnership, sole proprietorship, association, joint stock company, receivership, trust, professional service organization, or other legal entity engaged in business with any business activity in Spencer County.

Individuals who receive wages, salaries, commissions, or other compensation for work done or services performed in Spencer County, Kentucky from which the full amount of occupational license fees due have not been withheld by their employer and remitted to the Spencer County Fiscal Court.

Individuals having rental income from real commercial or non-commercial property. Examples include, but are not limited to the following: warehouse, apartments, apartment hotel, hotel building, office building, house, storage facility or any structure where payments typically are made for both the privilege of occupying the property and for services provided for the convenience of the occupant, are presumed to be in business.

Individuals whose receive income arising from the rental of real property within Spencer County, Kentucky.

Those Exempt from Filing

You do not have to file if you are not required to file with the IRS. Documentation must be provided concerning your exempt status with the IRS.

Agriculture and agriculture related activities are exempt from filing the net profit license fee return. Types of activities include but are not limited to: farms, dairy farms, cattle farms, sod farms, tree farms, green houses, etc. Additionally, Tobacco buyout payments are exempt. However, employees of farms are still subject to the occupational license fee.

Businesses that engage solely in the sales of alcoholic beverages do not have to file a net profit license fee return. They are assessed under the alcoholic beverage license fees. Please see the alcohol sales deduction for more details.

A Tax Form Must Be Filed Even If:

Your business activity resulted in a loss for the tax year.

Your business was operational for a portion of the tax year but ceased operation prior to completion of the fiscal period. Complete the tax form according to the instructions provided and attach a copy of the Change/Closure form to finalize you account with the Spencer County Occupational License Office.

You purchased a Spencer County Business License and had no activity for the year. Complete the first half of page one and choose no activity. Complete lines 31, 32, 33 and 34. Sign and return.

When to file:

The Net Profit License Fee Return must be delivered or postmarked by the 15th day of the 4th month after the end of the fiscal year. Form 1099 Misc must be delivered or postmarked by February 28th following the close of the calendar year in which non-employee compensation payments were made.

Where to file:

All returns with a payment made by check or cashier's check should be mailed to Spencer County Fiscal Court, PO Box 397, Taylorsville, KY 40071. You may hand deliver your forms to the following locations:

1. Spencer County Judge Executive's Office located at 12 W. Main St., Taylorsville, Kentucky
2. Occupational License Office located at 301 Main Cross St., Taylorsville, Kentucky

Should you utilize our online payment system or phone, for credit card payments or electronic check; you may fax, mail or email a full copy of your return (including all forms filed with the federal IRS and pages including detailed deduction information) along with a copy of your proof of payment. Details concerning credit card and electronic check payments are available at www.spencercountyky.gov

Signature:

If the return is being filed by a corporation, it must be signed and dated by a corporate officer authorized to sign. If the return is being filed by a partnership, it must be signed by a general partner. If a return is being filed by a sole proprietor or individual, it must be signed by that individual. A return that is not signed may be returned and may incur late filing and interest charges.

Extensions:

If an extension is required, a separate extension request to the Spencer County Fiscal Court is mandatory in all cases. You must file a copy of your federal extension application to request an automatic 6-month extension to file the Net Profit License Fee Return. The extension request must be received on or before the due date of the filing. All extension requests should include your Spencer County account number. Any estimated tax due must be paid by the 15th day of the fourth month following the close of the fiscal year end. Interest at the rate of 12 percent per annum shall apply to any unpaid license tax during the period of extension and shall be included with the amount remitted in payment of the occupational license tax at the time of filing the Net Profit License Fee Return. **Please note: this is an extension for filing not for payment of taxes due.**

An extension request will be granted with the understanding that all prior filing and payment requirements have been fulfilled. However, if upon further examination it becomes evident that prior filing and payment requirements have not been fulfilled: interest and penalty shall be assessed in full and in the same manner as though no extension had been granted.

Estimated Tax:

If an extension of time for the filing of a return has been granted, any balance of the occupational license tax unpaid by the regular due date bears interest at the rate of twelve percent (12%) per annum.

Late Filing Penalty:

There is a five percent (5%) penalty per month or a fraction of a month to a maximum of twenty-five percent (25%) for failure to file a return timely. The minimum late filing penalty is \$25.

Late Paying Interest:

Interest is computed at one percent (1%) penalty per month or a fraction of a month (twelve percent 12% per annum) from the original due date until the date of payment.

Types of Payment

Payment can be made by check, cashier's check, money order. We also accept credit card and electronic check payments. Please see our website for further details (www.spencercountyky.gov).

Refund Request:

Claims for refund or credit must be submitted within two (2) years from the filing of the tax return or due date of the tax return, or two years from the date the overpayment was made, whichever is later.

