

# City of Portland Business License Tax and Multnomah County Business Income Tax

## FAQs for real estate agents

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### **1) Is there an exemption from the City of Portland Business License Tax available for certain real estate agents?**

Oregon law generally exempts licensed real estate brokers (who work only as an agent of a principal real estate broker) from paying the City of Portland Business License Tax. Real estate brokers are potentially not required to pay the City of Portland Business License Tax based upon Oregon Revised Statute (ORS) 696.365. This statute prohibits a city or county from imposing a business license tax on individuals licensed as a real estate broker who engage in professional real estate activity only as an agent of a principal real estate broker.

The Multnomah County Business Income Tax does not meet and has never met the definition of a “business license tax” under Oregon law. Therefore, all real estate brokers working as an agent of a principal real estate broker must file and pay the Multnomah County Business Income Tax for all tax years.

This exemption only applies to individuals and does not apply to corporations, partnerships (including LLCs filing as partnerships) or other tax entities.

### **2) What about Principal Brokers?**

Those who are licensed as principal real estate brokers are subject to both the City of Portland Business License Tax and the Multnomah County Business Income Tax.

### **3) Is every real estate broker doing business in Multnomah County or Portland required to file and pay any appropriate taxes under the provisions of the Multnomah County Business Income Tax and City of Portland Business License Tax?**

Yes. However, there is an exemption under both business taxes for real estate brokers, (in fact all businesses) that gross less than \$50,000 each year. Gross receipts are determined before the deduction of any expenses, and include gross receipts from all business activities, including rental income, if any. As mentioned in 1) above, if an individual is licensed as a real estate broker, they can exclude that income from the calculation of the City of Portland Business License Tax. If they have other income (in addition to the

commission income from brokering real estate sales), they are required to calculate the City of Portland Business License Tax on the other income.

**4) Does it make a difference whether the real estate broker receives a federal Form 1099 versus a W-2 for the real estate broker income?**

Yes. W-2 income is generally not considered “business income” by the City of Portland or Multnomah County and is not taxed. The real estate broker receiving income reported on IRS Form 1099 (and the business that issues the W-2 to a real estate broker) would potentially be subject to these taxes.

**5) Do real estate brokers who work out of offices in Clackamas and Washington County need to register with the Revenue Division?**

Yes, if they list property located in the City of Portland or Multnomah County. For the real estate broker, the income producing activity is generally attached to where the broker is physically performing their services. It is assumed that some services (showing the property, etc.) are provided at each home that is listed with the broker.

**6) What if a principal real estate broker operating under a Clackamas County business license sells only one house a year in Portland or Multnomah County; do they need to pay the City of Portland Business License Tax or the Multnomah County Business Income Tax?**

Yes, if the gross receipts from all of their business activities, including the Multnomah County property commission, are \$50,000 or more. However, if the principal real estate broker’s activity within Portland (or Multnomah County) resulted in commissions of less than \$2,500, this would be regarded as “de minimus” and would not be subject to either tax. This means there is no payment due. However, you may be required to file specific information with the Revenue Division to prove the exemption. If the principal real estate broker is exempt (either through the gross receipts exemption or the “de minimus” exemption) for a tax year, they need to file a City/County income tax exemption form and supporting documentation.

**7) How is the City of Portland Business License Tax and Multnomah County Business Income Tax computed?**

To calculate the tax due, start with your business net income from your federal Schedule C (if you are a sole proprietor), your Oregon Form 20 (if you are a corporation), your federal Form 1065 (if you are a partnership), or your federal Form 1120S (if you are an S corporation). If a corporation or LLC pays the broker a W-2 salary, the corporation or LLC is liable for the taxes and not the broker. Your city/county return (Combined Tax Return)

will instruct you as to which additional deductions or additions you need to include, such as an owner's compensation deduction if applicable. This resulting adjusted net income is then multiplied by an apportionment percentage (if you do business in other cities or counties in addition to Portland and Multnomah County). This result is the subject net income, which is multiplied by the tax rate of 1.45% for the County and 2.2% for the City.

**8) If the commission earned from the sale of properties in Portland or Multnomah County is less than \$50,000 a year, is a principal real estate broker exempt from paying taxes? Must they file a notice of exemption with the Revenue Division?**

The \$50,000 gross receipts exemption is based upon the gross receipts from all business activity, not just the business activity in Portland or Multnomah County. In other words, in order to be exempt from the Portland and Multnomah County tax, the principal real estate broker's commissions from all sales (Multnomah, Washington, Clackamas, etc.) must be less than \$50,000. If the principal real estate broker has been filing a tax return (Combined Tax Return) in past years, and is exempt in the current year, they should file an exemption form (Annual Exemption Request Form). Attached to this form should be the federal return that shows the gross receipts amount for the business. This will help avoid receiving a "presumptive tax" notice after the filing due date if a filing is not received. For businesses that are exempt, no City or County tax payment would be due.

**9) If a real estate broker's only office is in Beaverton (or anywhere else outside of Portland or Multnomah County), how is the Revenue Division ever going to know they earned commissions from sales of property in Portland or Multnomah County?**

The Revenue Division uses a number of methods to locate persons doing business within the two jurisdictions. We have staff that periodically go "into the field" looking for business activity in the City and County. In the case of property sales, they will look for "For Sale" signs to determine if the brokerage and/or broker are filing with the two programs, if appropriate. Additionally, real estate transaction records are reviewed periodically. Finally, we match our business income tax data with a number of public business data sources and have dedicated staff that follow up and research those unmatched businesses to determine if a tax return is due.

**10) If the Multnomah County Business Income Tax (or the City of Portland Business License Tax) is "news" to a real estate broker, are they liable for past taxes on income generated from transactions conducted in Multnomah County (or Portland) two, three, four...ten years ago?**

The real estate broker is liable for all years they have been in business and haven't filed the appropriate return. If the Revenue Division has never contacted the broker, they may voluntarily come forward under our Voluntary Compliance Policy. They have their choice

of two options. One option requires the filing of all years with interest, but all penalties are waived. The second option requires the filing of the current year and the three immediately prior years, subject to interest and 25% penalties.

**11) What if a principal real estate broker has a Portland office but only lists properties located outside of Portland?**

A principal real estate broker (unless they are exempt under the \$50,000 gross receipts exemption) is subject to the City/County tax return filing requirement and at least the \$100 minimum taxes (\$200 total) if they have a Portland office. They can apportion a percentage of their income based on the time they physically spend outside the City (showing houses, etc.), but the time spent in the Portland office would be used to increase the percentage of income that would be apportioned to Portland.

**12) If a principal real estate broker had listings in Portland and was subject to the tax in the previous tax year but they had no listings or other activities in Portland in the current tax year, what would they need to file and pay for the current tax year?**

If the principal real estate broker did not conduct any business in Portland or Multnomah County in the current year, they would not need to file a tax return or pay any tax for the current year. (The minimum tax of \$100 would not be due.) If they do not plan on conducting any business in Portland or Multnomah County in future years, they should complete an Out of Business Notification Form. If they do plan on conducting business in Portland or Multnomah County in future years, they should complete an Annual Exemption Request Form. They should include a statement on the "Other" line of the form such as "No business was conducted in Portland or Multnomah County during the current tax year."

**13) Where can a real estate broker receive more information on the Multnomah County Business Income Tax and the City of Portland Business License Tax?**

If you have additional questions, please contact the Revenue Division; 111 SW Columbia St., Suite 600; Portland, OR 97201; 503-823-5157 or visit [www.pdxbl.org](http://www.pdxbl.org) for forms and information.

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