

City of Georgetown

Form 544 Net Profits License Fee Return Instructions Revised 1-1-2000

If you have any questions regarding these changes or need to order copies of forms or Regulations please contact:

**CAROLYN JANE CUTSHAW
OCCUPATION TAX ADMINISTRATOR
100 COURT STREET
P.O. BOX 677
GEORGETOWN, KY 40324
E-MAIL-carolyn.cutshaw@firelinedsl.com
(502) 863-9805 - Phone
(502) 863-9808 - Fax**

General Instructions

The following instructions are provided to aid the licensee in the completion of Form 544, Net Profits License Fee Return. They are not intended to be all-inclusive and therefore should be used only as a supplement to the existing License Fee Ordinances and Regulations. If you have any questions that are not addressed in these instructions please refer to the License Fee Ordinances and Regulations.

WHO MUST FILE FORM 544:

1. Individuals who receive wages, salaries, commissions or other compensation for work done or services performed in Georgetown from which the full amount of license fees due have not been withheld by their employer and remitted to the City of Georgetown. **Note:** Individuals filing based upon Form W-2 income only without claiming any expenses may elect to file Form 545, Annual Individual License Fee Return, instead of Form 544, Net Profits License Fee Return.
2. Individuals and fiduciaries having rental income, if the gross receipts arising from the rental of real property located within Georgetown are greater than or equal to \$10,000 a year.
3. Corporations, partnerships, sole proprietorships, estates and trusts, or other businesses engaged in an occupation, trade, profession, enterprise or other activity with 1) business activity in Georgetown, Kentucky and 2) business nexus in Georgetown, Kentucky, sufficient to justify the imposition of the license fee.

YOU MUST FILE FORM 544 EVEN IF:

Your business activity resulted in a loss for the tax year. Complete Form 544 according to the instructions provided, sign the form and return it to the OTA.

You were not actively engaged in business during the year but intend to resume operations at a future date. Indicate "No Activity" on Form 544. Sign the form and return it to the OTA.

Your business activity ceased prior to the beginning of the tax year but you have not provided written notification that operations ceased. Indicate "No Activity" and "Final" on Form 544. Complete question C, sign the form and return it to the OTA.

Your business was operational for a portion of the tax year but ceased operation prior to the completion of the fiscal period. Complete Form 544 according to the instruction provided and indicate "Final" on the form. Complete question C, sign the form and return it to the OTA.

You applied for a license fee number with the intention of starting a business but never transacted business within Georgetown, Kentucky and do not intend to do so in the future. Indicate "No Activity" and "Final" on Form 544. Complete question C, sign the form and return it to the OTA.

Due Date

Year ending December 31:

The Form 544, Net Profits License Fee Return must be filed and all license fees paid on or before April 15th (April 16th if the 15th falls on a Sunday).

Year ending other than December 31:

The Form 544, Net Profits License Fee Return must be filed and all license fees paid within 105 days after the close of the fiscal year.

Automatic Extensions

An automatic extension of time for filing the Net Profit License Fee Return will be granted for a period not to exceed any extension granted by the Internal Revenue Service for the filing of the federal income tax return for the same year. The extension request must be a written request properly signed by the licensee or a duly authorized agent and received on or before the due date for filing. **A copy of the federal Form 4868, 8736, or 7004 for the same year may be used for the written request, provided that the licensee's occupational license fee reporting number is plainly noted thereon.** The extension request submitted by the licensee or his agent shall set out the licensee's name and account number maintained for filing purposes, the period for which the extension of time for filing is desired, the length of extension and reason therefore.

An automatic extension of time for filing the Net Profits License Fee Return does not extend the time for payment of the license fee. **Full payment** of the estimated license fee liability must accompany the request for extension. Merely sending a tentative or estimated payment is not an acceptable request for an extension, and the written request for the extension must be on a separate paper from the check by which all estimated payment is made.