Consolidated Returns:

Are not permitted in filing this return. If a corporation which is subject to the occupational license tax is included in a consolidated return, that corporation shall submit the following:

1. The Net Profit License Fee Return is based upon the taxable income (or loss) of the corporation subject to the occupational license tax, not the consolidated taxable income.

2. A copy of the consolidated Form 1120 or its equivalent.
3. A computation sheet allocating all revenue and expense items on the consolidated Federal Return to each corporation included in that consolidated return.

ADJUSTED BUSINESS CALCULATION PAGE (Page 2 of the Net Profit License Fee Return) I=Individual P=Partnership C=Corporation/S Corp

Line 1 (I) - Enter the amount of non-employee compensation reported in federal form 1099 MISC. Note: Line 1 should only be completed by individuals who receive payments for contract services who are not claiming business expenses and did not own or operate a business during the year. (Attach a copy of Federal Form 1040 page 1 and Form 1099 Misc)

Line 2 (I) - Enter the net profit or (loss) per Line 31 of Federal Schedule C; Line 3 per Federal Schedule CEZ or enter the net rental profit of (loss) per Line 41 of the Federal Schedule E (Attach a copy Schedule C, Pages 1&2, Schedule C-EZ or Schedule E)

Line 3(I) - Enter 100% of the short-term capital gains and long term capital gains from Federal Form 4797 or Form 6252 (installment sales) of Federal Schedule D representing gain from the sale of property used in a trade or business (attach Form 4797, Pages 1 & 2 or Form 6252)

Line 4 (I) - Enter the ordinary gain or (loss) from the sale of property used in the trade of business per Federal Form 4797 (attach Form 4797, Pages 1 & 2)

Line 5 (P) - Enter the ordinary income or (loss) per Federal Form 1065 from Line 22 of Federal Form 1065 (Attach Form 1065, Pages 1-4, and Schedule of other Deductions and Rental Schedule(s), if applicable)

Line 6 (C) - Enter Taxable income or (loss) per Federal Form 1120. Insert the amount from Line 30 of Form 1120. Enter Taxable income or (loss) per Federal Form 1120S or Federal Form 1120-REIT. Insert the amount from Line 21 of 1120S, or Line 22 of Form 1120-REIT. (*NOTE: THE AMOUNT IS THE INCOME AFTER NET OPERATING LOSS, SPECIAL DEDUCTIONS, AND WITH A FORM 1120-REIT AFTER TOTAL DEDUCTION FOR DIVIDENDS PAID.*)

Line 7 (ALL) - **Add to taxable** income deductions taken for taxes which are calculated based on income including: any deduction taken for occupational license fees by an individual on Schedule C/E; by a partnership on Form 1065, or by a corporation on Form 1120, 1120A, 1120S or for taxes based on income on Form 1120. Also **add to taxable** income deductions taken for state/local licensing fees including the business license.

Line 8 (P&C) - **Additions from Federal Form 1065 – This line does not apply to entities filing form 1120, 1120-REIT or Sch. C.** Income items that are reported on the Schedule K that are added to taxable Net Profit. Attach copy of Schedule K and rental schedule(s), if applicable.

1. Net income from rental real estate – Line 2 Sch. K
2. Net income from other rental activities – line 3a of Sch. K
3. Guaranteed payments to partners/partner's salaries – Line 4 of Sch. K
4. Interest income – Line 5 of Sch. K
5. Dividend income – Line 6 of Sch. K
6. Royalty income – Line 7 of Sch. K
7. Net short-term capital gain – Line 8 of Sch. K
8. Net long-term capital gain – Line 9a of Sch. K
9. Net gain under Section 1231 (other than due to casualty or theft) – Line 10 of Sch. K
10. Other portfolio income – Line 11 of Sch. K

Line 9 (C) - Net operating loss deducted on Form 1120 or 1120-REIT. Add the amount from Line 29a of the Federal Form 1120 or 21a of the Federal Form 1120-REIT. This line does not apply to entities filing Form 1120S.

Line 10 (P&C) - Ordinary loss from other partnerships or S Corporations which is included in income on Line 5 or Line 6 of Page 2 Calculation of adjusted business income. Please note the name of the entity and the Spencer County account number for the pass through entity.

Line 11 (ALL) - Add lines 1 through 10

Line 12 (P&C) - **Deductions from Federal Form 1065 – This line does not apply to entities filing form 1120, 1120-REIT or Sch. C.** Deduction items that are reported on the Schedule K that are subtracted from taxable Net Profit. Attach copy of Schedule K and rental schedule(s), if applicable.

