



Department of
Revenue

Taxation of Short-Term Rental Units

May 2023

Contents

Chapter 1: Introduction.....	4
Overview.....	4
1. Sales and Use Tax.....	4
2. Local Occupancy Taxes.....	5
3. Business Tax.....	5
4. Franchise and Excise Taxes.....	6
Definitions Used Throughout Manual.....	6
1. Sales Tax Terms.....	7
2. Local Occupancy Tax Terms.....	8
3. Business Tax Terms.....	9
4. Franchise and Excise Tax Terms.....	10
5. Summary of Terminology.....	11
Chapter 2: Sales and Use Tax.....	12
Application of Sales and Use Tax to Various Parties.....	12
1. Short-Term Rental Unit Owners.....	12
2. Marketplace Facilitators.....	15
3. Property Management Companies.....	17
Rentals of 90 Days or More.....	17
Cancellation Fees.....	18
Local Tax Rates.....	18
Chapter 3: Local Occupancy Tax.....	19
Application of Local Occupancy Tax to Various Parties.....	19
1. Short-Term Rental Unit Provider.....	19
2. Short-Term Rental Unit Marketplaces.....	20
3. Property Management Companies.....	21
Chapter 4: Business Tax.....	22
Application of Business Tax to Various Parties.....	22
1. Short-Term Rental Unit Provider.....	22

2. Property Management Companies	22
3. Marketplace Facilitators.....	23
Chapter 5: Franchise and Excise Tax.....	24
Application of Franchise and Excise Tax to Various Parties	24
1. Short-Term Rental Unit Provider	24
2. Marketplace Facilitators.....	25
3. Property Management Companies	25
Franchise and Excise Tax Exemptions.....	26
Chapter 6: Registration and Filing.....	27
1. Sales and Use Tax	27
2. Local Occupancy Tax	29
3. Business Tax.....	30
4. Franchise and Excise Tax	31

Chapter 1: Introduction

Overview

In recent years, there has been immense growth in the vacation rental market.¹ This growth has led many homeowners and, increasingly, businesses to rent their homes, condominiums, and cabins to generate additional income or as their primary business. Some homeowners manage the rental process themselves while others use a property management company. Some advertise their rental unit through traditional means such as classified advertisements or word of mouth while others use popular websites. All of these facts are important because they each impact the application of Tennessee tax.

Several different parties may be involved in the rental of a short-term rental unit; therefore, this manual provides information for short-term rental unit marketplaces, short-term rental unit owners, and property management companies involved in this business sector. *However, please note, as is further explained below, this manual is not intended to cover the various taxes that may apply to renting a hotel room or a bed and breakfast accommodation.*

The primary purpose of this manual is to consolidate information that may be covered in the Department of Revenue's (the "Department") larger comprehensive tax manuals. Therefore, taxpayers are encouraged to review such manuals if a specific question is not addressed in this manual. The manuals are located on the Department's website and may be accessed by clicking [here](#).

This manual is structured to address the tax application and responsibilities that apply to each individual party. Chapter 2 addresses sales and use taxes, Chapter 3 addresses local occupancy taxes, Chapter 4 addresses business tax, Chapter 5 addresses franchise and excise taxes, and Chapter 6 addresses various administrative issues such as how to register with the Department and file each tax's respective return.

1. Sales and Use Tax

Sales and use taxes apply to the privilege of renting rooms, lodgings, and accommodations, such as homes, cabins, and condominiums for a period of less than 90 days. Sales and use taxes are composed of a state sales tax (7% tax rate) and a local sales tax (the tax rate varies from 1.50%-2.75% depending on the county or municipality). Local sales tax rates may be found by clicking [here](#). The Department administers both the state and local sales tax. The

property owner, marketplace facilitator, or property management company, if one is used, must collect and remit sales tax on the sales price of the rental. The sales price includes all fees collected for the rental, as well as any other money that a consumer must pay to rent the accommodations, including, but not limited to, non-refundable pet deposits, guest booking fees, required cleaning fees, and property damage protection fees.²

2. Local Occupancy Taxes

Many cities and counties in Tennessee impose local occupancy taxes on the privilege of occupancy in a short-term rental unit or similar place that provides accommodations for transients. These taxes include:

- Tourist Accommodation Tax (Title 7, Chapter 4, Parts 1 and 2 of the Tennessee Code);
- Hotel Occupancy Tax (Title 67, Chapter 4, Part 14 of the Tennessee Code); and
- Any privilege tax imposed by private act on occupying a short-term rental unit.

It is important to note that these taxes are generally paid directly to the local county or municipality, not to the Department. As further discussed below, the only time local occupancy taxes are collected and remitted to the Department is when a short-term rental unit is rented through a short-term rental unit marketplace.

3. Business Tax

The Tennessee business tax is a privilege tax on the privilege of doing business by making sales of tangible personal property or taxable services in Tennessee and its local jurisdictions. While anyone doing business in the state is subject to the state-level business tax, unless specifically exempt, each municipality must adopt the tax to impose it within its city limits.

The business tax applies to a taxpayer's gross sales. Generally, individuals who rent real property for more than 180 consecutive days to any one person or entity are not subject to business tax.³ However, the rental of real property for less than 180 days, including vacation lodging, is subject to business tax. Individual property owners renting vacation lodging are subject to business tax if their annual taxable gross sales are \$100,000 or more in a jurisdiction.⁴

Furthermore, if an individual property owner utilizes a property management company, the property management company, not the property owner, will owe business tax based on its gross sales from overnight rentals and gross sales from any other source subject to the business tax.⁵ Marketplace facilitators are generally only subject to business tax on the commissions and fees they earn from facilitating the rental of the property owner's vacation lodging. However, if the marketplace facilitator owns the vacation lodging, it will also be subject to business tax on receipts from such rentals.

4. Franchise and Excise Taxes

Franchise and excise taxes are two separate taxes that the Department administers together. Franchise and excise taxes only apply to taxable entities such as corporations, limited partnerships (LP), limited liability companies (LLC), or business trusts chartered/organized in Tennessee or doing business in the state. The franchise tax is based on the greater of the taxpayer's net worth or the book value of the real or tangible personal property owned or used in Tennessee by the taxpayer. The excise tax is based on the taxpayer's net earnings for the tax year.

