TN Department of Revenue

Hall Income Tax Manual

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Contents

Hall Income Tax

General Overview

The Hall income tax was first enacted in 1929 and is a tax on income derived from dividends from stock and interest on bonds.[1] The name of this tax is derived from Frank S. Hall, the Tennessee State Representative who sponsored the original bill. It is codified at Tenn. Code Ann. § 67-2-101 *et. seq*. and its rules and regulations can be found at TENN. COMP. R. & REGS. 1320-03-02.

Taxable Income

The Hall income tax, unlike most income taxes, does not apply to earned income. In other words, it does not apply to salaries, wages, and commissions. The following types of income, when received,[2] are considered taxable for the purpose of Tennessee's Hall income tax:

- Dividends from stock in:
  - All corporations.
  - Insurance companies not licensed to do business in Tennessee.
  - All holding companies, including those formed by banks, savings and loan associations, and insurance companies.
  - State-chartered banks outside Tennessee and not doing business in Tennessee.
- Income from investment trusts and mutual funds, including capital gain distributions and distributions designated as "nontaxable" under federal income tax law, whether issued in cash or additional stock *(Note, the portion of income derived from bonds of the U.S. government and its agencies or bonds of the state of Tennessee and its counties and municipalities is exempt.)*
- Market value of stock in a corporation given by another corporation as a dividend in the regular course of business.[3]

- Distributions based on stock ownership to shareholders of an S corporation.

- Interest from the following, if the financial instrument matures in more than six months from the date of issuance (except certificates of deposit):

    - Bonds of states, counties, and municipalities outside Tennessee;

    - Bonds of foreign governments;

    - Church bonds; and

    - Bonds, mortgages, deeds of trust, personal notes, promissory notes, installment notes, commercial paper, or other written instruments, issued by any person, firm, corporation, joint-stock company, business, trust or partnership.

- Interest and dividends received as a beneficiary of a trust or estate located outside Tennessee, unless derived from a nontaxable source.

- Dividends or interest from shares or units in money market funds that are not bank money market accounts *(Note, interest from money on deposit in a money market account in any bank, savings and loan association, or credit union is exempt.)*

- Dividends or interest from Federal National Mortgage Association, Government National Mortgage Association, and Federal Home Loan Mortgage Corporation.

- Income credited to a limited partner's capital account if the partner has a certificate evidencing a transferable interest in the partnership (usually a publicly traded partnership).

Income Is Considered Taxable When It Is...

- Received in cash;
- Received by check or other negotiable instrument or equivalent that is mailed to the taxpayer, regardless of the date received;
- Credited to the books of a bank, banking institution, broker, or any agent of the taxpayer; or
- Received in merchandise or other commodities of intrinsic value.

Nontaxable Income

The following types of income are considered nontaxable for the purpose of Tennessee's Hall income tax:

- Dividends from stock in:
  - National banks (except holding companies).
  - Tennessee-chartered state banks (except holding companies).
  - Federal savings and loan associations and/or savings and loans in Tennessee (except holding companies).
  - Insurance companies licensed to do business in Tennessee (except holding companies).
  - Mutual funds and investment trusts to the extent the fund or trust invests in U.S. bonds or Tennessee municipal bonds.[4]
- Dividends on insurance policies.[5]
- Interest from bonds, mortgages, deeds of trust, personal notes, promissory notes, commercial paper, or other written instrument, issued by any person, firm,

corporation, joint-stock company, business, trust, or partnership if the instrument matures in six months or less from the date of issuance, including demand notes.[6]

- Interest from the following financial instruments, regardless of the date of maturity:
  - Bonds of the state of Tennessee and its counties and municipalities.
  - Bonds of the U.S. government and its agencies (including territories) *(Note, FNMA, GNMA, and FHLMC are not agencies of the U.S. government, and interest they pay to their investors is taxable.)*
  - Certificates of deposit issued by any bank, savings and loan association, or credit union.
  - Repurchase agreements or similar evidences of indebtedness. A repurchase agreement is an investment instrument whereby a person buys a security and the seller (usually a broker) agrees to repurchase the security on a certain date for a certain price.[7]
- Interest from insurance policies if the interest is payable on demand.
- Interest from savings accounts, checking accounts, or money market accounts in any bank, savings and loan association, or credit union *(Note, Dividends or interest from shares or units in money market funds are not exempt.)*
- Interest or dividends from credit unions.
- Income described by a partnership or S corporation as portfolio or pass-through interest or dividends, unless actually paid to a partner with a certificate of transferable interest or to a shareholder.
- Earnings or distributions from education and Roth IRAs that are not subject to federal income tax.[8]
- Distributions of income or earnings from federally recognized retirement accounts, including IRAs.

