

P·ERSONAL PROPERTY: QUESTIONS AND ANSWERS

1. WHO IS REQUIRED TO FILE A PERSONAL PROPERTY DECLARATION?

- a. Any business owner or business.
- b. Any farmer.
- c. Any owner of an unregistered motor vehicle.
- d. Any owner of an out-of-state registered motor vehicle that is operated in Old Lyme.
- e. Any owner of a horse or horses.
- f. Lessors

2. WHAT MUST BE DECLARED TO THE ASSESSOR'S OFFICE?

All personal property items used (full or part-time) in the conduct of the business including items donated, given to you or owned prior to starting your business, unregistered motor vehicle(s), out-of-state registered motor vehicle(s) that is operated in Old Lyme, or horses.

3. WHAT IS PERSONAL PROPERTY?

Personal Property can be defined, in the most general terms, as anything and everything that is owned (excluding land and anything permanently affixed to the land or any interest in land). There are three Connecticut General Statutes that help to define Personal Property:

- I. Section §12-71 (a) defines personal property as "All goods, chattels and effects or any interest therein, including any interest in a leasehold improvement classified as other than real property,..."
2. Section §12-41 (c) " ... shall include, but is not limited to, the following property: Machinery used in mills and factories, cables, wires, poles, underground mains, conduits, pipes and other fixtures of water, gas, electric and heating companies, leasehold improvements classified as other than real property and furniture and fixtures of stores, offices, hotels, restaurants, taverns, halls, factories and manufacturers ..".
3. Section §12-71 (J) (I) "Property subject to taxation under this chapter shall include each registered and unregistered motor vehicle and snowmobile that, in the normal course of operation, most frequently leaves from and returns to or remains in a town in this state, and any other motor vehicle or snowmobile located in a town in this state, which motor vehicle or snowmobile is not used or is not capable of being used." Notwithstanding (J) (3) "Any motor vehicle owned by a nonresident of this state shall be set in the list of the town where such vehicle in the normal course of operation most frequently leaves from and returns to or in which it remains " "

4. WHAT ARE GOODS, CHATTELS AND EFFECTS?

Goods: Merchandise, wares, etc

Chattels: Any item that is movable or immovable property except real estate; an article of personal property.

Effects: Personal estate of property, though the term may include both real and personal property.

5. CAN YOU GIVE ME SOME EXAMPLES OF WHAT YOU CALL PERSONAL PROPERTY THAT I MUST DECLARE TO YOU?

Generic or typical equipment and furniture that most businesses would have:

Answering machine (Code 16: Equipment)

Briefcase (Code 16: Equipment)

Business cards/invoices/stationery (Code 23: Supplies)

Cash register (Code 16: Equipment)

Cell phone (Code 16: Equipment)

Coffee machine (Code 24a: Other)

Computer (Code 20: Computer)

Desk and desk chair (Code 16: Furniture)

Fax machine (Code 16: Equipment)

Filing cabinet (Code 16: Furniture)

Fixtures (Code 16: Furniture)

Hand held calculator (Code 16: Equipment)

Laptop (Code 20: Computer)

Pens/pencils/rulers/paper clips (Code 23: Supplies)

Printer (Code 16: Equipment)

Security System (Code 24: All other Taxable Personal Property)

Shelving (Code 16: Fixture)

Sign(s) including magnetic signs on a vehicle (Code 24a: Other)

Specialty equipment (Code 24a: Other)

Storage cabinet (Code 16: Furniture)

Telephone (Code 16: Equipment)

Wall Unit AC Units (Code 16: Equipment)

There are more examples on Page 4 and Page 5 of the Personal Property Declaration.

6. I JUST DO SOME WORK PART-TIME. DO YOU REALLY THINK I'M A BUSINESS?

It would be extremely difficult to come up with one single definition of what a business is. Even if one could, that definition would have to be so very long and complicated that understanding it may be difficult.

Perhaps the best way to answer that question is by asking two basic questions:

- A. Do you provide a product for compensation?
- B. Do you provide a service for compensation?

If you answered yes to Question A, then you are in business. You are a business.

If you answered yes to Question B, please see "#5. COMPENSATION"

Some general indicators of whether you are in business or whether you are a business:

- I. **MONEY:** It is **not** a question of how much money you are making or even if you are making any money. If you provide a product or service for compensation, then you are in business. You are a business.