Interest at the rate of twelve (12) percent per annum shall apply to any unpaid license fee during the period of extension and shall be included with the amount remitted in payment of the license fee at the time of filing the Net Profits License Fee Return. No penalty shall be assessed in those cases in which all filing and payment requirements have in good faith been fulfilled and the final license fee and interest is paid with the filing of the Net Profits License Fee Return within the period as extended.

Any automatic extension shall 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.

State Exemptions

The following persons are exempt under Kentucky law from the net profits license fee and are not required to file a return.

1. Public Service Corporations which pay an ad valorem tax on property valued and assessed by the Kentucky Department of Revenue pursuant to the provisions of KRS 136.120.
2. Life insurance companies incorporating under the laws of and doing business in the Commonwealth of Kentucky. (See KRS 136.320(4)(5)).
3. Banks, trust companies, combined banks and trust companies, combined trust, banking and title businesses and savings and loan associations, whether state or federally chartered.
4. Persons whose sole wages, salaries, commissions or other compensations for work performed or services rendered in Georgetown, Kentucky, are derived from service as members of the Kentucky National Guard for active duty training, unit training assemblies and annual field training.

General Instructions, Continued

Special Provisions of Local Laws

The following persons are exempt under Georgetown ordinances from the net profits license fee and are not required to file a Net Profits License Fee Return:

- a) With regards to income exempt from federal taxation, boards of trade, chambers of commerce, trade associations or unions, Community Chest funds or foundations, corporations or associations organized and operated exclusively for religious, charitable, scientific, literary, educational or civic purposes, or for the prevention of cruelty to children or animals; clubs or fraternal organizations operated exclusively for social, literary, educational or fraternal purposes where no part of the earnings, income or receipts of any such units, groups or associations inures to the benefits of any private shareholder or individual. Proof of Internal Revenue Service approval of not-for-profit status must be furnished upon application for a license fee number or upon the request of the Division of Revenue.
- b) Residents or nonresidents who sell farm products, other than trees, shrubs, or ornamental plants, in the City of Georgetown.

Note: Those organizations that pay wages, salaries, commissions or other compensation for work performed or services rendered within Fayette County must apply for a license fee number and submit withholdings on those wages, salaries, commissions or other compensation.

YOUR RIGHTS AS A CITY OF GEORGETOWN LICENSEE

MISSION

The mission of the City of Georgetown Occupational Tax Administrator (OTA) is to provide courteous, accurate and efficient services for the benefit of City of Georgetown and its citizens, and administer the occupational license fee laws of the City of Georgetown in a fair and impartial manner.

RIGHTS OF LICENSEE

Privacy--You have the right to privacy of information provided to the OTA. The OTA is not authorized to discuss your tax matters with anyone unless you authorize the OTA to do so.

Assistance--You have the right to advice and assistance from the OTA in complying with Georgetown license fee laws.

Explanation--You have the right to a clear and concise explanation of:

- basis of assessment of additional license fees, interest and penalties, or the denial or reduction of any refund or credit claim;
- procedure for an appeal of a determination of the OTA; and
- license fee laws and changes in license fee laws so that you can comply with the law.

Appeal--You have the right to appeal a determination of the OTA, such as an assessment of license fee or penalty, reduction or a denial of a refund, or a revocation of a license or permit.

Conference--You have the right to a conference to discuss a license fee matter.

Representation--You have the right to representation by an attorney, accountant or other person in any hearing or conference with the OTA. If you intend for your representative to come in your place, you must notify the OTA prior to any hearing or conference.

Recordings--You have the right to make an audio recording of any meeting, conference or hearing with the OTA, or to be notified in advance if the OTA plans to record the proceedings and to receive a copy of any recording.