- Capital gains from the sale of real estate, stock, etc. *(Note, capital gain distributions from mutual funds are taxable.)*

- Distributions paid on or after July 1, 2006, to shareholders of publicly traded real estate investment trusts[9] *(Note, distributions paid prior to this date are taxable.)*

- Earnings or distributions received on or after July 1, 2006, from health savings accounts *(Note, earnings received prior to this date are taxable to the extent they are derived from sources taxable for Tennessee Hall income tax purposes.)*

Tax Rate

The Hall income tax rate is set as follows:

- For any tax year that begins on or after January 1, 2017, and prior to January 1, 2018, the tax rate is 4%.

- For any tax year that begins on or after January 1, 2018, and prior to January 1, 2019, the tax rate is 3%.

- For any tax year that begins on or after January 1, 2019, and prior to January 1, 2020, the tax rate is 2%.

- For any tax year that begins on or after January 1, 2020, and prior to January 1, 2021, the tax rate is 1%.[10]

⚠ **The Hall income tax is fully repealed for any tax year that begins on or after January 1, 2021.**

Who Must File a Return?

The following persons or entities must file a Hall Income Tax Return (Form INC 250) if they meet one of the following criteria:

- A person whose legal domicile is in Tennessee and whose taxable interest and dividend income exceeded $1,250 ($2,500 if married filing jointly) during the tax year.[11]

- A person whose legal domicile is in another state but who maintained a residence in Tennessee for more than six months of the year and whose taxable interest and dividend income exceeded $1,250 ($2,500 if married filing jointly) during the tax year.[12]

    - Only the taxable income received during the period of Tennessee residence is required to be reported on Schedule A and on Page 1, Line 1 of the return. Income received during residence in another state may be reported on Schedule B of the return. Military personnel and full-time college students having legal domicile in another state are not required to file.

⚠ **Legal domicile - Some items considered in determining "legal domicile" are: where you are registered to vote; where you maintain your driver's license; and where you maintain your permanent or principal residence (as opposed to a special-purpose or temporary residence, such as a vacation home, etc.).**

- A person who moved into or out of Tennessee during the year and whose taxable interest and dividend income during the period of Tennessee residency exceeded $1,250 ($2,500 if married filing jointly).[13]

    - Only the taxable income received during the period of legal domicile in Tennessee is required to be reported on Schedule A and on Page 1, Line 1 of the return. Income received during the period of legal domicile in another state may be reported on Schedule B of the return.

- A Tennessee trust, association, corporation, or partnership (i.e., a partnership whose commercial domicile is in Tennessee) whose taxable interest and dividend income exceeded $1,250 during the tax year.[14] The trust, association, corporation, or partnership is liable for the tax, if any, and is entitled to one exemption of $1,250.[15]

Trusts and Estates

A Tennessee administrator, guardian, trustee, or other person/entity acting in a fiduciary capacity who received more than $1,250 in taxable interest and dividend income for the benefit of a Tennessee resident must file a Hall Income Tax Return.[16]

- However, if a grantor trust does not obtain an FEIN, the trustee will not be required to file a return, but must report the total amount of income received by the trustee to the grantor, who will be liable for the tax.[17]

The trustee of a charitable remainder trust is not responsible for payment of the tax. The trustee must report to each resident beneficiary the amount of taxable income distributed to them, and the beneficiary will be liable for the tax.[18] Trustees who receive taxable income on behalf of nonresident beneficiaries are not required to file a return.[19]

- However, when taxable income is received on behalf of both resident and nonresident beneficiaries, only the taxable income of any resident beneficiary is required to be reported on Schedule A and on Line 1, Page 1 of the return. Nonresident income may be reported on Schedule B of the return. A trust is entitled to only one exemption of $1,250, regardless of the number of beneficiaries.