- 2. **OWNERSHIP:** If you have incorporated or if you have created another separate legal entity such as a LLC, LLP, LP etc. to provide a product or service for compensation, then you are in business. You are a business.
- 3. **TRADE NAME:** If you use a trade name to provide a product or service for compensation, then you are in business. You are a business.
- 4. **SELF-EMPLOYED:** If you are self-employed, then you are in business. You are a business.
- 5. **COMPENSATION:** If your compensation is reported through a W-2 then you are an employee, not in business or a business. But if your compensation is reported through a 1099 Form, or if there is **no** reporting of your income by any IRS form, then you are in business. You are a business.
- 6. **ASSETS:** The amount of assets (personally property) used in the conduct of a business does **not** determine if you are in business. The amount of assets (personal property) used in the conduct of a business need **not** be many or even valuable. Depending upon the particular business you are in, the assets (or personal property) could range from a few hundred dollars to millions of dollars.
- 7. **ADVERTISING:** If you are advertising a product or service for compensation, then you are in business. You are a business.
- 8. **RENTING SPACE:** If you rent or lease a space to provide a product or service for compensation, then you are in business. You are a business.
- 9. **HOME OCCUPATION:** Even if you do **not** rent or lease space, if you provide a product or service for compensation from your home, then you are in business. You are a business.
- 10. **SALES TAX:** If you have a Sales Tax Number or if you collect sales tax, then you are in business. You are a business.
- 11. **TIME:** You do **not** need to be providing a product or service 24/7 in order to be in business or to be a business. Some businesses are seasonal. Some businesses are part-time. Some businesses are very part-time.

7. HOW DO I COMPLETE THE PERSONAL PROPERTY DECLARATION?

Instructions are on Page 2 of the Personal Property Declaration.

8. DO I HAVE TO FILE A PERSONAL PROPERTY DECLARATION EVERY YEAR?

Yes. Declarations filed with "same as last year" are insufficient and shall be considered an incomplete declaration subject to a 25% penalty. A Declaration not filed shall result in a value determined by the Assessor plus a 25% penalty will be applied to the total assessment.

9. WHEN DO I HAVE TO FILE THE PERSONAL PROPERTY DECLARATION?

The Declaration must be filed annually no later than November 1st. The Declaration must either be hand-delivered, by 5:00 pm, to the Assessor's Office no later than November 15th or have a U.S. postmark on or before November 1st. All Declarations must be signed and/or notarized on either page 7 or page I.

10. WHAT HAPPENS IF I FILE LATE?

When Declarations are filed after November 1st and an extension has not been granted, a 25% penalty is applied to the total assessment. Mailed Declarations must have a U.S. postmark of November 1st or before. When an extension is granted and the Declaration is not filed by the extension deadline, a 25% penalty is applied to the total assessment.

11. CAN I GET AN EXTENSION?

The Assessor may grant a filing extension for good cause. If an extension is needed, contact the Assessor in writing prior to November 1st stating the reason for the extension. The decision to grant an extension is the sole responsibility of the Assessor. There is no appeal.

12. WHAT IF I DON'T FILE THE PERSONAL PROPERTY DECLARATION?

A Declaration not filed shall result in a value determined by the Assessor plus a 25% penalty will be applied to the total assessment.

13. DOES MY SIGNATURE NEED TO BE NOTARIZED?

If you are a sole proprietor (that is, you personally own all the assets used in the conduct of your business) or you are one of the partners in a simple partnership (that is, your partnership was not created pursuant to the corporation laws of any state) your signature does **not** have to be notarized. As a sole proprietor or as one of the partners in a simple partnership, it is assumed that you have personal knowledge of the value of the assets used in the conduct of your business.

However, when the business is being conducted as a LLC, LP, LLP, PC, Corporation (Inc), Type "S" Corporation or some other separate legal entity or individual, it is necessary to have the identity, the authority and the knowledge of the signer sworn to by the notarization process. This is especially true when the name of the business is fictitious (i.e., when the name of the business bears no similarity with the name of the signer).

Section 12-50 CGS allows an "authorized agent" to file a personal property declaration on behalf of the "taxpayer". While you may be the "owner" of the LLC, LP, LLP, PC, Corporation (Inc), or Type "S" Corporation; it is the LLC, LP, LLP, PC, Corporation (Inc) or Type "S" Corporation that owns the assets used in the conduct of the business. Therefore, it is the LLC, LP, LLP, PC, Corporation (Inc) or Type "S" Corporation that is the "taxpayer". Thus, when someone signs for a LLC, LP, LLP, PC, Corporation (Inc) or Type "S" Corporation, they are, in fact, signing as an agent of that LLC, LP, LLP, PC, Corporation (Inc) or Type "S" Corporation.

Section 12-50 CGS also states, in part, such agent "shall make **oath** that he is authorized and has knowledge of all taxable property ".