Individuals and general partnerships⁶ are not subject to franchise and excise taxes. In addition, an otherwise taxable LLC or LP that has become an obligated member entity⁷ or qualifies as a family-owned non corporate entity⁸ (FONCE) is exempt from the tax. See Chapter 5 in this manual and Chapter 2 in the Franchise and Excise Tax Manual for more information on exemptions. The Franchise and Excise Tax Manual may be accessed [here](#).

Definitions Used Throughout Manual

Because several different taxes apply to short-term rental units, there are different terms that may apply to the same property, owner, or transaction. For example, the term "short-term rental unit" is used for local occupancy tax purposes, but the term "vacation lodging" is used for business tax purposes. These two terms generally apply to the same property but are separately defined in the Tennessee Code. Below is a list of commonly used definitions applied to short-term rentals for Tennessee tax purposes.

1. Sales Tax Terms

Marketplace

A marketplace is a physical or electronic place, platform, or forum, including, but not limited to a:

- Store
- Booth
- Internet website
- Catalog
- Dedicated sales software application

where taxable tangible personal property, things, or services are offered for sale.⁹

Marketplaces that are most relevant to short-term rental units are websites or internet applications where the rental properties are listed for rent by someone other than the property owner.

Marketplace Facilitator

A marketplace facilitator¹⁰ is a person (which includes businesses), including any affiliate of the person, that:

- For consideration, regardless of whether characterized as fees from the transaction, contracts, or otherwise agrees with a marketplace seller to facilitate the sale of the marketplace seller's taxable tangible personal property or services through a physical or electronic marketplace operated, owned, or otherwise controlled by the person or the person's affiliate; and
- Either directly or indirectly through contracts, agreements, or other arrangements with third parties, collects the payment from the purchaser of the marketplace seller's tangible personal property or things or services taxable under Tennessee sales and use tax law and transmits payment to the marketplace seller.

A marketplace facilitator **is not**:

- A person who exclusively provides *advertising services*, including listing products for sale and does not actually facilitate the sale.

- A person whose activity is only providing *payment processing services* between two or more parties.
- A derivatives clearing organization, designated contract market, or foreign board of trade or swap execution facility that is registered with the Commodity Futures Trading Commission ("CFTC registered platforms"), or any clearing members, futures commission merchants, or brokers using the services of CFTC registered platforms.
- A person that is a *delivery network company*;¹¹ except, that a delivery network company that meets the definition of a marketplace facilitator may elect to be deemed a marketplace facilitator.

Marketplace Seller

A marketplace seller is a person who makes sales through any marketplace operated, owned, or controlled by a marketplace facilitator.¹² For short-term rental unit purposes, this is generally the property owner.

2. Local Occupancy Tax Terms

Short-Term Rental Unit Marketplace

A "short-term rental unit marketplace" is a company that provides a website or platform through which a third-party (short-term rental unit provider) offers to rent a short-term rental unit.¹³ Short-term rental unit marketplaces do not include providers of vacation lodging services, such as property management companies.

This is generally the same company as the marketplace facilitator defined above for sales tax purposes.

Short-Term Rental Unit Provider

A "short-term rental unit provider" is an individual or company that rents its short-term rental unit through a short-term rental unit marketplace.¹⁴

This is typically the property owner. Short-term rental unit providers and marketplace sellers are typically the same person.

Short-term Rental Unit

A short-term rental unit is a residential dwelling that is rented, either in full or in part, for less than 30 continuous days. A residential dwelling includes, but is not limited to, a cabin, house, condominium, or apartment. **A short-term rental unit is not a hotel or a bed and breakfast establishment.**¹⁵

Vacation Lodging Service

A vacation lodging service is a person or entity that is engaged in the business of providing services of management, marketing, booking, *and* rental of short-term rental units.¹⁶ The most common example of a vacation lodging service entity is a property management company.

3. Business Tax Terms

Vacation Lodging

Vacation lodging is real property, other than the primary and regular residence or abode of an individual property owner, that is utilized, or can be utilized, for overnight rentals in the absence of the individual property owner.¹⁷

This is the same property defined as a short-term rental unit for local occupancy tax purposes.

Overnight Rentals

Overnight rental is the “rental of a vacation lodging to one or more individuals for temporary human lodging not to exceed a period of 180 consecutive days; provided, however, that a tenancy or lease to an individual who has no other place of residence or abode during the lease period to which such individual may return after the lease terminates is not ‘overnight rentals.’”¹⁸

Individual Property Owner

An individual property owner is a person who owns a vacation lodging.¹⁹ This is generally the same person as the short-term rental unit provider for local occupancy tax purposes and the marketplace seller for sales and use tax purposes.

Property Management Company

The term “property management company” is not defined for all of the potentially applicable tax types. A property management company is a person who, for consideration, manages a vacation lodging for an individual property owner that provides such lodging for a rental fee to consumers.²⁰ Please note, this definition is also used for sales and use tax purposes.²¹

Property management companies may manage or operate property on behalf of individual property owners. Managing a short-term rental unit typically involves an agreement or contract between the property management company and the property owner. A property management company generally provides services to the property owner such as:

- Providing an online listing, including photos and details of the property
- Marketing and advertising the property
- Providing housekeeping services for the property
- Scheduling and booking the property
- Working directly with customers renting the property

4. Franchise and Excise Tax Terms

Person or Taxpayer

“Person or taxpayer” means every corporation, subchapter S corporation, limited liability company, professional limited liability company, registered limited liability partnership, professional registered limited liability partnership, limited partnership, cooperative, joint-stock association, business trust, regulated investment company, real estate investment trust (REIT), state-chartered or national bank, or state-chartered or federally chartered savings and loan association.²²

5. Summary of Terminology

Description	Sales Tax Term	Local Occupancy Tax Term	Business Tax Term
Person that operates the platform through which properties are rented	Marketplace Facilitator	Short-term Rental Unit Marketplace	N/A
Person who owns/lists the property on the platform	Marketplace Seller	Short-term Rental Unit Provider	Individual Property Owner
Property being rented	Lodging or Accommodation	Short-term Rental Unit	Vacation Lodging
Number of days of continuous occupancy before rental is exempt from respective tax	90 Days	30 days	180 Days

Chapter 2: Sales and Use Tax

Property owners, marketplace facilitators, and property management companies who rent, facilitate, or manage real property meeting the definition of a short-term rental unit may be responsible for collecting and remitting various Tennessee taxes.

