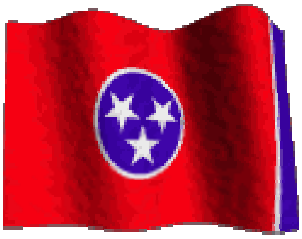

Business Tax Guide

DEPARTMENT OF REVENUE
500 Deaderick St., Nashville, TN 37242

August 2003

Dear Tennessee Taxpayer,

This publication is designed to help taxpayers better understand the Tennessee business tax, including the collection and remittance of the tax. The business tax is a part of the Tennessee tax structure. You may find compliance easier when you know more about the tax. Please take time to acquaint yourself with how this tax applies to you. This business tax guide is intended as an informal reference for taxpayers who wish to gain a better understanding of Tennessee business tax requirements. It is not an all-inclusive document. The tax guide is not intended as a substitute for Tennessee business tax statutes or Rules and Regulations, nor is it intended to be a statement of Department of Revenue policy. The information in this guide is current as of the date of publication but could change as the tax laws, their interpretation, and their application do change from time to time because of legislative action, reviews, and court decisions.

Periodically, registered taxpayers are mailed information letters with updates on tax laws and policies. Be sure to read any letter you receive carefully; this information may save you time and money. Informational publications are also available for specific industries. Contact the Taxpayer Services Division to obtain these publications.

The Department of Revenue offers a toll-free tax information line for Tennessee residents. The number is (800) 342-1003. If calling from Nashville or outside Tennessee, you may call (615) 253-0600. The Department of Revenue also offers a telecommunications device for the deaf (TDD) line at (615) 741-7398.

In addition, the Department of Revenue offers a HOT LINE number for the exclusive use of the tax practitioner. In-state practitioners may call toll-free (800) 397-8395; from Nashville and outside Tennessee, call (615) 253-0700.

If you have questions, please do not hesitate to contact any of the offices listed below.

Sincerely,

Taxpayer Services Division

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Taxpayer Services Division
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500 Deaderick Street
Nashville, Tennessee 37242-1099

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THE BUSINESS TAX

The Business Tax Act makes it a taxable privilege to make sales or engage in any vocation listed in Tenn. Code Ann. Sections 67-4-708(1) - (4). Any county or incorporated municipality on Tennessee may levy the privilege tax on those listed activities that take place within its geographical boundaries. (Tenn. Code Ann. Section 67-4-704)

Engaging in any business, business activity, vocation, or occupation described under this act is declared to be a privilege for state purposes and taxable by the state alone. (Tenn. Code Ann. Section 67-4-705)

The tax imposed under the Business Tax Act may be collected in addition to any other applicable privilege taxes established by law. The tax will be in lieu of any or all ad valorem taxes on the inventories of merchandise held for sale or exchange by persons taxable under this law. (Tenn. Code Ann. Section 67-4-701)

Registration

Prior to engaging in business, every person taxable under the Business Tax Act must register with the county clerk, in the case of taxes owed to the county, and/or with the city tax collector, in the case of taxes owed to a municipality. You must contact the respective county or city official for registration information and forms as required by that jurisdiction. (Tenn. Code Ann. Section 67-4-706)

Bond

Persons domiciled outside the state of Tennessee, must, when applying for a business tax license, execute a bond or establish an escrow account with the county or municipality in which they are applying. This bond will be executed by two good and sufficient sureties approved by the county or municipal clerk or by a surety company duly authorized to do business in this state. This bond or escrow account will be in an amount sufficient to pay that person's anticipated business tax liability for the balance of the tax period for which such license applies, as determined by the county or municipal clerk. The bond will also be for use by the taxing unit in the event of failure by the person to pay its business tax liability. (Tenn. Code Ann. Section 67-4-707)

"Business" Defined

"Business" includes any activity engaged in by any person with the object of gain, benefit, or advantage, either directly or indirectly. "Business" does not include occasional and isolated sales or transactions by a person who is not routinely engaged in business.

Occasional and isolated sales, also known as casual and isolated sales, are sales made by persons not in the business of regularly selling the type of property being sold. Occasional and isolated sales are also sales of tangible property taking place only during temporary sales periods of 30 days or less and occurring no more than twice per year such as the sale of Girl Scout cookies.

"Business" also does not include an individual property owner that utilizes a property management company to manage vacation lodging for overnight rentals.

Categories of Business (Tenn. Code Ann. Section 67-4-708)

Businesses, vocations, and occupations that are taxable are described in the following classifications. Each person shall be classified according to the dominant business activity (the item comprising the largest proportion of gross sales of the business):

Classification 1: Persons making sales of:

+ (A) Food or beer generally destined for home preparation and consumption, except persons engaged in the retail sales of delicatessens and candy; services performed by food brokers; and gasoline and diesel fuel sold at wholesale.
+ (B) Lumber, building materials, tools, builders hardware, paint and glass, electrical supplies, roofing materials, farm equipment, plumbing, heating and air conditioning equipment, other basic lines of hardware, gasoline, diesel fuel, except sales covered by (D), and other sales of tangible personal property by persons operating service stations, except sales of gasoline, diesel fuel and motor oils.
+ (C) Hay, grain, feed, fertilizer, seeds, bulbs, nursery stock and other farm, lawn, and garden supplies, and tools.
+ (D) Gasoline, diesel fuel, and motor oils sold at retail.

Classification 2: Persons making sales of:

+ (A) New or used motor vehicles, parts and accessories, tires, batteries, motor boats and other watercraft, marine supplies, outboard motors, mobile homes and campers, motorcycles, and go-carts.
+ (B) Clothing, shoes, hats, underwear, and related articles for personal wear and adornment, and retail sales of clothing to individual order.
+ (C) Home furnishings, including retail sales of radios, television sets, record players, high fidelity and sound reproducing equipment, musical instruments, phonograph records, pianos, and sheet music. This classification includes household furniture, floor coverings and related products, draperies, curtains, upholstery, china, glassware and metalware for kitchen and table use, miscellaneous home furnishings, such as brooms, brushes, lamps and shades, electric and gas refrigerators, stoves, and other household appliances.
+ (D) Prescription drugs and patent medicines.
+ (E) Coal, wood, ice, fuel oil, and liquified petroleum gas.
+ (F) Tangible personal property not specifically enumerated or described elsewhere.
+ (G) Prepared food and drinks, including alcoholic beverages, for consumption on and/or off the premises.
+ (H) Cut flowers and growing plants.
+ (I) Advertising specialties.