An executor or administrator of a Tennessee estate (i.e., the estate of an individual whose domicile was in Tennessee) must pay tax on income received by the estate until the estate's stocks and bonds are transferred to the estate's beneficiaries, regardless of the domicile of the beneficiaries.[20] An estate is entitled to one exemption of $1,250.

Exemptions

There are several exemptions from the Hall income tax that are explained in further detail below.

1. General Exemption

An exemption of $1,250 ($2,500 for persons married filing jointly) is allowed against the total taxable interest and dividend income reported on the return.[21]

2. Persons with Legal Blindness

A person who is legally blind is exempt from the tax.[22] Legal blindness means that vision does not exceed 20/200 in the better eye with correcting lenses or that the widest diameter of the visual field subtends an angle no greater than 20 degrees.[23]

- To obtain this exemption, single filers need only send a written statement from their physician, certifying their blindness, to the Department of Revenue. A tax return is not required to be filed by single filers who are blind.

- For joint filers, when taxable income is received by a blind person and a sighted spouse, only the taxable income of the sighted person is required to be reported on Schedule A and on Page 1, Line 1 of the return. The income of the blind person is exempted and may be reported on Schedule B of the return. If the taxable dividend and interest income is received jointly by a blind person and a sighted spouse, only one-half of the jointly received income will be exempt from tax. The sighted person is entitled to a $1,250 exemption on a jointly filed return. A physician's statement for the blind spouse, certifying their blindness, is required to be filed with the return.

3. Persons Who Are Quadriplegic

If a person is certified by a medical doctor to be a quadriplegic, the taxable interest and dividend income that is derived by such person from circumstances resulting in them becoming a quadriplegic is exempt from the tax.[24]

- For joint filers, when taxable interest and dividend income is received jointly by a quadriplegic, where such income is derived from circumstances resulting in the individual becoming a quadriplegic, and their spouse who is not quadriplegic or who is quadriplegic and received taxable interest and dividend income that was not derived from circumstances resulting in such spouse becoming a quadriplegic, only one half of the jointly-received income will be exempt from the tax. In such a case, the spouse who is not quadriplegic, or whose quadriplegic condition did not result in their receipt of taxable interest and dividend income, is entitled to a $1,250 exemption.

4. Persons Age 65 or Older with Limited Income

Any person who is 65 years of age or older and has a total annual income derived from any and all sources that is less than or equal to the income thresholds listed below for the tax years indicated, is completely exempt from the tax.[25]

Tax years beginning on or after:	Single Filers	Joint Filers
January 1, 2012	$26,200	$37,000
January 1, 2013	$33,000	$59,000
January 1, 2015	$37,000	$68,000

For the purpose of this exemption, "total annual income from any and all sources" means all income, including social security income, regardless of whether such income is taxable for federal income tax purposes, and without deduction for losses. If the total annual income derived from any and all sources exceeds the income thresholds listed above, file the Hall Income Tax Return only if taxable interest and dividend income exceeds $1,250 ($2,500, if married filing jointly).

5. Persons Age 100 or Older

For tax years beginning on or after January 1, 2018, any persons 100 years of age or older, or any persons who file a joint return and either spouse is 100 years of age or older, are exempt from the tax.[26]

"Angel Investor" Tax Credit

For tax years beginning on or after January 1, 2017, a Hall income tax credit is available in an amount equal to 33% of the value of a direct or indirect investment by an "angel investor" against the Hall income tax liability of such investor in the tax year in which the investment was made.[27]

An "angel investor" must be an accredited investor under 17 CFR § 230.501(a)(5) or (a)(6), and the investment must be in an innovative small business (e.g., a tech-startup) that:

- Is not a professional service firm;
- Has been in business for five or fewer years;
- Has less than $3 million in revenue for the prior fiscal year; and
- Has 50 or fewer full-time employees, at least 60% of whom perform the majority of their job duties in Tennessee.[28]

The investment must be at least $15,000 and may not represent more than 40% of the capitalization of the company.[29] The credit can be measured by the value of an indirect or direct cash investment.