Consideration--You have the right to consideration of:

- waiver of penalties or collection fees if "reasonable cause" for reduction or waiver is given ("reasonable cause" is defined as: "an event, happening or circumstance entirely beyond the knowledge or control of a licensee who has exercised due care and prudence in the filing of a return or report or the payment of monies due the Georgetown OTA pursuant to law or administrative regulation");
- installments payments of delinquent license fees, interest and penalties

Line-by-line Instructions for Form 544, Net Profits License Fee Return

PLEASE READ THE INSTRUCTIONS BEFORE COMPLETING FORM 544

Licensee Information

In order for your return to be processed properly you must:

- file using OTA's Form 544, Net Profits License Fee Return.
- complete Worksheet 1 on the reverse of Form 544, Net Profits License Fee Return (see page 8 of these instructions).
- enter or verify the year for which the return is filed.
- enter or verify the federal identification number or social security number under which your federal tax return was filed.
- clearly indicate or verify the name and address of the business and note any changes.
- sign and date the return.
- attach copies of the appropriate federal tax forms and all supporting documentation. The following is a list of the most common federal tax returns required for each form of business enterprise.

Sole proprietorship	U.S. Treasury Form 1040, Separate Schedules C, D, E, F, etc.
Fiduciary	U.S. Treasury Form 1041
Partnership	U.S. Treasury Form 1065 including Schedule K
Corporation	U.S. Treasury Form 1120
Sub-Chapter S corporation	U.S. Treasury Form 1120-S including Schedule K

All questions must be answered fully. If the question does not apply to your business indicate "NA".

Line A: Enter a brief explanation of the nature of your business.

Line B: Enter the date that the business actually started in the City of Georgetown, Kentucky.

Line C: If the business was discontinued in the current or a prior year enter the date the business ceased operations. In addition, indicate whether the business was dissolved or sold. If the business was sold, enter the name and address of the purchaser.

Line D: Indicate whether or not the business had employees within Georgetown, Kentucky during the period covered by the Net Profits License Fee Return. If so, enter the number of employees.

Line E: Indicate the method of accounting used in preparing the Net Profits License Fee Return. This should be the same method as used for federal income tax purposes.

Line F: Indicate the form of legal entity under which the business operates. The entity type should be the same as used for federal income tax purposes. If an entry is listed as "Other" you must specify the type.

Line G: Indicate whether or not the federal tax authorities have changed the net income as originally reported on any prior federal tax return. If so, have amended Net Profits License Fee Returns been filed reflecting these changes. If yes, indicate the year(s) the amended returns were filed. If no, you must file amended Net Profits License Fee Returns for each year changes are made (attach a copy of the schedule of changes for each year).

Section 1 Calculation of License Fee Liability

- Line 1:** Enter the adjusted net business income from Line 25 of Worksheet 1 on the reverse of Form 544, Net Profits License Fee Return. This worksheet must be completed in order to determine your adjusted net business income.
- Line 2:** Enter the average allocation percentage from Section 2, Line 4, Column C.
- Line 3:** Multiply Line 1 by Line 2. Enter the result on Line 3.
- Line 4:** Multiply Line 3 by the license fee rate of 1% PLUS the minimum Annual Business License Fee of \$25.00
- Line 5:** If the license fee due is not paid by the due date of the return then penalty is assessed at the rate of one (1%) percent for each calendar month or fraction of calendar month the license fee remains unpaid. This penalty is to be assessed on the first day after the due date and on the first day of each succeeding calendar month until the license fee is paid. Multiply the license fee due on Line 8 by the appropriate percentage. Enter the result on Line 9.
- Line 6:** If the license fee due is not paid by the due date of the return then interest is assessed at the rate of twelve (12%) percent per annum. Multiply the license fee due on Line 8 by the appropriate percentage. Enter the result on Line 10.
- Line 7:** Total lines 4, 5, and 6.
- Line 8:** Enter any credits due. Indicate which of the following credits are being used.
- Initial** payments are paid with the questionnaire at the time of registration. This amount can offset the current year liability with any overpayment carried forward as a credit. These amounts cannot be refunded.
- Estimates** or tentative payments can be made at any time during the fiscal year. These amounts will be applied to the current year liability with any overpayment carried forward as a credit or refunded as indicated by the licensee.
- Line 9:** Balance Due (Line 7 Less Line 8) **PAY THIS AMOUNT**

Section 2 Calculation of Business Allocation Percentage

Section 2 must be completed by all licensees with business receipts and/or payroll both within and without Georgetown. Completion of the schedule allocates to the City of Georgetown the proportionate part of the licensee's total business activity attributable to Georgetown. If your business is conducted entirely within Georgetown then Section 2 should not be completed. Instead, enter 100% on Section 1, Line 2 and complete Lines 3-9 of Section 1.