Renting a room, lodging, or accommodation for a charge is subject to Tennessee sales tax.²³ This includes cabins, cottages, chalets, condominiums, houses, or individual rooms that are rented for lodging. However, sales tax does not apply to accommodations or rooms rented to the same person for 90 or more continuous days.²⁴ Every rental is subject to both the 7% state sales tax and the local sales tax, the rate of which is based on where the rental unit is located. For example, if the rental unit is located in Franklin, Tennessee, the local sales tax rate is 2.75% and the combined state and local rate is 9.75%. A complete list of local sales tax rates may be accessed on the Department's website by clicking [here](#).

Property owners, marketplace facilitators, and property management companies with over \$100 a month in taxable service sales must register with the Department and remit sales and use tax.²⁵

Application of Sales and Use Tax to Various Parties

1. Short-Term Rental Unit Owners

If the property owner rents the property directly, the property owner is responsible for collecting and remitting sales tax on the bookings. The amount of sales tax collected should be calculated on the sales price. "Sales price"²⁶ is defined, in pertinent part, as:

- The total amount of consideration, including cash, credit, property, and services, for which personal property or services are sold, leased, or rented, valued in money, whether received in money or otherwise, without any deduction for:
 - Seller's cost of the property
 - Expenses of the seller
 - Charges by the seller for any services necessary to complete the sale
 - Delivery charges
 - Installation

- The value of exempt personal property given to the purchaser where taxable and exempt personal property have been bundled together and sold by the seller as a single product or piece of merchandise

Sales price includes all fees collected for the rental, as well as any other money that a consumer must pay to rent the accommodations (e.g., non-refundable pet deposits, required cleaning fees, guest booking fees, property damage protection fees, etc.). For example:

- Joe and Jane Smith own a cabin in Gatlinburg, Tennessee that they plan on renting as a short-term rental unit to help offset their mortgage. They rent the cabin to their next-door neighbor for \$200 dollars a night for 5 nights. They also charge \$50 for a non-refundable pet fee, \$75 dollars for a cleaning fee, and a \$10 guest booking fee. Sales tax should be calculated and collected as follows:

Item Subject to Charge	Amount Due
5 Night Rental @ \$200/Night	\$1,000.00
Non-Refundable Pet Deposit	\$50.00
Cleaning Fee	\$75.00
Guest Booking Fee	\$10.00
Sub-Total	\$1,135.00
State Sales Tax @ 7%	\$79.45
Local Sales Tax @ 2.75%	\$31.21
Total Sales Tax Due	\$110.66
Total Due:	\$1,245.66

Listing Short-term Rental Unit Through Marketplace Facilitators or Other Platforms

If the property owner lists the short-term rental unit through an online company (or internet-based platform), and such company is a marketplace facilitator, then the property owner is **not** responsible for paying sales tax that is collected from customers on bookings made through that platform. In these instances, the marketplace facilitator will collect and

remit sales tax because it is considered the seller.²⁷ The property owner, who under these circumstances is considered a marketplace seller, should still keep records to document that the short-term rental unit was rented through a marketplace facilitator.

Property owners that rent property directly outside of an online platform or sell or rent other items to guests outside of an online platform, such as firewood or recreation equipment, must collect and remit sales tax on these bookings and items.

Examples:

- 1) Joe and Jane Smith own a cabin in Gatlinburg, Tennessee. They advertise the cabin on the website vacationrentals.net. They rent the cabin between October 1st and October 14th through the website. The website is a marketplace facilitator; thus, it is responsible for collecting and remitting sales tax on the booking, not the Smiths. However, the Smiths should retain any documents or records evidencing the rental through the website.
- 2) Jane Smith mentions to her next-door neighbor that she owns a cabin in Gatlinburg, Tennessee. The neighbor expresses interest in visiting the Great Smokey Mountains and asks if she can rent the cabin between October 15th and October 20th. Ms. Smith agrees to rent the cabin to her neighbor directly, outside of the website. The Smiths will be responsible for charging, collecting, and remitting the sales tax on this rental to the Department.
- 3) To take full advantage of the Great Smokey Mountains, the Smiths decide to purchase 2 kayaks and 2 mountain bikes that they make available for rent. The Smiths place a letter in the cabin stating that if the renters of the cabin are interested in renting the mountain bikes or kayaks, they should contact the Smiths directly. The cabin is rented between November 1st and November 10th through the website vacationrentals.net. Upon arrival, the renters contact the Smiths to rent the mountain bikes and a kayak. The website will be responsible for collecting and remitting sales tax on the unit rental, and the Smiths will be responsible for collecting and remitting sales tax on the mountain bikes and kayak rentals.

Additionally, property owners are responsible for paying use tax on any items used in providing the accommodations on which no Tennessee sales tax has been paid. For example:

- If a host purchases furniture from an out-of-state seller that does not charge Tennessee sales tax, the host purchaser must pay Tennessee use tax on the purchase.

Energy for Residential Use

Gas, electricity, fuel oil, and other energy fuels used for nonresidential purposes are subject to sales and use tax. However, when such items are sold directly to the consumer for residential use, they are exempt from sales and use tax. Energy fuels sold directly to the homeowner for use in the short-term rental unit, which is a residential use, qualifies for the sales and use tax exemption.²⁸

2. Marketplace Facilitators

When a marketplace seller (also referred to as a short-term rental unit provider in this manual) uses a marketplace facilitator to facilitate sales of tangible personal property or taxable services, the marketplace facilitator is liable for collecting sales tax on the sales price of the tangible personal property or services. Marketplace sellers are not obligated to collect, remit, or be liable for sales and use tax collected and remitted by a marketplace facilitator.