1. Net loss from rental real estate
2. Net loss from other rental activities
3. Portfolio loss
4. Net short-term capital loss
5. Net long-term capital loss
6. Other portfolio loss
7. Expense deductions for recovery property (Section 179) -Line 12 of Sch. K
8. Net loss under Section 1231 (other than due to casualty or theft)
9. Charitable contributions – Line 13a of Sch. K
10. Deductions related to portfolio loss
11. Subtractions from Schedule K of Form 1065 are the same as deductions for an S-Corp.(Note – The following items shall NOT BE DEDUCTIBLE for purposes of determining the taxable net profit when they are reported on Schedule K as being paid on behalf of a partner by the partnership)
 - a. Health and life insurance premiums
 - b. Amounts contributed to a Keogh, SEP, or any other self employment retirement plan
 - c. Amounts paid for self-employment taxes

Line 13 (ALL) – Enter the Alcohol Beverage Sales Deduction

ALCOHOL BEVERAGE SALES DEDUCTION INSTRUCTIONS

There is no occupational license fee assessed on the net profit earned from the sale of alcoholic beverages in Kentucky and to the extent that a licensee's net profit is derived from the sale of alcoholic beverages within Kentucky. Thus, a deduction may be taken from the Licensee's total net profit derived from all sources. Divide the total Kentucky alcoholic beverage sales by the total gross receipts of the business, including non-alcoholic beverage sales. **NOTE: A deduction may be taken only if the business engaged in selling alcoholic beverages had a profit.**

Sole Proprietors - Multiply the alcoholic beverage percentage by the net profit of the business engaged in the sale of alcoholic beverages reported on Line 2.

Partnerships – Multiply the alcoholic beverage percentage by Line 11, minus the sums of Line 12, 15, 16 and 17.

Corporations – Multiply the alcoholic beverage percentage by Line 11, minus the sums of Line 12, 15, 16 and 17.

Line 14 (ALL) – Ordinary income from other partnerships or S Corporations which is included in income on Line 5 or Line 6 of Page 2 Calculation of adjusted business income. Please note the name of the entity and the Spencer County account number for the pass through entity.

Line 15 (P&C) – Items that would be included on this line are as follows: An adjustment for business expenses which is elected by the taxpayer as a credit against federal income tax liability in lieu of a deduction for business expenses otherwise available to the taxpayer. Some of them include:

1. If wages and salary expense is being reduced as a result of the new jobs or win credit
2. If the depreciable basis of an asset was reduced by the amount of investment credit claimed, then ACRS depreciation may be taken on that basis reduced over the life of the asset.
3. An adjustment for the total deduction for dividends paid and the Section 857 (b) (2) (E) deduction. (Note: The amount is reported on Line 21c of the Federal Form 1120-REIT. This amount is the distribution of income to the owners. Since the occupational license fee is not assessed on the owners, the amount must be added back to taxable income.

Line 16 (ALL) – **Corporate taxpayer may deduct, if substantiation is provided by including a completed copy of Schedule C of the Federal Form 1120, the following amounts (net of the deductions properly allocated thereto) without proof of non-unitary source.**

An adjustment for income from foreign sources. Taxpayers may deduct the following amounts without proof of non-unitary source:

1. Foreign dividend gross-up under Section 78 of the Internal Revenue Code. (Note: The amount is reported on the Federal Form 1120, Page 2, and Line 15 of Schedule C.)
2. Income from controlled foreign corporations under subpart F, not actually received (Note: The amount is reported in the Federal Form 1120, Page 2, and Line 14 of Schedule C.)

3. Other dividends from foreign corporations. (Note: The amount is reported on the Federal Form 1120, Page 2, and Line 13 of Schedule C. The total dividend amount is also reported as "Dividends" in the income section of the Federal return.)
4. Interest earned on US Obligations, Corporate Bonds and U.S. Government Securities
5. Royalties on Patents/Copyrights

Line 17 (ALL) – If a partner incurs out-of-pocket expenses in connect in with providing services to a partnership, those expenses are deductible on the partner's individual tax return if the partnership agreement states in writing that the partner pays the expenses. **If the partner has the right to be reimbursed, but fails to obtain reimbursement, the partner is not entitled to the deduction.** The out-of-pocket expenses are deducted on the partner's individual return, Schedule E, Part II, column (i). If the Partner is allowed to deduct the expenses on their individual return, then a deduction is permitted on their local occupational license return. Attach a schedule detailing these expenses.

Line 18 (ALL) – Total Deductible items – add lines 12 through 17

Line 19 (ALL) – **Adjusted Net Business Income** – Subtract Line 18 from Line 11 – if the amount is a loss enter zero as the adjusted net business income.

Computation of Apportionment Percentages

If 100% of the business is conducted in Spencer County, enter 100% on Line 22. All licensees whose business operations were not conducted entirely in Spencer County must complete Lines 20 through 23, regardless of profit or loss.

