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# Tangible Personal Property/Assessor

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We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with county government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other CTAS website material.

Sincerely,

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# Tangible Personal Property/Assessor

Reference Number: CTAS-1488

The assessor of property, not later than February 1 of each year, is to furnish a schedule on which business owners list in detail tangible personal property used or held for use in the business or profession of the taxpayer.<sup>1</sup> This schedule, the format of which is specified by statute, lists allowable depreciated costs for different categories of property, as well as general data of the particular taxpayer.<sup>2</sup> (Sample Personal Property Depreciation Chart.) The taxpayer can use a value different from the standard depreciated cost if the different value more closely approximates fair market value; the assessor may request supportive information in such instances from the taxpayer.<sup>3</sup> The depreciation tables set out in the *Tennessee Code Annotated* have given rise to a great deal of litigation. Recent decisions by the Tennessee Supreme Court and Court of Appeals have upheld the constitutionality of the application of the depreciation schedules set forth in T.C.A. § 67-5-903(f) to locally assessed tangible personal property;<sup>4</sup> the constitutionality of the requirement to adjust the assessments of public utility property on the basis of ratio studies pursuant to T.C.A. § 67-5-1302(b)(1);<sup>5</sup> and the constitutionality of the requirement that locally assessed commercial and industrial tangible personal property be adjusted by the appraisal ratio adopted for each county pursuant to T.C.A. § 67-5-1509(a).<sup>6</sup> Due to these decisions, and other tax litigation cases, counties have experienced a significant reduction in the amount of revenue received from the taxation of tangible personal property.<sup>7</sup> Since 1997, the Board of Equalization has ordered a 15 percent reduction in the assessed value of centrally assessed tangible personal property in order to bring it to the same level of assessment as locally assessed tangible personal property.<sup>8</sup>

It is the duty of the taxpayer to list fully the tangible personal property used, or held for use, in the taxpayer's business or profession on the schedule, including such other information relating to the property as may be required by the assessor, place its correct value on the schedule, sign the schedule, and return it to the assessor on or before March 1 of each year. In lieu of detailing acquisition cost on the reporting schedule, the taxpayer may certify that the depreciated value of tangible personal property otherwise reportable on the form is either two thousand dollars (\$2,000) or less, or ten thousand dollars (\$10,000) or less but greater than two thousand dollars (\$2,000). If the taxpayer certifies that the depreciated value of tangible personal property otherwise reportable on the form is two thousand dollars (\$2,000) or less, then the assessor shall accept the certification, subject to audit, and fix the value of tangible personal property assessable to the taxpayer at two thousand dollars (\$2,000). If the taxpayer certifies that the depreciated value of tangible personal property otherwise reportable on the form is ten thousand dollars (\$10,000) or less but greater than two thousand dollars (\$2,000), then the assessor shall accept the certification, subject to audit, and fix the value of tangible personal property assessable to the taxpayer at ten thousand dollars (\$10,000). This value is subject to equalization pursuant to § 67-5-1509. The certification stated on the schedule must warn the taxpayer that it is made subject to penalties for perjury, and subject to statutory penalty and costs, if proven false. The taxpayer shall designate on the schedule one (1) or more individuals as owner or owners of the business, or a responsible person or persons in the event of dissolution of a corporate or limited liability entity, for the purposes of § 67-5-513(a).<sup>9</sup>

A taxpayer who fails, refuses or neglects to complete, sign and file the schedule with the assessor, as provided in T.C.A. § 67-5-903(b), is deemed to have waived objections to the forced assessment determined by the assessor, subject only to the remedies provided in T.C.A. § 67-5-903(d). In determining a forced assessment, the assessor must consider available evidence indicative of the fair market value of property assessable to the taxpayer under T.C.A. § 67-5-903. After determining the assessable value of the property, the assessor must give the taxpayer notice of the assessment by United States mail, addressed to the last known address of the taxpayer or the taxpayer's agent at least five calendar days before the local board of equalization commences its annual session.<sup>10</sup>

The remedies of a taxpayer against whom a forced assessment is made are as follows:

1. The taxpayer may appeal to the county board of equalization pursuant to T.C.A. § 67-5-1407, but must present a completed schedule as otherwise provided in T.C.A. § 67-5-903;
2. If the deadline to appeal to the county board of equalization has expired, then the taxpayer may request the assessor to mitigate the forced assessment by reducing the forced assessment to the standard depreciated value of the taxpayer's assessable property plus twenty-five percent (25%), so long as the failure to file the schedule or failure to timely

appeal to the county board of equalization was not the result of gross negligence or willful disregard of the law. Mitigation of the forced assessment shall follow the procedure, including appeal, prescribed for correction of error under T.C.A. § 67-5-509, but must be requested within the same deadline as provided for amendment of a schedule pursuant to subsection (e). Gross negligence shall be presumed if notice of the forced assessment, in a form approved by the State Board of Equalization, was sent certified mail, return receipt requested, to the taxpayer's last known address on file with the assessor.

