

NewsLine

The Official Publication of the Tennessee Auctioneer Commission

Fall 2022 Newsletter

Table of Contents

Summer 2022

Page One

Legal Reminder: Publication of Name in advertising

Page Two

Sales and Use Update
 Association News
 Commission Calendar
 Disciplinary Action Report

Commissioners

	Term Expiration
Kimball Sterling, Chairman At-Large	08/31/22
Jeff Morris, Vice Chair West Tennessee	07/31/23
Dwayne Rogers Consumer Member	12/31/22
Larry Sims Middle Tennessee	12/31/23
Ed Knight East Tennessee	08/31/24

Mission Statement

The Mission of the Tennessee Auctioneer Commission is to protect the public through the establishment and administration of minimum requirements for candidates and licensees, effective professional education of licensees, and enforcement of professional conduct.

State of Tennessee
 Department of Commerce & Insurance
 500 James Robertson Parkway
 Nashville, Tennessee 37243-1152
 Phone: 615-741-3600
ce.auctioneer@tn.gov
www.tn.gov/commerce/regboards/auctioneers

IMPORTANT LEGAL REMINDER

Advertising is a powerful tool that auctioneers are utilizing with more frequency when promoting their auctions. It is important to reiterate the rules for advertising, regardless of how the advertising is displayed, which are important to be mindful of to be compliant. Implementing company templates or procedures are an easy and convenient way to ensure compliance. Another simple and effective way is to simply hand-write the correct information on signs and other written materials and handouts. This method is not only compliant but also a cost effective solution.

TENN. COMP. R. & REGS. 0160-01-.20 - ADVERTISING GUIDELINES

(1) Advertising in any form that is designed to give notice of an upcoming auction must include the name and license number of the principal or public automobile auctioneer responsible for holding the sale.

(5) A principal or public automobile auctioneer shall not permit his or her name or license number to appear on any advertisement not in compliance with Tennessee Code Annotated, Title 62, Chapter 19 et seq. (Auctioneer Licensing Law) and the Rules of the Tennessee Auctioneer Commission.

Summary: The Principal Auctioneer's name and license number must be present on all advertising, written or auditory. Utilizing a template for written advertising is an simple and effective way to ensure you remain complaint. When using audible advertising for TV commercials or radio ads, read over the script prior to recording and have the Principal Auctioneer approve the script prior to recording. Many Principal's prefer to have their name and license number placed at the end of the script. In any form of advertising, it is essential that prior to publication, a second set of eyes provides additional oversight and costly mistakes and possibly fines. When in doubt, add the Principal's name and license number.

This is only a partial excerpt from the original rule. For the complete rule, go to <https://publications.tnsosfiles.com/rules/0160/0160.htm>, Regulations of Auctioneers

The Tennessee Department of Commerce & Insurance is committed to the principles of equal opportunity, equal access and affirmative action. Contact the EEO Coordinator or ADA Coordinator 615-741-2177 (TDD).

Sales & Use Tax Updates for Auctioneers

The Tennessee Auctioneers Association recently drafted legislation exempting licensed auctioneers from the definition of an "online marketplace facilitator. HB2267/SB2325 has been signed by the Governor and is now law. " The Online Marketplace Facilitator Act made the auctioneer the "Seller" overriding the longstanding Department of Revenue rule re: sales tax collection by auctioneers. HB2267/SB2325 exempts licensed auctioneers from the definition of an online marketplace facilitator.

This means the rule from the Department of Revenue continues to control sales tax collection for auctions conducted by a licensed auctioneer. The rule is below and in layman's terms means if the Seller of goods is exempt from sales tax collection (ie casual and isolated sales or charities), then as long as the auctioneer discloses the Seller, sales tax shall not be collected; if the Seller is not exempt from sales tax collection (ie a retailer), then sales tax shall be collected at auction.

Every factor, auctioneer, or agent acting for any unknown or undisclosed principal entrusted with any bill of lading, customhouse permit, or warehouse receipt for delivery of tangible personal property, or entrusted with possession of any such personal property for the purpose of sale, shall be deemed the owner thereof, and, upon the sale at retail of such property, shall be required to file a return of the receipts of sales and pay a tax thereon. A sale by such factor, auctioneer or agent, when acting for a known or disclosed principal shall be taxable to the principal. The same rule applies to lien holders, such as storage men, pawnbrokers and artisans. Tenn. Comp. R. & Regs. 1320-05-01-.01 Original rule certified June 7, 1974.

Two Important Factors: 1) The exemption only applies to persons holding a license under Title 62, Chapter 19 (auctioneering statutes). 2) If an auction is conducted by a non-licensee then this exemption will not apply and the non-licensed person will be considered the Seller and therefore responsible for sales tax collection, where applicable.

The sale of all coins, currency, and bullion are now tax exempt per **SUT-121 - Bullion or Precious Metal Coins** that are

- manufactured in whole or in part from gold, silver, platinum, palladium, and other material;
- used solely as legal tender, security, or commodity in Tennessee or another state, the United States, or a foreign nation; and
- sold based primarily on their intrinsic value as precious material or collectible items rather than their representative value as a medium of exchange.

Association News

National Auctioneers Association
Designation Academy—Dec 5-9 at
Planet Hollywood Resort & Casino,
Las Vegas, NV
For more info and to register visit:
www.auctioneers.org

Tennessee Auctioneers Association
2022 Convention—Nov. 6-7 at the Embassy
Suites, 10 Century Blvd, Nashville, TN
For more information and to register visit:
www.tnauctioneers.com

The TAC has subsidized multiple high quality and relevant continuing education programs for the TAA to offer on both days—don't miss out on these great programs!



Tennessee Department of Commerce & Insurance Authorization No. 335195, Revised 12/18/18. This public document was promulgated for electronic use only.

Commission Calendar

2023 Commission Meetings

Meetings are held at 9:00 a.m. at 500 James Robertson Parkway Nashville, TN 37243
or REMOTE with connecting information at
<https://www.tn.gov/commerce/regboards/auctioneers/public-meeting-information.html>

February 27, 2023
May 15, 2023

August 21, 2023
November 20, 2023

Upcoming Continuing Education Seminars:

The upcoming CE Seminars dates and venues for FY202/2023 , November 7th, 2022 at 9 o'clock am. CE will be held at the Embassy Suites during the TAA Convention. First CE for FY2023 is March 2nd, 2023, 9am at Middle Tennessee REALTORS Association, 311 Butler Drive, Murfreesboro, TN 37127.

To sign up for CE, visit the Commission website at <https://www.tn.gov/commerce/regboards/auctioneers.html>

Disciplinary Action Report

JUN 2022
—Terry S. Posey Cleveland, TN Unlicensed activity \$250 civil penalty.
—Russell Mahoney Louisville, TN Failure to timely submit proof of CE requirement \$100 civil penalty.
SEP 2022
—Landon Dickerson Sparta, TN Failure to complete CE requirement for renewal timely \$100 civil penalty
—Travis C. Preston Elizabethton, TN Failed to obtain six hours of continuing education per renewal cycle in order to renew a license \$100 civil penalty