Because the marketplace facilitator is considered the seller for sales tax purposes, it does not matter if the marketplace seller has a sales tax certificate of registration or would have been required to collect sales or use taxes had the sale not been facilitated by the marketplace facilitator.

⚠ Marketplace facilitators are considered the seller and retailer for sales and use tax registration and collection purposes only.

Sales Threshold

A marketplace facilitator is required to collect sales and use tax if it meets the statutory sales threshold, which is calculated by evaluating sales made *or* facilitated to consumers in this state, of **\$100,000** or more during the previous twelve-month period. This amount includes sales made by the marketplace facilitator itself and sales the marketplace facilitator facilitates for marketplace sellers through its marketplace. Marketplace facilitators who do not have at least \$100,000 in total sales in this state do not have to collect sales tax. If the

marketplace facilitator does not meet the threshold, then it is the short-term rental unit owner's responsibility to collect and remit sales tax to the Department.

Please note, if a previously unregistered marketplace facilitator exceeds the \$100,000 threshold during the year, the marketplace facilitator is required to register and begin collecting sales and use tax on the first day of the third month following the month in which it meets the \$100,000 threshold. For example:

- A company sold tangible personal property through its website, as well as facilitated transactions for others through a marketplace. In 2019, the company facilitated \$10,000 in sales and had \$80,000 in sales through its website in Tennessee.
- By October 15, 2020, the company had \$30,000 in sales through its website and facilitated \$90,000 in sales through its marketplace.
- Because the company exceeded the \$100,000 threshold based on its own sales *and* sales facilitated through its marketplace, it must register and begin collecting sales and use tax beginning on January 1, 2021.

Marketplace Sellers Meet Substantially All Test

The marketplace facilitator is not required to collect sales tax if it demonstrates that substantially all the marketplace sellers for whom it facilitates sales are registered dealers for sales tax purposes. If this is the case, the Commissioner may waive the requirements that the marketplace facilitator collect sales tax. If a waiver is granted, the marketplace sellers must collect sales tax.

To request a waiver, marketplace facilitators should contact the Department's Audit Division, Sales and Use Tax Unit, at (615) 741-8499. The request should include enough information to allow the Commissioner to confirm that substantially all the marketplace sellers are registered and collecting sales tax.

Marketplace Facilitator and Marketplace Seller Contractual Agreement

The third exclusion from the collection requirement is when the marketplace facilitator and the marketplace seller contractually agree that the marketplace seller will collect and remit all applicable taxes under this chapter **and** the marketplace seller:

- Has annual gross sales in the United States of over \$1,000,000,000, including the

- gross sales of any related entities, and in the case of franchised entities, including the combined sales of all franchisees of a single franchisor;
- Provides evidence to the marketplace facilitator that it is registered in this state under Tenn. Code Ann. § 67-6-601; and
 - Notifies the Commissioner that the marketplace seller will collect and remit all applicable taxes under this chapter on its sales through the marketplace facilitator and is liable for failure to collect or remit applicable taxes on its sales.

Marketplace sellers should notify the Department by contacting the Department's Audit Division, Sales and Use Tax Unit at (615) 741-8499. The request should include enough information to allow the Commissioner to confirm that all the requirements outlined above are satisfied.

3. Property Management Companies

Taxable charges for rooms, lodgings, or accommodations include the short-term rental of vacation lodgings, such as cabins, cottages, chalets, condominiums, houses, or individual rooms that are rented out by property owners and property management companies for overnight lodging.

If the owner of the property uses a property management company to provide vacation lodging, then the property management company is subject to sales tax and must register for and collect the sales tax.²⁹

Rentals of 90 Days or More

Charges for the use of lodging or accommodations furnished for periods of *less than 90 continuous days* are subject to sales tax. However, the tax does not apply to lodging or accommodations furnished *to the same person for 90 or more continuous days*.

If the same person pays for the lodging or accommodation, different individuals may stay in the room during the 90 days. It does not matter if the room is not actually occupied, so long as it is continuously paid for by the same person.³⁰ If the room reservation is cancelled, the chain of continuous days for that room is broken and must start again. Also, the exemption applies without regard to whether payment for the charges is ever received from that customer. For example:

- An airline reserves lodging for more than 90 days for its pilots to stay in during flight layovers. Different pilots stay in the room at different times throughout the 90 days. The lodging is not subject to sales tax.
- A corporation pays for a block of rooms for 90 continuous days. Some of the rooms are never occupied. Even though some of the rooms are never occupied, sales tax does not apply to the transaction.
- Although a customer initially arranged to rent a room for seven days, his stay actually lasted four months. The room charge is not subject to sales tax because his occupancy exceeded 90 days.

After 90 days, the dealer furnishing the room may refund any sales tax already collected from the person and claim credit for that tax on a subsequent sales and use tax return filed with the Department.

Cancellation Fees

If a person reserves a room for overnight lodging but then cancels the reservation, any cancellation fees that may be charged are not subject to tax.

Local Tax Rates

As previously discussed, Tennessee sales tax is composed of a state rate (7%) and a local rate that varies by county and municipality. The state rate applies to all short-term property rentals, and the local rate is determined by the location of the rental property. For example:

- John Green owns a vacation rental located in Hendersonville, Tennessee. The local sales tax rate for Hendersonville is 2.25%. Thus, he should collect 9.25% (7% state rate plus 2.25% local rate) from customers.

A comprehensive list of local sales tax rates may be accessed on the Department's website by clicking [here](#).