Payroll Factor

Line 20, column a: Enter the total compensation paid to employees for services rendered in Spencer County during the period covered by the return. This amount should equal the amount of Total Gross Earnings reported on the quarterly payroll withholding returns. Sometimes a difference is noted due to the accrual accounting process. In this situation, the auditor would request the taxpayer to submit a reconciliation of the difference.

Line 20, column b: Enter the total compensation paid to employees for services rendered everywhere during the period covered by the tax return. It would not include guaranteed payments to Partners deducted on Federal Form 1065 because partners are not considered employees.

Line 20, column c: Divide column a by column b. Enter the result on Line 20, column c.

Sales Factor

Line 21, column a: Enter the total gross receipts from sales, rents, services in the ordinary course or usual trade of business earned within Spencer County during the period covered by the return.

Line 21, column b: Enter the total gross receipts from sales, rents, and services in the ordinary course of usual trade of business earned everywhere during the period covered by the tax return. Note: This amount equals the "gross receipts less returns and allowances" as reported on the federal income tax return. If the taxpayer's principal business within the locality is rental income, then the amount would include the total gross rents as reported on Federal Income tax return. This amount does not include interest, dividends, or sale of business property. If the taxpayer's principal business is the sale of property, then the sales are reported in the "gross receipts" amount for Federal Income tax purposes. Income as reported on the Federal Form 4797 is from casual sales, not from the ordinary trade or business and should not be considered in determining the Gross Receipts factor.

Line 21, column c: Divide column a by column b. Enter the result on Line 21, column c.

Line 22, column c – Add column C, Lines 20 and 21. Enter the result on Line 22, column c.

Line 23 – Divide Line 22, column c by the number of percents used on lines 20 and 21, column c. Enter the result on Line 23, column c. If both Lines 20b and 21 b are greater than zero, divide the entry on Line 22 by 2. **If either Line 20b or 21b is zero, enter the amount from Line 22 on Line 23, column c.**

Line 24 – Enter the amount from Page 2 of the Net Profit License Fee Return, Line 19

Line 25 - Enter apportionment percentage from line 23

Line 26 - Multiply Line 24 by Line 25 and enter result here

Line 27 – Multiply line 26 by 20% (.20) and enter result here

Line 28 – If the return is postmarked after the due date please multiply Line 27 by 5% per month. If the amount is under \$25 the late filing penalty will be \$25. The late filing fee cannot be greater than 25% of Line 27.

Line 29 - If the return is postmarked after the due date of the return please multiply Line 27 by 1% for every month the return is late. One day is counted as an entire month.

Line 30 – Add Lines 27, 28 and 29 and enter result here

Line 31 – If you purchased a Spencer County business license for the tax year you are filing, deduct \$25.00 from the amount on line 27. A City of Taylorsville business license does not apply. For verification, please write your business license number in the space provided.

Line 32 – Add total of lines 27, 28, 29 and 30.

Line 33 – Add annual business license fee for current year. There is a minimum of \$25 for each business conducting business in Spencer County regardless if they have a physical location in our taxing jurisdiction. If your business location is outside of Spencer County and you do not anticipate doing business in Spencer County during the coming year, please include a letter stating so. Also, complete the affidavit for closure which is available on our website: www.spencercountyky.gov.

Line 34 – Add Line 32 and 33 and enter the result here. This is the total amount due.

Signature

If the return is being filed by a corporation, it must be signed and dated by the president, vice president, treasurer, assistant treasurer, chief accounting officer or any other corporate officer authorized to sign.

If the return is being filed by a partnership, it must be signed by a general partner.

The licensee who signs the return must print his/her name, title telephone number and e-mail address (if they have one) in the area provided.

Items Not Deductible: State/local taxes based on income, Business License Fee, Net Operating Loss

Items Not Subject: Interest on Corporate Bonds, Government Securities, Obligations of Instrumentalities, Royalties, Patents, Copyrights and Dividends.

BE SURE TO INCLUDE COPIES OF ALL FORMS FILED WITH THE FEDERAL IRS INCLUDING DEDUCTIONS ITEMIZED ON A SEPARATE PAGE/SCHEDULE.

INCLUDE INFORMATION CONCERNING PAYMENTS MADE TO ANY INDIVIDUAL OR BUSINESS FOR SERVICES RENDERED, RENT, OR MANAGEMENT FEES PAID IN SPENCER COUNTY, KENTUCKY. A 1099 OR EQUIVALENT IS ACCEPTABLE. HOWEVER, IF YOU WERE NOT REQUIRED TO PROVIDE A 1099, THE INFORMATION IS STILL REQUIRED BY SPENCER COUNTY.

Stephannie Smith

Occupational License Administrator

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