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Business Taxes

Dear Reader:

The following document was created from the CTAS website (ctas.tennessee.edu). This website is maintained by CTAS staff and seeks to represent the most current information regarding issues relative to Tennessee county government.

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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Business Taxes

Reference Number: CTAS-218

Business Tax

Reference Number: CTAS-1635

Authority. T.C.A. §§ 67-4-701 through 67-4-730.

Description. Engaging in any vocation, occupation, business, or business activity listed in T.C.A. § 67-4-708(1)-(5) is a taxable privilege subject to the business tax, a privilege tax levied by the state based on gross receipts in lieu of ad valorem taxes on inventory of merchandise held for sale or exchange. The rates of the tax are set out in T.C.A. § 67-4-709. Businesses described in T.C.A. § 67-4-708(1)-(4) may also be taxed by the municipalities in which they conduct business, in an amount not exceeding the rates established by law. T.C.A. § 67-4-705. The Department of Revenue collects the business tax. T.C.A. § 67-4-703. Business licenses are issued by the county clerk and by the appropriate city official for businesses located within a city, but cities and counties may contract with the commissioner to issue the licenses under T.C.A. § 67-4-723. Every affected business must register with the commissioner of revenue or the county clerk for businesses located within the county (and with the commissioner or the city official for businesses located within a city, or with the commissioner for businesses subject to tax but with no physical location in the state) prior to engaging in business. T.C.A. § 67-4-706. Upon receiving the application and a fee of \$15.00, the county clerk (and city official in the case of a business located within a city) issues a business license. The license is renewed each year upon payment of the business tax for no additional fee. Minimal activity licenses are issued upon application and payment of a \$15.00 fee to businesses with gross receipts between \$3,000 and \$10,000 per year within the jurisdiction; businesses with sales of \$3,000 or less may, but are not required to, apply for a minimal activity license. T.C.A. § 67-4-723.

There are five classifications of businesses established by the business tax laws, each with different rates. Class Five includes industrial loan companies and is taxable only by the state. Foreign businesses filing within Class Four must file a bond or establish an escrow account with the county clerk (and city official for businesses located in the city) in an amount sufficient to pay the anticipated business tax liability for the balance of the tax period for which the license applies. T.C.A. § 67-4-707. Traveling photographers must file a \$100 deposit with the county clerk (and city official if within the city). T.C.A. § 67-4-729.

The rate of the business tax is a percentage of gross receipts, which varies among the classifications, and is adjusted for various credits and deductions. T.C.A. § 67-4-709.

Distribution. Of the amounts collected by the Department of Revenue, the county clerk receives \$7.00 per return filed by a taxpayer located within that county, and of that amount \$3.00 is earmarked for computer hardware purchases or replacement or other computer-related expenses. The city official receives a like amount for businesses located within the city. After these distributions, 5% of the remaining proceeds are paid to the county clerk in the case of taxes paid by taxpayers located or licensed within the county, and to the city official in the case of taxpayers within the city. Of the remaining proceeds, 43% is deposited in the state's general fund. The remaining proceeds, after deduction of an administrative fee of 1.125% to the department of revenue, are distributed to the county in which the taxpayer is located. Taxes levied by cities are distributed to cities in accordance with the formula set out by statute. Fees imposed by counties and cities on antique malls and transient vendors under T.C.A. § 67-4-710 are retained by the county or city, with a 5% fee to the county clerk or city officer. Notwithstanding the foregoing, 100% of any tax, interest, and penalties collected from taxpayer that does not have either a license or an established location in any county or city, and 100% of all taxes, penalties and interest assessed by the state as a result of an audit, are retained by the state. T.C.A. § 67-4-724.

For more information about the business tax, see the current edition of the *Business Tax Guide* available on the Tennessee Department of Revenue's business tax website.

Excise Tax Applied to Financial Institutions

Reference Number: CTAS-1636

Authority. T.C.A. §§ 67-4-2001 through 67-4-2023.

Description. This is a state tax on the net earnings of corporations doing business in Tennessee, but only the portion of this revenue received from financial institutions (banks, savings and loans, loan or trust companies, investment companies, and cemetery companies) is distributed to counties and municipalities

under T.C.A. §§ 67-4-2017, 67-4-2020, 67-4-2021, and 67-4-2022. Net earnings is defined in T.C.A. § 67-4-2006. The tax rate is 6.5 percent of net earnings. T.C.A. § 67-4-2007.

Distribution. For excise taxes collected from a bank, loan or trust company, financial institution unitary business, investment company, or cemetery company, the amount distributed to cities and counties is 3 percent of the net earnings less 7 percent of the ad valorem taxes paid by the entity on its real and tangible personal property for the second fiscal year preceding the year in which the distribution is made. These revenues are allocated between the county and the municipal government where the office of the entity is located in the same proportion as the property tax rate of each taxing jurisdiction bears to the sum of the property tax rates. T.C.A. §§ 67-4-2017, 67-4-2020, 67-4-2021, and 67-4-2022.

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