Chapter 3: Local Occupancy Tax

Local occupancy tax has historically been collected exclusively by local governments. However, effective January 1, 2021, **short-term rental unit marketplaces** that offer short-term rental units for rent for less than **30 continuous days** must remit the occupancy tax to the Department. This includes websites and platforms that facilitate the rental of short-term rental units, including apartments, condominiums, and homes, owned by third-party sellers (short-term rental unit providers). For local occupancy tax purposes, short-term rental units, by definition, do not include hotels or bed and breakfast accommodations.³¹

Application of Local Occupancy Tax to Various Parties

1. Short-Term Rental Unit Provider

The short-term rental unit provider/owner is not responsible for collecting and remitting local occupancy tax for rentals made through a short-term rental unit marketplace. If the short-term rental unit provider also rents its short-term rental unit using other means, such as through traditional advertising, word of mouth, etc., the short-term rental unit provider will be responsible for collecting and remitting the local occupancy tax to the local government where the unit is located on those respective rentals. Continuing with the [example](#) from Chapter 2 on page 14:

- 1) The Smiths list the Gatlinburg cabin on the website vacationrentals.net. They rent the cabin between October 1st and October 14th via the website. The website is a short-term rental unit marketplace; therefore, **vacationrentals.net will be responsible for collecting and remitting local occupancy tax to the Department** on the transactions occurring on its marketplace. The Smiths are not responsible for local occupancy tax on the rentals via the website.
- 2) Jane Smith rents the cabin to her next-door neighbor between October 15th and October 20th. This rental was made directly by the Smiths directly and not through the website; thus, **the Smiths will be responsible for collecting and remitting the local occupancy tax directly to Gatlinburg, TN** for the booking because they are short-term rental unit providers, and the rental did not occur through a short-term rental unit marketplace.

- (And, as stated in Chapter 2, **the Smiths will also be responsible for collecting and remitting the sales tax *directly to the Department.***)
- 3) Similar to example 1, the cabin is rented between November 1st and November 10th, through the website vacationrentals.net. Because vacationrentals.net is a short-term rental unit marketplace, and the rental occurred through **vacationrentals.net**, **it is responsible for collecting and remitting the local occupancy taxes *directly to the Department.***

⚠ Short-term rental unit providers who do not use a short-term rental unit marketplace will not remit local occupancy tax to the Department. Instead, the short-term rental unit provider will remit local occupancy taxes directly to the local jurisdiction where the short-term rental unit is located.

2. Short-Term Rental Unit Marketplaces

Effective January 1, 2021, a short-term rental unit marketplace, which is a person or entity, *excluding* a vacation lodging service (i.e., property management companies), that provides a platform for compensation, through which a third-party offers to rent a short-term rental unit to an occupant, must collect and remit local occupancy taxes for short-term rental units rented through the marketplace. The short-term rental unit marketplaces must register with the Department and remit the local occupancy taxes to the Department.

The local occupancy tax only applies to short-term rental units, which are units rented for less than 30 days. When a short-term rental unit is rented for more than 30 days, short-term rental unit marketplaces should use the same procedure as provided in [Letter Ruling # 13-07](#) to request a refund or receive a credit for local occupancy tax collected and remitted.

Short-term rental unit marketplaces must collect occupancy taxes based on the location of the properties they book. These marketplaces will remit these collections directly to the Department.

Hotels and Bed and Breakfasts

Hotels and bed and breakfasts should remit the local occupancy tax directly to the appropriate local jurisdiction. Only short-term rental unit marketplaces facilitating the rental of short-term rental units should remit the local occupancy tax to the Department.

This includes websites and platforms that facilitate the rental of residential units, including apartments, condominiums, and homes, owned by third-party sellers. The definition of short-term rental unit specifically excludes hotels and bed and breakfasts; thus, hotels and bed and breakfasts should continue remitting the local occupancy tax to the appropriate local government, even if the hotel room or bed and breakfast is listed for rent on a short-term rental unit marketplace.

⚠ The Department does not administer or collect local occupancy tax except when the short-term rental unit is rented through a short-term rental unit marketplace.

3. Property Management Companies

For local occupancy tax purposes, the definition of short-term rental unit marketplace specifically *excludes* “vacation lodging services.” Vacation lodging services means “a person or entity that is engaged in the business of providing the services of management, marketing, booking, and rental of short-term rental units.”³² Property management companies, for local occupancy tax purposes, meet the definition of vacation lodging services.

Because they meet this definition, property management companies are not considered short-term rental unit marketplaces; therefore, they do not collect and remit local occupancy taxes to the Department. Instead, property management companies should consult applicable local municipal codes to determine if they are responsible for collecting and remitting local occupancy tax in any given jurisdiction for properties they manage.

Chapter 4: Business Tax

The Tennessee business tax applies to a taxpayer's gross sales, which means "the sum total of all sales...without any deduction whatsoever of any kind or character" unless otherwise provided in Tennessee law. To be subject to business tax, the individual or business must have annual gross sales of \$100,000 or more.³³ Taxable gross sales include receipts from renting vacation lodging and receipts from associated fees and rentals.

Application of Business Tax to Various Parties

1. Short-Term Rental Unit Provider

If no property management company is used, the individual property owner must pay the business tax if the individual property owner has \$100,000 or more in gross sales per tax year. The individual property owner is not subject to business tax if it has less than \$100,000 in gross sales per tax year.

If the owner of the property uses a property management company to provide overnight rentals of vacation lodgings, then the property management company, rather than the owner, must pay the business tax on the gross sales from the vacation rentals.³⁴ The same \$100,000 gross sales threshold applies.

Short-term rental unit providers/owners are responsible for business tax on rentals made through marketplace facilitators/short-term rental unit marketplaces. The marketplace facilitator/short-term rental unit marketplace is considered the seller for sales and use tax purposes only.

2. Property Management Companies

A "property management company," for business tax purposes, is defined as "a person who, for consideration, manages a vacation lodging for an individual property owner that provides such lodging for a rental fee to consumers."³⁵

If the owner of the property uses a property management company to provide overnight rentals of vacation lodgings, then the property management company, rather than the owner, must pay the business tax on the gross sales from the rentals. The gross sales from

the rental includes all fees collected for the rental, as well as any other money that a customer must pay to rent the accommodations, such as:

- Non-refundable pet deposits;
- Required cleaning fees; and
- Property damage protection fees.

If a property owner conducts any other taxable activity or sales in the state, they will be subject to the business tax on those specific sales.