Classification 3: (A) Persons making these sales:

+ (i) Delicatessens and candy.
+ (ii) Clothing made to individual order.
+ (iii) Antique furniture, furnishings, and objects of art;
+ (iv) Books and magazines, stationery, accounting and legal forms, office forms and supplies, pens and pencils, school supplies, and writing supplies.
+ (v) Sporting goods and equipment, bicycles, and bicycle parts and accessories.
+ (vi) Any combination of the lines of jewelry, such as diamonds and other precious stones mounted in precious materials, as rings, bracelets and brooches, sterling and plated silverware, watches, and clocks.
+ (vii) Cigars, cigarettes, tobacco, and smoking supplies.
+ (viii) Toys, games, and hobby kits, and supplies.
+ (ix) Cameras, films, and other photographic supplies and equipment.
+ (x) Gift and novelty merchandise, souvenirs, and miscellaneous small art goods, such as greeting cards and holiday decorations.
+ (xi) Architectural supplies, artists' paints and supplies, artificial flowers, awnings, baby carriages, bait, banners, binoculars, coins, electric razors, fireworks, flags, gemstones, hearing aids, leather goods, luggage, optical supplies except for prescription eyewear (including eyeglasses, contact lenses and other related tangible personal property) dispensed by an ophthalmologist or optometrist in conjunction with professional services rendered to patients, orthopedic and artificial limbs, pet foods, pets, piers and floats, rock and stone specimens, rubber stamps, stamps, swimming pools, telescopes, tents, theatre programs, trophies, trunks, typewriters, toupees, wiglets and wigs.
+ (B) Sales from the operation of pawnshops.
+ (C) Sales of services or engaging in the business of furnishing or rendering services except those described below.

Sales of these services are not included in business classification 3:

+ Medical, dental, and allied health services to human beings, including sanatorium, convalescent, and rest home care, but not including services by persons engaged in the business of making dentures and artificial teeth.
+ Legal services.
+ Educational services offered by elementary and secondary schools, colleges, universities, professional schools and junior colleges, library and information centers, correspondence schools, vocational schools and specialized nondegree-granting schools.
+ Services rendered by nonprofit membership organizations operating on a nonprofit membership basis for the promotion of the interest of the members.
+ Domestic service performed in private households.
+ Services furnished by nonprofit educational and research agencies.
+ Services by religious and charitable organizations.
+ Accounting, auditing, and bookkeeping services.
+ Public utilities.
+ Services furnished by institutions which are engaged in deposit banking or closely related functions, including fiduciary activities, services furnished by persons engaged in extending credit or lending money, except persons taxable under Classification 5.
+ Services furnished by establishments engaged in the underwriting, purchase, sale, or brokerage of securities on their own account or on the account of others.
+ Services furnished by exchanges, exchange clearing houses, and other services allied with the exchange of securities and commodities; services furnished by investment trusts, investment companies, holding companies, and commodity trading companies.

- Insurance carriers or insurance agents of any type selling or furnishing necessary services related to insurance, and insurance adjustors.
- Operators of residential and nonresidential buildings except hotels, motels, and rooming houses.
- Lessors of the following properties: agricultural, airport, forest, mining, oil, and public utility.
- Services furnished by persons engaged in the practice of veterinary medicine, dentistry, or surgery, including services involving the boarding and lodging of animals.
- Services furnished by persons engaged in the practice of architecture, engineering, or land surveying.

Classification 4: Each person engaged in the business of contracting, performing a contract, or engaging in any of these activities, or similar activities, for monetary gain:

- (A) Exterminating services; installing personal property; constructing, building, erecting, repairing, grading, excavating, drilling, exploring, testing, or adding to any building, highway, street, sidewalk, bridge, culvert, sewer, irrigation or water system, drainage, or dredging system, levee or levee system or any part thereof, railway, reservoir, dam, power plant, electrical system, air conditioning system, heating system, transmission line, pipeline, tower, dock, storage tank, wharf, excavation, grading, water well, any other improvement or structure or any part thereof.
- (B) Each person engaged in the business of selling livestock, poultry, or other farm products not exempted under Tenn. Code Ann. Section 67-4-712.

Classification 5: Persons required to obtain a certificate and a license from the commissioner of commerce and insurance under the provisions of Tennessee Code Annotated, Title 45, Chapter 5.

DEFINITIONS (Tenn. Code Ann. Section 67-4-702)

In order to understand this tax, it is important to understand the terms defined below.

Gross Sales

"Gross sales" means the sum total of all sales, without any deduction whatsoever of any kind or character, except as provided in this act.

Sale

"Sale" means any transfer of title or possession, or both, exchange, barter, lease or rental, conditional or otherwise, in any manner or by any means whatever, of tangible personal property for a consideration. "Sale" includes the fabrication of tangible personal property for consumers who furnish, directly or indirectly, the materials used in fabrication work, and furnishing, repairing, or servicing, for a consideration, any tangible personal property consumed on the premises of the person furnishing, preparing, or servicing such tangible personal property.

A transaction in which the possession of property is transferred but the seller retains title as security for the payment of the price is deemed a sale.

"Sale" includes the furnishing of any of the things or services taxable under the Business Tax Act.

"Sale" does not include the transfer of tangible personal property from one wholesaler to another wholesaler (an accommodation sale) or from one retailer to another retailer where the amount paid by the transferee to the transferor does not exceed the transferor's cost, including freight in and storage costs, and transportation costs incurred in the transfer.

Sales Price

"Sales price" means the total amount for which tangible personal property or services rendered is sold, including any services that are a part of the sale, valued in money, whether paid in money or otherwise. Sales price includes any amount for which credit is given to the purchaser by the seller, without any deduction on account of the cost of the property sold, the cost of materials used, labor or service cost, losses, or any other expense whatsoever.

"Sales price" does not include any additional consideration given by the purchaser for the privilege of making deferred payments, regardless of whether such additional consideration is called interest, time price differential on conditional sales contracts, carrying charges, or any other name.

"Sales price" does not include any advertising cost paid by a seller to an auctioneer for the purpose of advertising an auction, when the auctioneer retains no portion of that payment as profit, and when that payment has been placed in an escrow or a trust account by the auctioneers on behalf of the seller.

Transient Vendor

"Transient vendor" means any person who brings into temporary premises and exhibits stocks of merchandise to the public for the purpose of selling or offering to sell the merchandise to the public.

"Transient vendor" does not include any person selling goods by sample, brochure, or sales catalog for future delivery; or to sales resulting from the prior invitation to the seller by the owner or occupant of a residence.

For purposes of this definition, "merchandise" means any consumer item that is, or is represented to be, new or not previously owned by a consumer, and "temporary premises" means any public or quasi-public place, including a hotel, rooming house, storeroom, building or part of a building, tent, vacant lot, railroad car or motor vehicle which is temporarily occupied for the purpose of exhibiting stocks of merchandise to the public. Premises are not temporary if the same person has conducted business at those premises for more than six consecutive months or has occupied the premises as the person's permanent residence for more than six consecutive months.

Wholesale Sales

"Wholesale sale" means the sale of tangible personal property or services rendered in the regular course of business to a licensed retailer for resale, lease, or rental as tangible personal property in the retailer's regular course of business to a user or consumer. The quantity of property sold or the price at which the property is sold is immaterial in determining whether or not the sale is at wholesale.