Business receipts factor

- Line 1, Column A:** Enter the total gross business receipts received from **all Georgetown sources** during the period covered by the Net Profits License Fee Return.
- Line 1, Column B:** Enter the total gross business receipts received from **all sources** including Georgetown during the period covered by the Net Profits License Fee Return.
- Line 1, Column C:** Divide Column A by Column B. Enter the result on Line 1, Column C. Carry out to at least six (6) decimal places.

Payroll factor

- Line 2, Column A:** Enter the total wages, salaries, commissions and other compensation paid for work done or services performed or rendered **within Georgetown** during the period covered by the Net Profits License Fee Return.
- Line 2, Column B:** Enter the total wages, salaries, commissions and other compensation paid for work done or serves performed or rendered in **all business locations** during the period covered by the Net Profits License Fee Return.
- Line 2, Column C:** Divide Column A by Column B. Enter the result on Line 2, Column C. Carry out to at least six (6) decimal places.

Average percentage

- Line 3, Column C:** Add Column C, Lines 1 and 2. Enter the result on Line 3, Column C.
- Line 4, Column C:** Divide Line 3, Column C by the number of percents used on Lines 1 and 2, Column C. Enter the result on Line 4, Column C and Line 2, Section 1.

Note: If one of the factors (business receipts or payroll factor) is missing the remaining factor is the average allocation percentage (Line 2 of Section 1). A factor (business receipts or payroll factor) is considered missing if:

1. With regard to the business receipts factor, a licensee's entire business operation did not recognize any business receipts. (i.e. Schedule C, Line 1, Columns A and B both equal zero)
2. With regards to the payroll factor, a licensee's entire business operation did not incur any expenditures for payroll. (i.e. Schedule C, Line 2, Columns A and B both equal zero)

Section 3 Reconciliation of Payroll Factor

Amounts included in Section 2, Line 2, Columns A and B should agree to the total and subject payroll reported on Form 542, Reconciliation of License Fee Withheld for the same period as is covered by the Net Profits License Fee Return. If a discrepancy occurs due to the Reconciliation of License Fee Withheld being completed on the case basis and the Net Profits License Fee Return being completed on the accrual basis then you must complete this section.

Item A: Enter the amount that was included as the wage expense accrual adjustment on the prior year Net Profits License Fee Return.

Item B: Enter the amount that was included as the wage expense accrual adjustment on the current year Net Profits License Fee Return.

Worksheet 1 Calculation of Adjusted Net Business Income

Refer to the following list to determine which column should be used in completing Worksheet 1.

- **W-2:** Employees receiving salaries, wages, commissions, tips, etc. from which no license fee was withheld should complete Line 1 of the column marked Individual. If no expenses are being claimed you may elect to file Form 545, Annual Individual License Fee Return instead of Form 544, Net Profits License Fee Return.
- **1099-MISC:** Individuals receiving payments for contract services who are not claiming business expenses should complete Line 2 of the column marked Individual.
- **Schedule C, C-EZ, E or F:** Individuals receiving income from the operation of a trade, business or profession should complete the column marked Individual.
- **Form 1065:** Partnerships should complete the column marked Partnership.
- **Form 1120, 1120A, 1120S:** Corporations should complete the column marked Corporation and S-corp.
- **Form 1041 and other associations:** Fiduciaries and all others should complete the column marked Other.