3. Marketplace Facilitators

Marketplace facilitators are only considered to be the seller for sales and use tax and local occupancy tax purposes. Therefore, gross sales from the rental of short-term rental units are not subject to business tax *for the marketplace facilitator*. The individual property owner or property management company is responsible for business tax on the gross sales generated by renting the property.

However, please note, a marketplace facilitator is responsible for business tax if it owns the short-term rental unit rented through its marketplace. A marketplace facilitator is also responsible for business tax on any commissions or fees it collects when facilitating the rental, assuming the marketplace facilitator has substantial nexus. Please see Chapter 2 of the Department's [Business Tax Manual](#) for an in-depth discussion on who is subject to business tax.

Chapter 5: Franchise and Excise Tax

Persons that own and rent real property in Tennessee are subject to the franchise and excise tax. The statutory definition of "person or taxpayer" lists the types of entities that may be subject to the franchise and excise tax. "Person" means, in part, every corporation, subchapter S corporation, limited liability company, and limited partnership.

Application of Franchise and Excise Tax to Various Parties

1. Short-Term Rental Unit Provider

Individuals are not subject to franchise and excise tax. Therefore, if an individual owner rents its short-term rental unit, it is not subject to the tax. However, if an individual places the short-term rental unit into a type of entity that offers limited liability protection, such as a corporation, limited liability company, or a limited partnership, the entity will be subject to excise tax based on its net earnings and franchise tax based on the greater of its net worth or the book value of the real or tangible property owned or used in the state.

General partnerships are not subject to the franchise and excise tax. However, a partner in a general partnership may be subject to the tax based on its ownership share of the general partnership's tax attributes if the partner is a type of entity that offers limited liability protection to its owners. For example:

- General Partnership ABC is owned equally by three partners: Mr. Agee, Mr. Bell, and Cook, LLC. The general partnership and the two individuals do not have a filing requirement; however, the limited liability company should file a franchise and excise tax return based on its one-third ownership share in ABC. Cook, LLC's tax return will reflect one-third of ABC's net worth, book value of property owned or used in the state, and net earnings subject to excise tax.

For more information regarding when the ownership of a general partnership may create a filing requirement for its owners, see Chapters 2, 3, and 10 of the Franchise and Excise Tax Manual. It may be accessed [here](#).

2. Marketplace Facilitators

Marketplace facilitators are only considered to be the seller for sales and use tax and local occupancy tax purposes. Therefore, the marketplace facilitator is not subject to franchise and excise tax on the income from the rental of short-term rental units. Rather, the property owner, if it is a taxable entity (corporation, LP, LLC, etc.), is subject to franchise tax based on the *greater* of the entity's *net worth* or the *book value* of the real or tangible personal property owned or used in the state, which includes the book value of the short-term rental unit, and excise tax on the entity's net earnings, which includes any net earnings generated by renting the short-term rental unit.

However, please note, a marketplace facilitator that is a type of entity that is subject to the franchise and excise tax (e.g., a corporation, LP, or LLC) may have a tax filing requirement if it:

- Owns a short-term rental unit being rented through its marketplace; or
- Is "doing business"³⁶ and has "substantial nexus in this state."³⁷

For example, if a marketplace facilitator is doing business in the state and its total receipts in the state during the tax period exceed the lesser of \$500,000 or 25% of the marketplace facilitator's total receipts everywhere during the tax period, the marketplace facilitator has substantial nexus in this state and must register and file an annual franchise and excise tax return. For the purpose of determining whether "substantial nexus" exists for franchise and excise tax purposes, *receipts* are the marketplace facilitator's receipts from the sale of its own products and services and **do not** include the sales it facilitates through its marketplace for marketplace sellers. In addition, substantial nexus exists if the marketplace facilitator meets one of the bright-line tests for property or payroll (\$50,000 or 25%). See Chapter 3 of the Franchise and Excise Tax Manual for more information regarding nexus. It may be accessed [here](#).

3. Property Management Companies

A property management company that meets the definition of *person or taxpayer*³⁸ for franchise and excise tax purposes will generally be subject to the tax because its business activities within the state will generally meet the statutory requirements of doing business and having substantial nexus.³⁹ The books and records of the property management

company should clearly show its revenues and expenses separate from any transactions made on behalf of the property owner. The primary revenue of a property management company is the fees it charges the property owner and not money it collects on the property owner's behalf. It is possible for both the property management company and the property owner to be subject to the franchise and excise tax in relation to a single real estate rental unit.

See Chapter 3 of the Franchise and Excise Tax Manual for more information regarding nexus. It may be accessed [here](#).

Franchise and Excise Tax Exemptions

An LP, LLP, or LLC that is subject to the franchise and excise tax may file documentation with the Tennessee Secretary of State to become an *obligated member entity*, which is exempt from the tax. To qualify for this exemption, all owners of the entity must agree to be personally liable for the debts, obligations, and liabilities of the entity.⁴⁰

Also, an LP, LLP, or LLC may qualify for the *family-owned noncorporate entity (FONCE) exemption* if:⁴¹

- At least 95% of all ownership units of the entity are owned by members of the family or the estate or trust of a deceased individual who, while living, was a member of the family (e.g., a testamentary trust); and
- At least 66.67% or more of the entity's activity is either 1) the production of passive investment income, or 2) the combination of passive investment income and farming.

Entities claiming the obligated member entity or FONCE exemptions must file an [Application for Exemption/Annual Exemption Renewal](#) (Form FAE183) for the initial and subsequent taxable periods for which the entity is claiming the exemption.

See Chapter 2 of the Franchise and Excise Tax Manual for more information on these entity exemptions. It may be accessed [here](#).

Chapter 6: Registration and Filing

As described above, short-term rental unit providers/property owners, marketplace facilitators, and property management companies may in some instances have a Tennessee tax compliance requirement (i.e., be required to file Tennessee tax returns). Below is an overview of how to register and file for each of the potentially applicable taxes.