Section 3-94 (6) CGS states, in part, an "oath... means a notarial act... in which a notary public certifies that a person has made a vow in the presence of the notary public on penalty of perjury "

Thus, an agent's signature must be notarized because it is only through the act of notarization that an **oath** is made pursuant to Section 12-50 CGS and it is only through an **oath** that the Assessor can verify that the signer is authorized to be an agent and that he/she has knowledge of all taxable property as required in Section 12-50 CGS.

The oath (as provided through the act of notarization) is an acknowledgment that the person signing personally appeared before the notary, that he/she has authority to provide the information that appears on that personal property declaration and that he/she has knowledge of all taxable property owned.

Section 12-50. List may be filed by spouse, attorney or agent. The list of taxable property required to be filed annually by any taxpayer may be filed by the husband or wife or by an authorized agent or attorney of a taxpayer. Such husband or wife or agent or attorney shall make oath that he is authorized by the taxpayer to file such list and that he has knowledge of all taxable property of his principal subject to taxation in the town or municipality wherein such list is filed.

Section 3-94a. Notaries Public. Definitions. (6) "Oath" or "affirmation" means a notarial act or part thereof in which a notary public certifies that a person has made a vow in the presence of the notary public on penalty of perjury. In the case of an oath, the vow shall include reference to a Supreme Being.

14. HOW IS THE PERSONAL PROPERTY ASSESSMENT CALCULATED?

Your cost information is confidential and not open to public inspection. The original acquisition cost should include any additional charges for transportation and installation. The original acquisition cost less the standard depreciation (as shown on Page 4 and Page 5) will determine the depreciated cost. The total depreciated cost times 70% will determine the gross assessment for that particular category of personal property. Include all assets that may have been fully depreciated, written off, or charged to expense but are still owned. Computerized filings are acceptable as long as all the information is reported in this prescribed format. If more space is needed, then attach additional pages to the Declaration.

15. "HOW IS THE ORIGINAL COST DETERMINED?

The original acquisition cost should include any additional charges for transportation and installation. The cost of the asset should be the cost of the item as new. This cost should be an arm's length value that has been neither discounted nor determined by an auction sale. When purchasing used equipment, the value that is paid for the item is the depreciated amount not the original cost.

16. I DON'T REMEMBER WHAT I PAID FOR THESE THINGS.

If you do not remember the item's original cost, then estimate its current value and put that number on the current (first) year line in the appropriate chart that appears on pages 4 and 5.

17. I DON'T KNOW WHAT THESE THINGS COST BECAUSE THEY WERE GIFTS?

If you do not know the item's original cost, then estimate its current value and put that number on the first line in the appropriate chart that appears on pages 4 and 5.

18. I'M CONCERN; CAN ANYONE SEE MY PERSONAL PROPERTY DECLARATION?

No. Your cost information is confidential and not open to public inspection.

19. HOW DO I APPEAL MY PERSONAL PROPERTY ASSESSMENT?

There are two ways to appeal a personal property assessment:

1. A prescribed appeal form must be filed in order to appear before the Board of Assessment Appeals (C.G.S. 12-111). These forms should be available in January in the Assessor's Office or on-line on the oldlyme-ct.gov website under the Assessor's Office section, Board of Assessment Appeals form. Complete all sections of the Appeal Form as indicated. However, do not sign the Appeal Form. The Appeal Form must be signed at the time of your hearing.

The Appeal Form must be in the Assessor's Office no later than February 20th (the Assessor's Office closes at 4:00 pm).

The Board of Assessment Appeals will meet in March.

You will receive notification of your March appointment by mail.

Please bring copies of any documentation that you want to submit to the Board of Assessment Appeals.

Either you or your agent must appear before the Board of Assessment Appeals and be sworn to answer all questions regarding this appeal. Failure to do so shall waive your rights to this appeal. If someone is coming in as your agent, a completed Affidavit for Agent must either be attached to the Appeal Form or presented at the time of your appointment.

In April, the Board of Assessment Appeals will notify you by mail of its decision.

If not satisfied with the Board's decision, you may (within two months of the date of mailing of that decision) file an appeal with the Superior Court (C.G.S. 12-1 17a). If filing with the Superior Court, it is recommended that you have legal counsel.

2. You may also file an appeal with the Superior Court without first appealing to the Board of Assessment Appeals (C.G.S. 12-119). If filing with the Superior Court, it is recommended that you have legal counsel.

20. WHAT IF I SOLD, CLOSED OR MOVED MY BUSINESS OUT OF OLD LYME?

If, on or before October 151, you sold, closed or moved (out of Old Lyme) the business noted on page 1, you must complete the form on page 1 and provide documentation as to the new owner, the date the business ceased or your new address. Otherwise, the Assessor must assume that you still own taxable personal property and have only failed to declare it. Examples of documentation: bill of sale, Letter of Dissolution, letter from your bank noting the date the account was closed, shipping invoices etc.