"Wholesale sale" includes the sale by a wholesaler of tangible personal property to other than a licensed retailer if the sales do not exceed 20% of total gross sales.

"Wholesale sale" includes the sale of industrial materials for future processing, manufacture, or conversion into articles of tangible personal property for resale where such industrial materials become a component part of the finished product. The provisions of this section do not apply to raw or unprocessed agricultural products.

"Wholesale sale" includes the sale by a wholesaler of tangible personal property to the state of Tennessee, or any county or municipality or subdivision thereof, or the sale to any religious, educational, or charitable institution as defined as exempt from the sales or use tax in Tenn. Code Ann. Section 67-6-322.

"Wholesale sale" includes the sale, by a franchised motor vehicle dealer to a manufacturer or distributor of motor vehicles or an obligor under an extended service contract, of parts and/or repair services necessary for repairs performed by the dealer under the manufacturer's, distributor's, or obligor's warranty, and also includes predelivery inspection charges paid to a franchised motor vehicle dealer by a manufacturer or distributor of the motor vehicle.

Gross Business Income

"Gross business income" means all interest income, earned discounts, earned lease rentals, commission fees exclusive of insurance commissions, past due charges, contract earnings or charges, collection charges, loan service fees, late fee income, and all other income, without any deduction except as provided.

BUSINESS TAX RATES (Tenn. Code Ann. Section 67-4-709)

The business tax is a two-fold tax. Each person must pay a minimum tax plus a tax based on the person's sales or other compensation.

The Minimum Tax

Each person will pay a minimum tax of $15 for each fixed place, location, or outlet from which business is carried on, except as described in the Business Tax Act.

Persons described in Classification 5 will pay three tenths of one percent of the gross business income. The minimum amount of tax will be $450 per year. No person in this classification will pay more than a maximum of $1,500 per year.

Coin-operated Machines

In the case of coin-operated machines, the minimum tax will be paid only for the principal place of business. (Tenn. Code Ann. Section 67-4-709(a)(2))

Multi-vendor Sales Locations (Tenn. Code Ann. Section 67-4-709(a)(5))

In the case of antique malls, flea markets, craft shows, antique shows, gun shows, and auto shows, operated as public facilities from which business is carried on by two or more retailers of tangible personal property, the owner, manager, operator, or promoter of the facility must obtain a business license and collect and submit to local tax officials a $1 fee per day per booth from each exhibitor at the promotion location.

However, in the case of a flea market, those exhibitors registered pursuant to Chapter 6 of this title and those who register annually pursuant to Tenn. Code Ann. Section 67-6-220 have the option of either obtaining a business tax license and remitting the business tax in accordance with the provisions of this chapter, or remitting the $1 fee per day per booth to the flea-market operator as indicated. Those exhibitors not registered annually shall pay the $1 fee per booth per day to the flea-market operators. Those exhibitors electing to obtain a business tax license must present evidence of the license to the operator before conducting business.

In the case of an antique mall, flea market, craft show, antique show, gun show, or auto show in which the location is not a continuing business, the fees collected by the owner, manager, operator, or promoter shall be submitted to local tax officials, together with such supporting documents as the tax collector may require, within 72 hours after the closing of the event. (Tenn. Code Ann. Section 67-4-709(a)(5)(A)(i))

Transient Vendors

Transient vendors shall pay a tax of $50 for each 14-day period in each county and/or municipality in which such vendors sell or offer to sell merchandise or for which they are issued a business license. Transient vendors will pay their tax liability prior to the first day of engaging in business. Transient vendors shall not be liable for the gross receipts portion of the tax provided for in Tenn. Code Ann. Section 67-4-709(b).

Tax on the Dominant Business Activity (Tenn. Code Ann. Section 67-4-709(b))

In addition to the minimum tax, persons will pay a tax according to the dominant business activity as indicated. (Refer to the descriptions of the various classifications listed on pages 3 through 5 of this document.)

Effective September 1, 2002, the Tax Reform Act of 2002 increased the business tax rate by 50% and provided that 100% of the increase, including penalties and interest, would go to the state general fund. (Note: This 50% increase in the business tax rate does not affect taxpayers who pay only the minimum tax plus any applicable penalties and interest.) The rates of tax, as of September 1, 2002, are:

Classification 1:

- One tenth of one percent of all retail sales of the business by persons in Classifications 1(A), (B), and (C).
- One fortieth of one percent of all wholesale sales of the business by persons in Classification 1(A).
- Three eightieths of one percent of all wholesale sales of the business by persons in Classifications 1(B) and (C).
- One twentieth of one percent of all retail sales of the business by persons in Classification 1(D).

Classification 2:

- Three twentieths of one percent of all retail sales of the business.

+ Three eightieths of one percent of all wholesale sales of the business.

Classification 3:

+ Three sixteenths of one percent of all retail sales of the business.
+ Three eightieths of one percent of all wholesale sales of the business.

Classification 4:

+ One tenth of one percent of the compensation entitled to under the contract, whether in the form of a contract price, commission, fee, or wage, for persons in Classification 4(A). If no contract during the taxable period brings the taxpayer $50,000 or more in any locale other than the locale of domicile, the tax will be paid in the locale of domicile. If a person does receive $50,000 or more from contracts in a locale other than the one of domicile, the tax will be paid in the locale where the contracts were performed, and no tax will be due in the locale of domicile.
+ One tenth of one percent of the gross commissions, margins, fees, or other charges by persons in Classification 4(B).

Variations from the Minimum Tax Requirement

Persons engaged solely in the business of soliciting orders for merchandise or making contracts for the future delivery of merchandise to the ultimate user or consumer, and persons peddling merchandise on a part-time basis, are not subject to the minimum tax. (Tenn. Code Ann. Section 67-4-709(a)(3))

Persons described in Classification (4)(A) who, during any taxable period, receive less than $50,000 of compensation from contracts in a locale other than the locale where domiciled, are required to pay the minimum tax in the locale of domicile. However, if these persons receive $50,000 or more in compensation from contracts in a locale other than the locale of domicile, the minimum tax will be payable in the locale where the contracts were performed. (Tenn. Code Ann. Section 67-4-709(a)(4))

The minimum tax requirement for multi-vendor sales locations does not apply to those exhibitors properly licensed at the promotion location prior to July 1, 1983, until such time as that license expires. It also does not apply to promotions conducted by nonprofit associations, corporations, or organizations, or to casual and isolated activities by persons who do not hold themselves out as engaged in business.

The provisions of Tenn. Code Ann. Section 67-4-709(a)(5) do not apply to any business that is primarily engaged in the selling of antiques at least five days each week and that is in a permanent location. In the case of an antique mall primarily engaged in the selling of antiques at least five days a week with a common cash register for all sales, only the mall operator is required to obtain a business tax license and pay on all receipts derived from that location. For purposes of the Business Tax Act, individual booths rented at such a mall shall not be deemed to be separate places, locations, or outlets in the state from which business is conducted.