1. Sales and Use Tax

Registration

Applications for registration are available online through the [Tennessee Taxpayer Access Point \(TNTAP\)](#). To register, taxpayers should select the link titled “Register a New Business” in the Registration section of the TNTAP website.⁴²

Taxpayers should have the following information available to complete registration, if applicable:

- The name, address, and phone number of the business, all owners, officers, or partners, and the person making the application.
- The Social Security Number(s) of all owners, partners, or officers.
- The Federal Employer Identification Number issued by the United States Internal Revenue Service.
- A description of the business, the type of ownership, a brief explanation of the nature of the business.
- If the business is a corporation, the date of incorporation is needed.
- If the business was purchased, the name and address of the previous owner is needed for registration.
- The signature on the paper application of the sole proprietor, a partner, or an officer of a corporation.

Upon registering, the taxpayer will receive a certificate and should begin collecting and remitting sales tax.

A marketplace facilitator that meets the sales threshold may also register through the online [TNTAP](#) portal under “Register a New Business.” A marketplace facilitator may also register with Tennessee by accessing the Streamlined Sales Tax Registration System. The marketplace facilitator should then report and remit the facilitated sales electronically using its [TNTAP](#) account.

Property management companies providing short-term rentals of vacation lodging are required to register in the jurisdiction(s) in which the vacation lodging rental properties are located. The taxpayer will register for each jurisdiction under the location address of one of its vacation lodging rental properties in that jurisdiction. Property management companies must provide a business mailing address when registering for each jurisdiction. Property management companies must collect sales tax at the local rate for the jurisdiction in which each vacation lodging rental property is located. Property management companies registering for sales and use tax may submit a registration form for each jurisdiction. Registration is available electronically through [TNTAP](#).

Filing Returns

Sales and use tax returns and payments are due monthly. The return and payment are due by the 20th day of each month. If the 20th falls on a weekend or holiday, the due date is extended to the next business day. The return includes both the state sales tax (7%) and the local sales tax (which varies depending on where the short-term rental unit is located). The return may be filed, and payment made electronically using [TNTAP](#).

⚠ Please note: a monthly sales tax return must be filed by the 20th day of the following month. If there are no sales to report, taxpayers should simply enter “\$0” on Line 1 – Gross Sales of the Sales and Use Tax Return.

A marketplace facilitator with an active Tennessee registration should log into its [TNTAP](#) account and create a new location ID under its sales tax account to report its facilitated sales. This location ID should be used for reporting and remitting tax the marketplace facilitator collected on facilitated sales only. The marketplace facilitator’s own sales should be reported, and the tax remitted under one or more separate location ID’s, as applicable, under the same sales tax account.

A property management company will electronically file a consolidated sales and use tax return through [TNTAP](#) that will include reporting for all of the jurisdictions in which the vacation lodging rental properties are located. Tax registration information is available on the Department's website.

2. Local Occupancy Tax

Registration

Because the Department only administers local occupancy tax when a short-term rental unit is rented through a short-term rental unit marketplace, *individual property owners* and *property management companies* will not register with the Department for local occupancy tax purposes. Individual property owners and property management companies should contact the local county and municipal officials in which the short-term rental units are located for information on how to collect and remit the local occupancy tax for that jurisdiction.

It is advisable that all individuals contact the local officials where the unit is located, even those who rent their short-term rental unit exclusively through a short-term rental unit marketplace, because there may be additional reports or requirements in that local jurisdiction.

Short-term rental unit marketplaces may register for local occupancy tax online through [TNTAP](#) when the short-term rental unit marketplace registers for sales and use tax (the occupancy tax will be reported on Schedule F of the sales and use tax return). The local occupancy tax account is separate from the sales and use tax account.

Short-term rental unit marketplaces that are not registered for sales tax should:

- Navigate to [TNTAP](#).
- Select "Register a New Business."
- Select "Sales and Use Tax" for the account type.
- When asked if you are a marketplace facilitator or a short-term rental unit marketplace, answer yes to each question if you are a short-term rental unit marketplace.

Taxpayers that are already registered for sales tax should add a new location on their existing TNTAP account for local occupancy tax.

Filing Returns

Because the Department only administers local occupancy tax when a short-term rental unit is rented through a short-term rental unit marketplace, individual property owners and property management companies will not complete Schedule F of the sales and use tax return to remit local occupancy tax to the Department. Individual property owners and property management companies should contact the local county and municipal officials in which the short-term rental unit is located for information on how to collect and remit the local occupancy tax for that jurisdiction.

Short-term rental unit marketplaces will report the local occupancy tax on Schedule F of the monthly [State and Local Sales and Use Tax Return](#) (Form SLS450). This return can be filed online using [TNTAP](#) or through an approved software vendor beginning with the January 2021 filing period. Specific instructions on how to complete Schedule F can be found [here](#).

3. Business Tax

Registration

The property owner must register in the county and city in which the property is located as a Classification 3 taxpayer if it generates more than \$100,000 in gross sales per tax year. If the property owner has multiple properties, each property must have its own business tax registration. See Chapter 3 of the Business Tax Manual for more information on Registration and Chapter 5 for more information on Classifications. The Business Tax Manual may be accessed [here](#).

The gross receipts derived from the rental of short-term rental units made through a marketplace are attributable to the property owner or the property management company for business tax purposes. However, if the marketplace facilitator owns the property being rented through its marketplace, it is the seller for business tax purposes and must register for business tax if its taxable gross sales are \$100,000 or more per tax year. Furthermore, marketplace facilitators who charge commissions and other third-party fees are subject to business tax on those commissions and fees.

A property management company is required to register and file business tax returns if its taxable gross receipts are \$100,000 or more per tax year in each jurisdiction where it does business. Therefore, a property management company will not be subject to business tax in any city and/or county where its total rental property receipts in that city and/or county are not at least \$100,000. Please note, such receipts are calculated by jurisdiction; thus, multiple properties in the same jurisdiction count towards the \$100,000 threshold.

See Chapter 3 of the Business Tax Manual for more information on registering for business tax. It may be accessed [here](#).