Whether or not an assessor's error affected the original assessment, the assessor may correct a forced assessment using the procedure provided and subject to the deadlines provided in T.C.A. § 67-5-509, upon determining that the taxpayer was not in business as of the assessment date for the year at issue, and upon determining that the taxpayer did not own or lease tangible personal property used or held for use in a business as of the assessment date for the year at issue.<sup>11</sup>

A taxpayer may amend a personal property schedule timely filed with the assessor at any time on or before September 1 following the tax year. If the assessor agrees with the amended schedule, the assessor will revise the assessment and certify the revised assessment to the trustee. If the assessor believes the assessment should be otherwise than claimed in the amended schedule, the assessor will adjust the assessment and give written notice to the taxpayer of the adjusted assessment. The taxpayer may appeal the assessor's adjustment of or refusal to accept an amended assessment schedule to the local and state boards of equalization in the manner otherwise provided by law. Additional taxes due as the result of an amended schedule are not deemed delinquent on or before 60 days after the date notice of the amended assessment was sent to the taxpayer. Amendment of a personal property schedule is not be permitted once suit has been filed to collect delinquent taxes related to the original assessment. The assessor must, within 60 days from receipt of the taxpayer's amended schedule, review and accept or reject the schedule. In any event, the taxpayer must be notified in writing of the results of the review. If the assessor has not notified the taxpayer that the amended schedule has been accepted or rejected within 60 days, the taxpayer's amended schedule will be deemed not accepted by the assessor.<sup>12</sup>

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<sup>1</sup>T.C.A. § 67-5-903(a).

<sup>2</sup>T.C.A. § 67-5-903(f).

<sup>3</sup>T.C.A. § 67-5-902.

<sup>4</sup>*In Re All Assessments 1999 & 2000*, 67 S.W.3d 805, 816-820 (Tenn.Ct.App. 2001) (upholding the constitutionality of T.C.A. §§ 67-5-903(f) and 67-5-1302(b)(1)).

<sup>5</sup>*In Re All Assessments 1999 & 2000*, 67 S.W.3d 805, 820-821 (Tenn.Ct.App. 2001) (upholding the constitutionality of T.C.A. §§ 67-5-903(f) and 67-5-1302(b)(1)).

<sup>6</sup>*Williamson County v. Tennessee State Board of Equalization*, 86 S.W.3d 216 (Tenn.Ct.App. 2002) (upholding the constitutionality of T.C.A. §§ 67-5-903(f) and 67-5-1509(a)).

<sup>7</sup>*See also In Re All Assessments 1998*, 58 S.W.3d 95, 102 (Tenn. 2000) (holding: "The Tennessee Board of Equalization is authorized to reduce (or increase) the appraised (and therefore corresponding assessed) value of centrally-assessed public utility tangible personal property as part of the equalization process, the purpose of which is to equalize the ratio of the appraised value to fair market value of public utility property in any particular county with the corresponding ratio for industrial and commercial property in that county.").

<sup>8</sup>*ANR Pipeline Co. v. Tennessee Board of Equalization*, 2002 WL 31840689, \*1 (Tenn.Ct.App. 2002) *perm. app. denied* (Tenn. 2003).

<sup>9</sup>T.C.A. § 67-5-903(b).

<sup>10</sup>T.C.A. § 67-5-903(c).

<sup>11</sup>T.C.A. § 67-5-903(d).

<sup>12</sup>T.C.A. § 67-5-903(e).

## Leased Personal Property

Reference Number: CTAS-1489

Leased personal property is classified according to the lessee's use and assessed to the lessee, unless the property is the subject of a lawful agreement between the lessee and a local government for payments in lieu of taxes.<sup>1</sup> For the purpose of assessing leased property, it is the duty of the taxpayer to list fully on a schedule provided by the assessor all tangible personal property which is leased by the taxpayer for the

conduct of the taxpayer's business.<sup>2</sup>Leased property shall include equipment, machinery and all tangible personal property used in the conduct of, or as a part of, the taxpayer's business.<sup>3</sup>The lessor, or owner of leased tangible personal property, must provide such information as the assessor may request regarding the location, valuation or use of such property.<sup>4</sup>

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<sup>1</sup>T.C.A. § 67-5-502(c).

<sup>2</sup>T.C.A. § 67-5-904(a)(1).

<sup>3</sup>T.C.A. § 67-5-904(a)(2).

<sup>4</sup>T.C.A. § 67-5-904(b).

## Pilot Program for Assessing Leased Tangible Personal Property

Reference Number: CTAS-1490

Notwithstanding contrary provisions of law, the Comptroller of the Treasury may establish a pilot program for assessing leased tangible personal property to the owner/lessor rather than the lessee. Participation in the program is voluntary, at the election of owner/lessors who are selected by the comptroller to participate based on criteria that optimize savings in the cost of assessment compliance and administration. The comptroller may impose a fee to defray the cost of administration. Participants will be permitted to report leased property centrally in lieu of the schedules otherwise required under T.C.A. § 67-5-903 or T.C.A. § 67-5-904, and the comptroller will be responsible for distributing centrally reported assessments based on situs. Participants may be permitted to claim the business tax credit provided in T.C.A. § 67-4-713 for property taxes paid pursuant to a central assessment, and the credit may be taken at the participant's option either on the return due in the jurisdiction of situs or the jurisdiction from which the lease originated.<sup>1</sup>

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<sup>1</sup>T.C.A. § 67-5-502(e). See 2004 Public Chapter 667.

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