Reduction of Rates

Each county and/or incorporated municipality may reduce the rates of taxation set forth in Tenn. Code Ann. Section 67-4-709 for any or all classifications taxable by such county and/or incorporated municipality. (Tenn. Code Ann. Section 67-4-710)

Taxation of Municipal Airports (Tenn. Code Ann. Section 67-4-727)

Certain airports or other navigation facilities, located outside the territorial limit of the municipality that either created or controls the facility, may be taxed, under the Business Tax Act, by that creating or controlling municipality as though the facility were located within the municipality's territorial limit. Any vocation, occupation, business, or business activity located on the grounds of the facility may also be taxed as though it were located within the territorial limit of the municipality.

There are specific restrictions to which this taxation authority is not applicable defined in Tenn. Code Ann. Section 67-4-727(b). Consult the statute for explanation of those restrictions.

Taxation of Traveling Photographers

As used here, "traveling photographer" means a photographer who makes studio type photographs or portraits and sells them, but does not have an established studio or place of business in the trade area in which such photographs are taken. It does not include a photographer who makes photographs to be placed upon articles of identification.

BUSINESS TAX

Before a traveling photographer may do any business in a community, the photographer must first register with the sheriff or chief of police where the photographer proposes to temporarily conduct business. The photographer will give full name and address, the name and address of any other person working with the photographer, the name and address of the employer with which the photographer is connected, and must furnish proof that the a deposit of $100 has been made with the county clerk and a like amount with the proper municipal tax collector, against whatever amount or amounts of business taxes the photographer may owe on account of business done in the county or municipality, or both, as the case may be.

Any deposits made will be a credit on the amount of business tax for which such photographer may be liable to any county or municipality. When the taxes are paid, any balance remaining to the photographer's credit with the respective taxing jurisdictions will be refunded.

Property Management Companies

When an individual property owner utilizes a property management company to manage vacation lodging for overnight rentals, the property owner is not considered to be in the business of property management, even though any other of that person's activities could be considered business. In this event, the property management company will be liable for the payment of the business tax on the business of renting the properties. The tax will be based on the gross proceeds from the overnight rentals and any other source of business income.

DEDUCTIONS (Tenn. Code Ann. Section 67-4-711)

In computing the amount of business tax liability, these items may be deducted from the measure of the tax.

Cash Discounts

Cash discounts allowed and taken on sales.

Returned Merchandise

The proceeds of the sale of goods, wares, or merchandise returned by the customer when the sale price is refunded either in cash or by credit.

Trade-ins

The amount allowed as trade-in value for any article sold.

Repossessions

Amounts representing the difference between the remaining amount due on the selling price of tangible personal property sold on a security agreement and $500, when the wholesaler or retailer actually repossesses the property sold pursuant to the terms of the security agreement.

Contractual Payments for Construction Expenses

Amounts actually paid during the business tax period to subcontractors or amounts actually paid during the business tax period to other persons for rendering exterminating services, for installing personal property, for constructing, building, erecting, repairing, grading, excavating, drilling, exploring, testing, or adding to any building, highway, street, sidewalk, bridge, culvert, sewer, irrigation or water system, drainage or dredging system, levee or levee system or any part thereof, railway, reservoir, dam, power plant, electrical system, air conditioning system, heating system, transmission line, pipeline, tower, dock, storage tank, wharf, excavation, grading, water well, or any other improvement or structure or any part thereof.

For a contractor to be eligible to claim the deduction, the contractor must advise the appropriate clerk of the name and address of the subcontracting firm and of the amount subcontracted. Contractors will not be required to provide any other information concerning subcontractors or other persons in order to claim this deduction.

Services Performed in Other States

Sales of services substantially performed in other states.

School Sales

The proceeds of the sale of school supplies and meals to students and school employees on campus by elementary and secondary schools. The proceeds of all sales of such items by private independent contractors shall not be deducted.

Worthless Accounts

Amounts representing the unpaid balance due on accounts that, during the period covered by the return, have been found to be worthless and are actually charged off for federal income tax purposes. If any accounts, so charged off, are thereafter collected in whole or in part by the taxpayer, such collections shall be included in the measure of tax on the return covering the period such collections were made.

In the instance of any dealer who is not required to file federal income tax returns (or files with the internal revenue service a return as a nonprofit tax-exempt organization), any municipal corporation or any agency, board or department thereof, any county, any instrumentality of local government, any electric membership corporation, any electric cooperative and similar nonprofit corporation, which charge off past due accounts or uncollectible bad debts against income or which, in lieu of charging off past due accounts and uncollectible bad debts on any federal income tax return, shall, by resolution of its governing board, provide policies for charging off unpaid balances due on accounts as uncollectible, or declare from time to time as uncollectible such unpaid balance due on accounts.

Other Taxes Paid

In computing the tax due, these taxes may be deducted from the measure of tax. These deductions may be claimed only by the taxpayer who made direct payment to the applicable governmental agency and, by all vendees of that taxpayer licensed under this chapter to do business in the state.

Taxes, which may be deducted from the measure of the tax, are:

+ Federal excise taxes imposed on beer, gasoline, motor fuel, and tobacco products.
+ Tennessee gasoline tax.
+ Tennessee motor vehicle fuel use tax.
+ Tennessee tobacco tax.
+ Tennessee beer taxes.
+ Special tax on petroleum products.
+ Taxes that are required to be passed on to the consumer by the provisions of the Retailers' Sales Tax Act, or by the provisions of Tennessee Code Annotated, Title 57, relative to sale of alcohol for on-premises consumption. These taxes should be excluded from the gross sales reported on the business tax return, but such taxes passed on to the consumer may be deducted from the gross sales reported if such taxes are included in gross sales on the business tax return.
+ Liquified gas tax.

EXEMPTIONS (Tenn. Code Ann. Section 67-4-712)

Qualifying Blind Persons

Any person, unable to see because of total blindness, owning less than $2,500 of unencumbered property, doing business with a capital not exceeding $2,500, residing within and being a citizen of Tennessee and of the county in which the exemption is claimed, and being the sole beneficiary of a business, is exempt from the payment of the business tax. Unencumbered property is property against which there is no lien or claim of any kind.

Any institution for the blind, engaged in the training and employment of the blind of the state, likewise is exempt from the payment of the business tax without regard to property qualifications.

Qualifying Veterans

A person who is a disabled veteran of any armed conflict in which the United States has engaged, or a peacetime uniformed member of the armed forces who was disabled while in regular service; who owns less than $5,000 of unencumbered property; who is doing business with a capital stock of not exceeding $5,000, who is a citizen and resident of Tennessee and of the county in which the exemption shall be claimed, and is the sole beneficiary of the business, is also exempt from the payment of the business tax.

