

GEN-35 – Published Guidance, Audit Findings, and Advice

This article is for informational purposes only.

Public Chapter 214 (2021), effective July 1, 2021, amends Tennessee law to state that when the department publishes guidance regarding the taxability of a privilege, affected taxpayers are entitled to rely on the guidance. If a taxpayer reasonably relies on the published guidance, and the guidance is changed, the taxpayer is not liable for any assessment of additional tax, interest, or penalty that accrued before the guidance was changed and was unpaid because of the taxpayer's reasonable reliance.

Furthermore, if a taxpayer is either audited by the department or requests specific advice from the department and receives an erroneous audit finding or advice, the taxpayer is not liable for any assessment of additional tax, interest, or penalty attributable to the erroneous finding or advice.

To rely on the department's audit finding or advice, the following conditions must be satisfied:

- 1) the taxpayer must reasonably rely on the finding or advice; reasonable reliance includes being aware of any changes in the law that occurred after the advice was given;
- 2) the assessment did not result from the taxpayer's failure to provide adequate or complete information; and
- 3) the advice to the taxpayer is in writing or the department's records establish that the department provided erroneous verbal advice.

Reference: Tenn. Code Ann. § 67-1-108, [Pub. Ch. 214 \(2021\)](#)