Filing Returns

Business tax returns and payment are due on the 15th day of the fourth month following the end of the taxpayer's fiscal year. The return must be filed on a consolidated basis if there are multiple properties. See Chapter 6 of the Business Tax Manual for more information on filing requirements. The Business Tax Manual may be accessed [here](#).

4. Franchise and Excise Tax

Registration

Persons subject to franchise and excise tax should register with the Department within 15 days from the date they become subject to the tax. There is no registration fee. Persons may register, as with the other tax types, using [TNTAP](#). **Individuals are not subject to the franchise and excise tax.** However, if an individual transfers a short-term rental unit to an entity that offers limited liability protection, that business entity should register for the tax.

The income derived from the rental of short-term rental units made through its marketplace is attributable to the property owner and not the marketplace facilitator. However, if the marketplace facilitator owns the property being rented through its marketplace, the income derived from the rental is subject to the franchise and excise tax and the marketplace facilitator must register for the tax. In addition, a marketplace facilitator that is otherwise doing business in the state and has substantial nexus in the state must register. See Chapter 5 of the Franchise and Excise Tax Manual for more information on registering for franchise and excise tax. It may be accessed [here](#).

Filing Returns

Persons subject to the tax report their business activity on the [Franchise and Excise Tax Return](#) (Form FAE170). This is an annual return that coincides with the accounting period covered by the taxpayer's corresponding federal income tax return. The starting point for computing net earnings for excise tax purposes begins with the federal taxable income as reported on federal Forms 1120, 1120S, and 1065. In addition, federal Form 1040 may be the starting point for the Tennessee excise tax return in cases where an LLC is owned 100% by an individual.

To complete form FAE170, gather the following:

- Federal income tax return of the rental business;⁴³
- Balance Sheet prepared using Generally Accepted Accounting Principles (GAAP) or, if GAAP books and records are not maintained, use the business's federal tax books and records;
- Tax and book basis depreciation schedules; and
- Tax basis trial balance and income statement if the business files on federal Form 1040.

See Chapters 5, 9-11 of the Franchise and Excise Tax Manual for more information on franchise and excise tax filing requirements and return preparation. The manual may be accessed [here](#).

¹ “Global vacation rental market is valued at \$74.64 billion in 2021 and is projected to attain a market size of \$107.14 billion by 2028...” Source: SkyQuest Technology Consulting Pvt. Ltd.

² Tenn. Code Ann. § 67-6-102(85).

³ TENN. COMP. R & REGS. 1320-04-05-.41(1).

⁴ The previous threshold was \$10,000. The threshold was extended in the Tennessee Works Tax Act (2023).

⁵ Tenn. Code Ann. § 67-4-730.

⁶ Tenn. Code Ann. § 67-4-2004(19). “General partnership” means a partnership in which all partners, as defined by state law, are fully liable for the debts of, or the claims against, the partnership. Partners may be “fully liable” even though one (1) or more persons or individuals dealing with the partnership have by contract agreed to limit their claims against one (1) or more partners or against the partnership as a whole.

⁷ “Obligated member entity” means a limited liability company, limited partnership or limited liability partnership, all of whose members or partners are fully liable for the debts, obligations, and liabilities of the entity, as provided in § 67-4-2008(b)-(d), and that have filed appropriate documentation to that effect with the secretary of state.

⁸ Tenn. Code Ann. § 67-4-2008(a)(11).

⁹ Tenn. Code Ann. § 67-6-102(55).

¹⁰ Tenn. Code Ann. § 67-6-102(56).

¹¹ Tenn. Code Ann. § 67-6-102(26). “Delivery network company” means a business entity that maintains an internet website or mobile application used to facilitate delivery services for the sale of local products.

¹² Tenn. Code Ann. § 67-6-102(57).

¹³ Tenn. Code Ann. § 67-4-1501(6).

¹⁴ Tenn. Code Ann. § 67-4-1501(7).

¹⁵ Tenn. Code Ann. § 67-4-1501(5).

¹⁶ Tenn. Code Ann. § 67-4-1401.

¹⁷ Tenn. Code Ann. § 67-4-702(25).

¹⁸ Tenn. Code Ann. § 67-4-702(12).

¹⁹ Tenn. Code Ann. § 67-4-702(8).

²⁰ Tenn. Code Ann. § 67-4-702(14).

²¹ Tenn. Code Ann. § 67-6-501(d).

²² Tenn. Code Ann. § 67-4-2004(38).

²³ Tenn. Code Ann. § 67-6-205(c).

²⁴ Tenn. Code Ann. § 67-6-205(c).

²⁵ TENN. COMP. R & REGS. 1320-05-01-.63(3).

²⁶ Tenn. Code Ann. § 67-6-102(85).

²⁷ Tenn. Code Ann. § 67-6-501(f).

²⁸ Tenn. Code Ann. § 67-6-334.

²⁹ Tenn. Code Ann. § 67-6-501(d).

³⁰ TENN. COMP. R & REGS. 1320-05-01-.70.

³¹ Tenn. Code Ann. § 67-4-1501(5).

³² Tenn. Code Ann. § 67-4-1501(6).

³³ Note that this threshold was previously \$10,000. The Tennessee Works Tax Act (2023) extended the threshold to \$100,000.

³⁴ Tenn. Code Ann. § 67-4-730.

³⁵ Tenn. Code Ann. § 67-4-702(a)(14).

³⁶ Tenn. Code Ann. § 67-4-2004(14).

³⁷ Tenn. Code Ann. § 67-4-2004(49).

³⁸ Tenn. Code Ann. § 67-4-2004(38).

³⁹ Tenn. Code Ann. §§ 67-4-2007(a), 67-4-2105(a).

⁴⁰ Tenn. Code Ann. §§ 67-4-2008(a)(9), 67-4-2008(b)-(d).

⁴¹ Tenn. Code Ann. § 67-4-2008(11).

⁴² <https://tntap.tn.gov/eservices/>

⁴³ A pro forma, single entity return is needed if the rental business is included in a federal return that is filed on a consolidated basis or if the rental business is disregarded to another entity (other than a corporation) for federal income tax purposes.