Only one exemption may be claimed by any person under Tenn. Code Ann. Section 67-4-712(a)(2). Any business for which the exemption is claimed will be conducted by the qualifying individual personally or a member of that person's immediate family who may be assisted by not more than one person not a member of the family.

With respect to former members of the armed forces operating as peddlers, one vehicle shall be considered as one place of business.

Affidavit Required

Any applicant who wishes to seek the benefits of the exemptions under Tenn. Code Ann. Section 67-4-712 must file an affidavit setting out the applicant's disability, the applicant's financial condition, and the source of the applicant's income before the license can be issued. Any person making a false affidavit and procuring a free privilege license commits perjury and will be punished under the law.

Farm Exemptions (Tenn. Code Ann. Section 67-4-712(c))

Tennessee gross sales of livestock, horses, poultry, nursery stock, and other farm products direct from the farm are exempt from the tax, provided that those sales are made directly by the producer, breeder, or trainer. When sales of livestock, horses, poultry, or other farm products are made by any person other than the producer, breeder, or trainer, they will be classed and taxed under the provisions of Tenn. Code Ann. Section 67-4-708(4). This provision does not apply to catfish farmers.

Qualified Amusement Activities

Gross proceeds derived from admissions to amusement or recreational activities conducted, produced, or provided by nonprofit museums, nonprofit entities which operate historical sites and nonprofit historical societies, organizations or associations; by organizations which have received and currently hold a 26 U.S.C. Section 501(c) exemption from the Internal Revenue Service; or by organizations listed in Major Group No. 86 of the Standard Industrial Classification Manual of 1972, as amended, prepared by the Office of Management and Budget of the federal government are exempt. This exemption does not apply unless such entities, societies, associations, or organizations promote, produce, and control the entire activity.

Other Exemptions

Receipts Excluded in Determining Gross Sales

The following types of receipts may be excluded from gross sales on the business tax return:

- Medical and allied health services, except services of persons making dentures and artificial teeth.
- Religious, charitable, legal, educational, domestic, accounting services, architecture, engineering, surveying, and veterinary services.
- Services rendered by nonprofit membership organizations for the promotion of the interest of the members.
- Educational and research agencies.
- Public utilities as defined under Tenn. Code Ann. Section 65-4-10.
- Banks, building and loan associations, mortgage bankers, and other similar organizations.
- Insurance companies and holding companies.

+ Operators of residential and non-residential buildings other than hotels, motels, or rooming houses.
+ Persons operating camps and trailer parks where charges are made for rental only of real property are exempt from the tax. Persons renting trailers to transients, or selling tangible personal property, or making separate charges for specific services are not exempt.
+ Lessors of agricultural, forestry, mining, oil, public utility, and airport properties.
+ Persons that are subject to gross receipts tax for engaging in the business of operating as bottlers and manufacturers of soft drinks and soft drink substitutes.
+ Gas, water, and electric current companies.
+ Telephone and telegraph companies.
+ Theaters, motion pictures, and vaudeville shows.
+ Establishments selling mixed drinks or setups for mixed drinks.
+ Rental of films to theaters that are taxed under Tenn. Code Ann. Section 67-6-212.
+ Rental of films, transcriptions, and recordings to radio and television stations operating under a certificate from the Federal Communications Commission.

Persons to Whom Business Tax is Not Applicable

The business privilege tax also does not apply to persons in the following circumstances:

+ Any person employed in the capacity of an employee or servant as distinguished from that of an independent contractor.
+ Any person primarily engaged in the manufacture of goods, wares, merchandise, or other articles of value from a location or outlet subject to ad valorem taxation under other provisions of state law.
+ Any person operating vending machines who exercises the option of paying the gross receipts tax provided for in Tenn. Code Ann. Section 67-4-506.
+ Newspaper route carriers and newspaper peddlers.
+ Any institution operated for religious or charitable purposes, with respect to any profits that are earned from the sale of items contributed to the institution or articles produced by the institution from contributed items.
+ A person who, as part of the normal business operations, buys and sells intangible personal property.
+ Persons conducting shows, displays, or exhibits sponsored by any nonprofit organization of gun collectors. A person who regularly engages in business as a dealer in guns or who sells guns for future delivery is not exempt.
+ Any person residing or located in this state or any governmental entity, nonprofit corporation, institution or organization which has received, and is currently operating under, a 26 U.S.C. Section 501(c)(3) or (4) exemption from the Internal Revenue Service whose only taxable business activity during the tax period is conducted at the Tennessee state fair or at only one county fair and their affiliates.
+ Persons having a total value of sales of less than $3,000 per year.
+ Persons or qualified businesses doing business from a location within an enterprise zone. This exemption will only be allowed for five years from the date the business is originally certified as a qualified business.
+ Persons making sales or rental of real property that belongs to them. Sales and rentals of real property belonging to anyone other than the seller are subject to the business tax.

Sales, Freight, and Destination Charges

When title to the property being transported passes to the vendee at the point of origin, the freight or other transportation charges are not subject to the business tax. When the title passes to the vendee at the destination point, the freight or transportation charges are subject to the business tax.

Deliveries of tangible personal property and services to customers outside the state of Tennessee by a person subject to the business tax or by a common carrier before the customer obtains possession are exempt from the business tax.

CREDITS

There are some credits available to persons subject to the business tax outlined in the law. They include:

Uncollectible Accounts (Tenn. Code Ann. Section 67-4-711(a)(8)(C))

A dealer who has paid the business tax on any sale, and who is operating and filing federal income tax returns on a cash basis, may take credit for tax paid by the dealer on the unpaid balance due on accounts which have been found to be worthless. If any accounts for which credit is taken are thereafter paid to the dealer, in whole or in part, the amounts paid will be included in the first return filed after that collection. The business tax will be paid accordingly on that income. The credit allowed by this subdivision will be taken on the return covering the period when such uncollectible accounts are found to be worthless.

Privilege Taxes

The pro rata portion of any privilege tax paid under the provisions of Tennessee Code Annotated, Title 56, Chapter 4, Part 4, the gross receipts tax for Production Credit Associations; Title 57, Chapter 5, the beer taxes; or Title 67, Chapters 4 and 5, the privilege and excise taxes or the property tax, extending past June 1, 1971, and repealed as of that date, may be taken as a credit against the business tax. (Tenn. Code Ann. Section 67-4-713(a)(1))

Minimum Tax

The actual portion or amount of the minimum tax actually paid may be taken as a credit against the business tax due during the same time period. (Tenn. Code Ann. Section 67-4-709)

Property Taxes

Personal property taxes, assessed and subsequently paid pursuant to audit, may be taken as a credit either on the business tax return filed for the year in which the additional personal property tax was paid or on the return covering the immediately previous year. If the credit is taken in the previous year, an amended business tax return must be filed for that year. **However, personal property taxes may be taken as a credit only against the portion of the business tax that was in effect prior to September 1, 2002.** No credit may be taken for personal property taxes paid against the 50% increase enacted under the Tax Reform Act of 2002.