Line 1: Enter the gross salaries, wages, tips, commissions and other forms of compensation reported on federal Form W-2. **Note:** This applies only to individuals who had no license fee withheld from their wages (attach a copy of federal Form 1040 and Form W-2).

Line 2: Enter the amount of non-employee compensation reported on federal Form 1099 MISC on Line 2. **Note:** Line 2 should only be completed by individuals who received 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 and Form 1099 MISC).

Line 3: Enter the net profit or (loss) per federal Schedule C, C-EZ, E and F (attach a copy of Federal Form 1040 and applicable schedule(s)). For sole proprietors using Schedule E from a jointly filed Federal Form 1040 the net income (loss) from rental real estate activities can be combined with the net income (loss) from other sole proprietorships of one or both spouses using any reasonable method. The election to file using a certain method is considered to be made on the 1998 Form 228 and must be consistently applied on all future returns unless written permission to change is granted by the Commissioner of Finance or his/her designee.

NOTE: For individuals, rental income or (loss) from the rental of real property should be reported on Line 3 only if the rental property constitutes a **“business activity”**.

Rental property is considered a “business activity” when the licensee’s Georgetown rental activities produce gross rents of \$10,000 or more per year.

NOTE: This test is to be applied on the same basis as the individual’s filing status for federal income tax purposes. For example, if the licensee and his/her spouse file married filing joint for federal income tax purposes the licensee and his/her spouse is limited to one \$10,000 test regardless of how the Schedule E amounts were combined on Form 544.

Corporations, partnerships and other associations (including, but not limited to, LLPs, LLCs and S corporations) who have business activity in the City of Georgetown and receive income from the rental, ownership, management or operation of real property, wherever located, are considered to be in the business of renting said property, regardless of the amount of gross annual rental income. The net profits from such rental, ownership, management or operation shall be included in the corporation, partnership or other association’s Net Profits License Fee Return.

Line-by-line Instructions for Form 544, Net Profits License Fee Return, Continued

Licensees engaged in the business of renting real property shall include in net profit any capital gain arising from the sale of any real property included in the licensee's business of renting real property. *Commissioners of the Sinking Fund v. Estate of Doyle, et al.*, 573 S. W. 2d 932 (KY. App. 1978).

Line 4: Enter 100% of the short term capital gains and long term capital gains carried over from federal Form 4797 or Form 6252 (installment sales) to federal Schedule D representing gain from the sale of property used in the trade or business. In addition, enter the net gain or (loss) from the sale of property used in the trade or business per federal Form 4797 (attach a copy of federal Form 4797, Form 6252 and/or Schedule D).

Line 5: Enter the ordinary income or (loss) per federal Form 1065 (attach a copy of federal Form 1065, Schedule K, and rental schedule(s), if applicable).

Line 6: Enter the taxable income after special deductions and net operating loss per federal Form 1120, 1120 A, or the ordinary income or (loss) per federal Form 1120S (attach a copy federal Form 1120, 1120A, 1120S, Schedule K and rental schedule(s), if applicable).

Line 7: The following income items which are allocated to the partners or shareholders are not included as income on federal Form 1065 or Form 1120S and thus must be added to income on Line 7.

Net income from rental real estate activities

Net income from other rental activities

Interest income

Dividend income

Royalty income

Net short-term capital gain

Net long term capital gain

Other portfolio income

Guaranteed payments to partners

Net gain under Sec 1231 (other than due to casualty or theft)

Other income items per Schedule K (attach schedule)

Enter the total of these items on Line 7 (attach a copy of Schedule K, and rental schedule(s), if applicable).

Line 8: Enter all other business income not included on Lines 1-7. Fiduciaries should complete Line 8 based upon the taxable income from federal Form 1041 (attach a copy of federal Form 1041 and other documentation necessary to support the items included).

Line 9: Add Lines 1 through 8 to determine total business income. Enter the total on Line 9.

Line 10: The following items which are allocated to the partners and shareholders are not included in losses or expenses on federal Form 1065 or Form 1120S and are allowed as deductions for license fee purposes on Line 10.