Personal property taxes paid after the due date for business taxes in any year but prior to the date of delinquency for business tax in the same year may be taken as a credit on the business tax return as if the personal property taxes had been paid during the period covered by the return, or the credit may be taken in the year in which the payment is made.

In cases where a lease or rental agreement provides specifically for payment of personal property taxes by the lessee or renter to the lessor or owner, personal property taxes paid by the lessee to the lessor covering any period of time extending beyond June 1, 1971, arising from assessments made against the lessor or owner may be taken as a credit against the business tax liability. The lessor may not take the credit authorized to the lessee by this section. (Tenn. Code Ann. Section 67-4-713(a)(4))

Certain Special School District Taxes

Personal property taxes paid pursuant to a special school district tax levied by public or private act may be taken as a business tax credit. This credit will only apply in any county having a population of not less than 28,250 nor more than 28,300 or not less than 49,400 nor more than 49,500 according to the 1980 federal census or any subsequent federal census.

Property Transferred to a Government Entity

The amount of personal property taxes that a person would normally owe under Tennessee Code Annotated, Title 67, Chapter 5, Part 5, except that, pursuant to a lawful agreement between the person and a local governmental unit or instrumentality, the person's personal property has been transferred to a governmental unit or instrumentality maybe credited against the business tax liability provided that:

- The person shall be eligible for such credit only to the extent of the tax generated from its receipts for services rendered by such person to an affiliated person.
- Either person directly owns or controls 80% or more of the other, or 80% or more of both persons is directly or indirectly owned or controlled by a common parent.

+ The provisions of this section are approved by a two-thirds vote of the legislative body of the county or municipality exercising jurisdiction over the governmental unit or instrumentality. (Tenn. Code Ann. Section 67-7-713(a)(6))

Underground Storage Tank

A credit may be taken for real property taxes attributable to an underground storage tank if the assessment classification of the tank was changed to real property from personal property for the first time for tax year 1999 or 2000. For each year subsequent to tax year 1999 or 2000, this credit will be reduced by 20%. The credit shall expire on January 1, 2005. (Tenn. Code Ann. Section 67-4-713(a)(7))

Determining the Amount of Credit

The sum of the credits allowable under the minimum tax credit and the property tax credit may not exceed the amount owed from applying the prescribed tax rate against the measure of the tax.

The property tax credit is allowable only on returns filed with, and taxes paid to, each respective governmental entity to which personal property taxes are paid as a result of assessments made under the provisions of Tennessee Code Annotated, Title 67, Chapter 5, Part 5.

In permitting or allowing property tax credits to be taken, responsible local governmental unit collectors must use county and/or incorporated municipality records to determine if personal property taxes claimed as a credit have actually been paid. No local governmental unit official or collector will disallow a credit solely as a result of the taxpayer's failure to produce a written receipt or document evidencing payment from the applicable county and/or incorporated municipality.

The property tax credit will be allowed only for taxes paid either during the tax period covered by the return or prior to the delinquency date set out for the filing of the return. Prior to allowing such credit, a copy of the receipt showing payment has been made of the personal property tax must be attached to the application claiming credit for such payment. The credit established by Tenn. Code Ann. Section 67-4-713(a)(3) will only be available for personal property tax payments made after January 1, 1988.

Refund of the Credit

The amount of any credit allowable under this section, but not permitted or allowed by any local governmental official, shall be refunded by the responsible local governmental official to each person to whom the credit has not been properly permitted or allowed. It is the duty of responsible, appropriate local governmental officials to furnish proper claim forms and to refund to each person the amount of any credit that has been disallowed.

If the appropriate local governmental official fails to make a refund in accordance with state law within six months of the delinquency date for any person liable for the business tax, the Commissioner of Revenue will notify the state treasurer of the amount of refunds not made by the appropriate local governmental official. Upon receiving notification from the commissioner, the state treasurer shall withhold and transfer to an appropriate account, from any amount due such local governmental unit by the state, a sufficient amount to cover the amount of refunds not made by appropriate local governmental officials.

From those amounts withheld by the state treasurer, the commissioner will, in accordance with prescribed procedures, refund to each person the amount for which each person has not been allowed credit and has not been refunded by appropriate local governmental unit officials. Any action for refund under this section must comply with the provisions of Tennessee Code Annotated, Title 67, Chapter 1, Part 9.

RETURNS AND PAYMENTS

Due Date for Minimum Tax (Tenn. Code Ann. Section 67-4-714)

The yearly minimum tax for each location or outlet, imposed under Tenn. Code Ann. Section 67-4-709, will be due and payable by all persons taxable on the following dates:

+ On the date of commencement of each business and the opening of each additional outlet, or
+ For all persons taxable under the following classifications, on the following dates:
  - Classification 1 - each December 31.
  - Classification 2 - each March 31.
  - Classification 3 - each June 30.
  - Classification 4 - each September 30.
  - Classification 5 - each December 31.

Filing the Return (Tenn. Code Ann. Section 67-4-715)

All persons taxable under the Business Tax Act are required to file a return with the county clerk, in the case of taxes owed to the county, and to the city official designated as the collector of such tax by city charter or ordinance, in the case of taxes owed to a municipality. This return will be upon the form prescribed, prepared, and furnished by the tax-collecting official.

Each taxpayer who operates more than one place of business in a city or county will, upon request, be furnished forms by the appropriate tax collecting officials to permit such taxpayer to file a consolidated tax return for all business locations in a single taxing jurisdiction.

Returns will be filed as indicated:

+ Classification 1 – on or before February 28.
+ Classification 2 – on or before May 30.
+ Classification 3 – on or before August 31.
+ Classification 4 – on or before November 30.
+ Classification 5 – on or before February 28.

Persons taxable under Tenn. Code Ann. Section 67-4-708(5) are also required to transmit to the Commissioner of Commerce and Insurance, on or before each March 1, forms showing the total gross income of the business for the period of time covered by such return.

All forms furnished taxpayers by appropriate tax collecting officials will contain, or be accompanied by, instructions indicating in detail the steps to be taken by the taxpayer in completing the form or forms. Failure of any person to secure the forms mentioned above will not relieve that person from the payment of the tax at the time and in the manner required.

In all cases, the payment of the tax shall accompany the return. Failure to do so will cause the tax to become delinquent.

Mailing Date

If the due date for a return falls on Saturday, Sunday, or a holiday, the due date is automatically extended until the next business day. Returns mailed through the U.S. mail will be considered filed and received on the date shown by the post office cancellation mark on the envelope. If the cancellation mark is not legible or is missing, then the return will be considered filed on the date the envelope is stamped as "Received" by the Department of Revenue. (Tenn. Code Ann. Section 67-1-107)

Assessment in the Absence of a Return

If a person fails to file any form, statement, report, or return required to be filed with the commissioner or any other collector of the business tax, after being given written notice of failure to file, the commissioner or collector is authorized to determine the tax liability of that person from whatever source of information may be available.

An assessment made by the commissioner or other collector will be binding as if made upon the sworn statement, report, or return of the person liable for the payment of such tax. Any person against whom such an assessment is lawfully made will thereafter be estopped to dispute the accuracy of the assessment except upon filing a true and accurate return, together with such supporting evidence as the commissioner may require, indicating precisely the amount of the alleged inaccuracy.

Fee for Collecting the Tax

Any municipal official of any municipality of the state, responsible for the collection and recording of taxes levied under this part, may charge a fee of $5 for collecting and recording amounts from the business tax. This fee may not be charged persons paying the annual minimum tax if paid on the same date as the return is filed.

Extension

The local tax collection officers may, upon a showing of good cause, grant one extension, of not more than 30 days, for a person liable for the business tax to file that person's tax return and pay the tax shown to be due.

Requests for such extensions must be made in writing, must state why the extension is desired, must be signed, and must be submitted before the delinquent date of the return and tax.

Delinquent Taxes (Tenn. Code Ann. Section 67-4-719(a))

The minimum tax due will be delinquent 20 days after any person opens additional outlets or begins to engage in business. It will also be delinquent on the following dates if not received from the indicated business classification:

+ On each March 1, for Classification 1.
+ On each June 1, for Classification 2.
+ On each September 1, for Classification 3.
+ On each December 1, for Classification 4.
+ On each March 1, for Classification 5.

Collection of Delinquent Taxes (Tenn. Code Ann. Section 67-4-719(b)(1))

In addition to any other method of collection, the county clerk, by resolution by a two-thirds vote of the county legislative body, or city tax collector may retain an attorney or agent to collect or to institute proceedings to collect delinquent business taxes, interest, and penalties, upon terms as the county clerk or city tax collector deems appropriate. The costs of collection, including, but not limited to, the court costs and the reasonable compensation for the attorney or agent, as approved by the court, are the responsibility of the delinquent taxpayer. The court shall disburse any taxes collected to the appropriate county clerk or city tax collector, and the county clerk or city tax collector shall disburse such taxes according to the disbursement formula established by law.

Notice to the Delinquent Taxpayer (Tenn. Code Ann. Section 67-4-719(b)(2))

The county clerk and the city tax collector will notify the taxpayer by mail, at the taxpayer's last known address, 15 days prior to turning delinquent taxes over to an attorney or agent retained for collection or instituting proceedings to collect such taxes. The notice shall state that the tax is delinquent and, if not paid within 10 days, will be subject to additional costs of collection, including court costs. The notice shall also include the rate of penalty and interest.

If the clerk or tax collector retains an attorney or agent to assist in the collection of taxes imposed by this part, the attorney or agent is deemed to be a tax collector for the purpose of having access to all statements, reports, or returns of a taxpayer and is subject to Tenn. Code Ann. Section 67-4-722.

If the county clerk or the city tax collector fails to collect the tax, interest, and penalty from any delinquent taxpayer, it will then be the duty of the commissioner to collect the tax, interest, and penalty at any time after the tax has become delinquent for more than six months from any taxpayer.

Penalties and Penalty Waivers

A penalty is imposed for the late filing of a tax return and for late payment of taxes owed the state. The penalty is computed at a rate of 5% per month, or any portion of a month, from the due date until the date the taxes are paid. The maximum penalty is 25% of the tax amount due; the minimum penalty is $5.

When a taxpayer fails to submit a timely return and penalties and/or interest are applied, the penalties and interest become a part of the tax due. The local tax collection officer may, under the same criteria and requirements used by the Commissioner of Revenue, waive payment of penalty on any tax due. (Tenn. Code Ann. Section 67-1-804)

Interest

Interest is imposed on any taxes not paid by the date required by law even though a filing date extension has been granted. The Department of Revenue has no discretion to refund or waive any interest charges. The interest rate on any deficient tax payment is established each July 1st. (Tenn. Code Ann. Section 67-1-801)

Settlement Upon Termination or Transfer of Business (Tenn. Code Ann. Section 67-4-721)

If any person liable for any tax, penalty, or interest levied hereunder sells out the person's business or stock of goods, or quits the business, the person will

make a final return and payment within 15 days after the date of selling or quitting the business.

The person's successor, successors, or assigns, if any, will withhold a sufficient amount of the purchase money to cover the taxes, interest, and penalties due and unpaid until the former owner can produce a receipt from the appropriate county clerk or city collector showing that the taxes have been paid, or a certificate stating that no taxes, interest, or penalties are due.

If the purchaser of a business or stock of goods fails to withhold the purchase money as indicated, the purchaser will be personally liable for the payment of the taxes, interest, and penalties accruing and unpaid on account of the operation of the business by any former owner or operator.

Relocating a Business in the Same Municipality

This does not apply to any licensee transferring a business from one location to another, within the same municipality, on a one-time basis during any annual taxable period. In this event a licensee shall notify the local tax collector at least five days prior to the last day of business at the old location, submitting information and payment of a $3.50 recording fee for the new location. Succeeding transfers by the same licensee, within the same annual taxable period, shall be subject to a final return and payment within 15 days, plus a new minimum business license and recording fee for the new location.

Taxpayer's Records (Tenn. Code Ann. Section 67-4-722)

Each person required to pay the business tax must maintain records showing the gross amount of tax owed to the state, the amount of that person's gross receipts taxable under the business tax, and other books of account as may be necessary to determine the amount of tax liability. All of the taxpayer's records will be open to inspection at all reasonable hours to the Commissioner of Revenue, the Commissioner of Commerce and Insurance, county clerk or other proper city tax collecting official or any person duly authorized by any of them. The taxpayer will maintain all books and records for a period of three years.

All statements, reports, or returns of taxpayers and all audits of their records and files are confidential. It is unlawful for anyone to make known in any manner any information contained therein except as follows:

+ To the taxpayer personally.
+ To an attorney or other agent duly authorized by the taxpayer.
+ To employees of the Department of Revenue or of other tax collectors for the purpose of checking, comparing, and correcting returns.
+ To any collection, regulatory, or inspection agency of this state, the United States, or another state.
+ In accordance with proper judicial order or as otherwise required by law.

However, other provisions of law to the contrary notwithstanding, the name and address of any present or former owner or operator of any trade or business, as appearing on any business or occupation license or application therefore, is a public record, open for public inspection within the meaning of the Public Records Act, and is not confidential information.

Issue and Display of the License

Upon receipt of payment of the minimum tax, together with penalties and interest if the payment is delinquent, the authorized tax collector will issue a license to the taxpayer. Each taxpayer will exhibit the license when it is received.