Net loss from rental real estate activities

Net loss from other rental activities

Portfolio loss

Net short-term capital loss

Charitable contributions

Sec 179 expense

Net long-term capital loss

Net loss under Sec 1231 (other than due to casualty loss or theft)

Deductions related to portfolio income

Other allowable deductions per Schedule K (attach schedule)

Enter the total of these items on Line 10 (attach a copy of Schedule K, and rental schedule(s), if applicable).

Note: Contributions to KEOGH plans, Simplified Employer Pension plans, and medical insurance premiums whether paid on behalf of partners, shareholders or individual owners are not deductible on the Net Profits License Fee Return.

Line 11: Deduct Line 10 from Line 9 to determine net business income. Enter the result on Line 11.

Line 12: If a deduction is taken for state or local taxes (based on income) or license fees (based on income), regardless of jurisdiction, by an individual on federal Schedule C, C-EZ, E or F or on federal Form 1120, 1120A, 1120S, or 1065 then the amount of those taxes or license fees should be entered on Line 12.

Line 13: If a deduction is taken on federal Form 1120 for a net operating loss then the amount of the net operating loss should be entered on Line 13.

Line-by-line Instructions for Form 544, Net Profits License Fee Return, Continued

- Line 14:** If a deduction was taken on Form 1065 for partners' salaries from which the license fee was not withheld then enter the amount on Line 14 (attach schedule). **Do not include amounts previously listed as guaranteed payments to partners on Line 7.**
- Line 15:** If a deduction was taken for expenses associated with income not subject to the license fee then enter the amount on Line 15 (attach a full explanation, including amounts, of all items).
- Line 16:** If a deduction was taken for any other amount that is deemed to be not deductible then enter the amount on Line 16 (attach a full explanation, including amounts, of all items). **Form 1041:** This line should be used to add back the amount of the income distribution deduction since this is not an allowable deduction for purposes of the Net Profits License Fee Return.
- Line 17:** Add Lines 12 through 16. Enter the total on Line 17.
- Line 18:** Enter the amount of interest income attributable to U.S. obligations included in Lines 1-9.
- Line 19:** Enter the amount of any IRC Section 78 foreign dividend gross-up included in Lines 1-9 and any IRC Section 951 Subpart F income included in Lines 1-9 but not actually received.
- Line 20:** Persons 65 years or older deduct \$3000.00 on Individual only.
- Line 21:** Enter the amount of any non-business interest and/or dividends that are not subject to the license fee. Be sure to indicate the amount of each on the line provided. This line should not be used to deduct interest and dividends that are considered business income. These amounts are subject to the license fee and are therefore not deductible in determining subject net profits. Examples of business interest and dividends include income from interest on accounts receivable, interest from leasing and financing arrangements or dividends from subsidiaries.
- Line 22:** If any other income included in Line 9 is deemed not subject to the license fee then enter the amount on Line 22 (attach a full explanation, including amounts, of all items). Line 22 can be used to report allowable expenses for which the licensee elected to take a credit against its federal income tax liability in lieu of a deduction for business expenses otherwise available to the licensee. For example, wage and salary expense that is reduced as a result of the work opportunity tax credit and payroll tax expense that is reduced as a result of the federal FICA tax credit on tip income.
- Line 23:** Add Lines 18 through 22. Enter the total on Line 23.
- Line 24:** Add Lines 11 and 17, then deduct Line 23, to determine the adjusted net business income. Enter here and on Section 1, Line 1 of Form 544.

Due date of return: APRIL 15th OF EACH YEAR OR 105 DAYS AFTER CLOSE OF FISCAL YEAR

Make checks payable to: OCCUPATIONAL TAX ADMINISTRATOR

Mail returns to: CAROLYN JANE CUTSHAW
OCCUPATIONAL TAX ADMINISTRATOR
100 COURT STREET
P.O. BOX 677
GEORGETOWN, KY 40324
E-MAIL: carolyn.cutshaw@firelinedsl.com