Payment to State Government

Each local county or municipal tax collector will pay the commissioner 15% of the total amount collected under the Business Tax Act provisions in effect prior to September 1, 2002, the effective date of the Business Tax Reform Act of 2002. Effective September 1, 2002, local county or municipal tax collectors will also remit the 50% increase in the business tax rate established by the Tax Reform Act of 2002, less the county commission authorized by law. This does not apply to any amount collected pursuant to a local government field audit and related collection.

<u>Note: The 50% increase in the business tax enacted in the Tax Reform Act of 2002 does not affect business taxpayers who pay only the minimum tax plus any penalties and interest due.</u>

Each local county or municipal collector will maintain a complete record of collections made and

will report these collections to the commissioner on each May 31, for the period from June 1 through May 31. The commissioner may examine the records of a local collector to ensure that the proper amount of tax is collected and that the total amount of tax collected is paid to the department. The commissioner may collect any tax from a local collector or the local collector's surety when an examination of the records of the collector reflects that tax due the state has been collected by the collector but not paid to the department.

Each collector will make the reports and payments required by this section within 20 days after the due date. If a report is not filed as required and payments not made as specified, interest and penalty will be imposed as provided by Tennessee Code Annotated, Title 67, Chapter 1, Part 8 of this title. The commissioner may, under Tenn. Code Ann. Section 67-1-803, waive the penalty provided for herein where assessed on or after June 1, 1977.

Any incorporated municipality and/or metropolitan government that has levied the business tax may, by resolution of its governing body, designate the department to administer and collect the tax. If the department determines that administration and collection of local business taxes are feasible, it may agree to act as such agent, subject to rules and regulations as the department may promulgate. These rules and regulations will include a schedule showing when taxes will be remitted to the incorporated municipality, and/or metropolitan government and the cost of collection, as determined by the commissioner. Any incorporated municipality or metropolitan government that has designated the department as its agent in the administration and collection of the taxes herein authorized may, by resolution of its governing body, terminate it any time after 60 days from the passage of that resolution. The agency can resume local administration and collection of the taxes herein levied.

Audits and Assessments

All tax returns filed with the Department of Revenue undergo some type of office audit or examination to ensure that the correct tax has been paid. This audit could be a computer math audit, a manual examination by a trained auditor, or both. The taxpayer will be contacted if additional information is needed to complete the audit. The taxpayer will receive written notification if any adjustments are made to the return.

Any taxpayer selected for a field audit will be contacted by the Department of Revenue to set up a convenient time for the audit. The taxpayer will receive advance notification on which records will be needed for the audit. A field audit generally involves tax returns filed for the previous three years. At the completion of the audit, the auditor will leave the taxpayer a written report for review. Once the auditor has made any necessary changes to the report, the notice of assessment for any underpaid taxes will be issued. (Tenn. Code Ann. Section 67-1-1301)

Right to a Conference (Tenn. Code Ann. Section 67-1-1801)

Taxpayers are entitled to an informal conference to discuss an assessment. If this request is made in writing within 30 days from the date of the Notice of Assessment, the conference must be granted. If it is made beyond the 30 days, the conference may be granted within the discretion of the commissioner.

Taxpayers who wish to contest an assessment without making payment have 90 days to file suit in chancery court, as provided by statute. Interest will continue to accrue at the prevailing rate until payment is received. A lien may be filed against the taxpayer's property during this 90-day period, but the department generally may not levy on the taxpayer's property to satisfy the assessment.

If the taxpayer timely requests an informal conference, the 90-day period for filing suit stops running until a conference decision is issued in writing. After the decision is issued, the 90-day period recommences. The 90-day stay for most collection activity is likewise extended. The taxpayer is not required to request an informal conference before contesting an assessment in court.

If the taxpayer does not timely file suit to contest the assessment, the taxpayer may pay the assessment, request a refund, and then file suit in chancery court for a refund in accordance with the procedures set forth in Tenn. Code Ann. Section 67-1-1802, if the request is denied or deemed denied by operation of law.

TENNESSEE DEPARTMENT OF REVENUE

TENNESSEE TAXPAYER BILL OF RIGHTS

You, as a taxpayer, have certain rights. Your rights are so important that, in 1992, the Tennessee General Assembly enacted legislation to spell them out. The Tennessee Taxpayer Bill of Rights summarizes state tax laws and revenue rules with which the Department of Revenue must comply while serving you.

TAXPAYER RIGHTS (Tenn. Code Ann. Section 67-1-110)

Tennessee guarantees that you, the taxpayer, have the right to:

- Fair and courteous treatment from all employees of the Department of Revenue.
- Tax forms and information written in plain language.
- Prompt and accurate responses to all inquiries and requests for tax assistance.
- Access public records not confidential or otherwise protected by law, and to review such records at an appropriate time and location.
- Obtain all tax information relating to your account, including financial information, which is kept confidential, except to the extent required by law.
- Tax notices that clearly explain the amount being billed.
- Clear rules and procedures to resolve tax problems.
- An informal conference, as provided by law, with the Commissioner of Revenue or her delegate to dispute any tax assessment. (Taxpayers have the right to be represented by an attorney, certified public accountant, or other representative at such conference).
- Assurance that employees of the Department of Revenue are not paid, promoted, or in any way rewarded on the basis of assessments or collections.
- Suggest ways the Department of Revenue may better serve the public.
- Prompt notification of any refund to which you are entitled.
- Assistance through statewide meetings held by the Department of Revenue in convenient locations in which taxpayers are allowed to ask questions and voice opinions.
- Notice and demand for payment 10 days before the Department of Revenue makes any collection effort, except as otherwise provided by law.
- 30 days notice before seized assets are liquidated, except as otherwise provided by law.

TAXPAYER RIGHT TO A CONFERENCE (Tenn. Code Ann. Section 67-1-1801)
Taxpayers are entitled to an **informal conference** to discuss an assessment. If this request is made in writing within 30 days from the date of the Notice of Assessment, the conference must be granted. If it is made beyond the 30 days, the conference may be granted within the discretion of the commissioner.

Requests for conferences may be sent by mail or fax transmittal to:

Administrative Hearing Office
Tennessee Department of Revenue
500 Deaderick Street, Room 1240
Nashville, TN 37242
Phone (615) 741-3810
Fax (615) 532-8971

Taxpayers who wish to contest an assessment without making payment have 90 days to file suit in chancery court, as provided by statute. Interest will continue to accrue at the prevailing rate until payment is received. A lien may be filed against the taxpayer's property during this 90-day period, but the department generally may not levy on the taxpayer's property to satisfy the assessment.

If the taxpayer timely requests an informal conference, the 90-day period for filing suit stops running until a conference decision is issued in writing. After the decision is issued, the 90-day period resumes running. The 90-day stay for most collection activity is likewise extended. The taxpayer is not required to request an **informal conference** before contesting an assessment in court.

If the taxpayer does not timely file suit to contest the assessment, the taxpayer may pay the assessment, request a refund, and then file suit in chancery court for a refund in accordance with the procedures set forth in Tenn. Code Ann. Section 67-1-1802.