The credit is limited to $50,000 per angel investor in any tax year.[30] The total amount of angel investor tax credits available to all taxpayers is capped at:

- $3 million for tax years beginning January 1, 2017;
- $4 million for tax years beginning January 1, 2018; and
- $5 million for tax years beginning on or after January 1, 2019.[31]

Angel investors making investments in companies located in a Tier 4 county will be allowed a credit of 50% of the investment.[32]

To receive the credit, the taxpayer must apply to the Tennessee Technology Development Corporation ("Launch Tennessee") for a certificate of qualification. Certificates will be issued on a first-come, first-served basis.[33]

Any unused credit allowed can be carried forward for five years after the tax year in which the credit originated.[34]

Tennessee Excise Tax Credit for Hall Income Tax Paid

Tennessee franchise and excise taxes are two separate privilege taxes that are administered together and imposed on entities such as limited liability companies, limited partnerships, and business trusts for the privilege of doing business in the state.[35] Individuals are not subject to franchise and excise taxes. The excise tax is based on a taxable entity's "net earnings," which may include the same dividend and interest income that is subject to the Hall income tax. A taxable entity that is subject to **both** the Hall income tax *and* the franchise and excise tax may take a credit against its excise tax liability for any Hall income tax paid for the applicable tax year.[36] This credit is limited to the taxpayer's excise tax liability only, and there is no carryover of excess credit to subsequent tax years.

Applicability of Credit to Single-member LLCs Owned by Individuals

If an individual is subject to the Hall income tax based on taxable dividend or interest income received by the individual and such individual is the single member of a single-member LLC that is subject to the franchise and excise tax, the single-member LLC ***cannot*** take a credit against its excise tax liability for any Hall income tax paid by the individual. The purpose of this credit is to prevent income that is subject to the Hall income tax from being taxed again as income that is also subject to the excise tax. Thus, the credit may only be taken by the *same* taxpayer that is subject to *both* the Hall income tax and the franchise and excise tax. In the aforementioned scenario, the Hall income taxpayer and the franchise and excise taxpayer are not the same entity; therefore, the credit is not allowed to the franchise and excise taxpayer. Although a single-member LLC owned by an individual is disregarded as an entity separate from its owner for federal income tax purposes, Tennessee excise tax law requires that such single-member LLC be classified as a separate taxpaying entity for excise tax purposes.[37] Therefore, a single-member LLC and its individual owner are not considered to be the same taxpayer for the purpose of applying the Hall income tax credit.

Penalty on Delinquent Tax

Penalty on delinquent tax will accrue at the rate of 5% for each 30 days of delinquency (or fraction thereof), up to a maximum penalty of 25% of the delinquent tax (with a minimum penalty of $15.00).

Interest on Deficient or Delinquent Tax

Interest on deficient or delinquent tax will accrue at the annual interest rate, determined by the Commissioner of Revenue that is in effect when the deficient or delinquent tax is paid, without regard to the taxable period involved. The interest rate is determined on July 1 of each year.

When to File

A taxpayer filing on a calendar year basis must file a return by April 15 of the following year. A taxpayer's tax year is, by default, a calendar year unless a fiscal year is elected by the taxpayer when the first fiscal year tax return is due. For a taxpayer on a fiscal year filing, the return is due by the 15th day of the fourth month following the end of the fiscal year.

Extensions

An extension of up to six months in which to file the return and to pay the tax will be granted whenever the taxpayer has requested an extension to file their federal income tax return. Taxpayers who have received a valid federal extension should check the box provided on the Hall Income Tax Return indicating that they have a valid federal extension.

Alternately, the taxpayer may attach a copy of their federal extension to their Hall Income Tax Return or request and receive an extension by completing an Application for Extension of Time to File Hall Income Tax Return (Form INC 251) and attaching this application to the tax return when the return is filed.

Interest will accrue on unpaid tax from the original due date of the return until the date paid. No penalty will accrue with a valid extension. If the return is not filed with payment of the tax due by the extended due date, penalty will accrue as though no extension had been granted.

Estimated Tax Payments

The State of Tennessee does not require estimated or quarterly payments for Hall income tax. However, taxpayers that desire to prepay before filing a completed return, file the Application for Extension of Time to File Hall Income Tax Return (Form INC 251) and indicate on Line 4 the amount of prepayment.

Tax Return Signature Information

The taxpayer (and the taxpayer's spouse, if married filing jointly) must sign and date the Hall Income Tax Return in the block provided at the bottom of the form. If the taxpayer or the taxpayer's spouse is deceased, the representative of the estate must sign the form. Tax preparers must also sign and provide the information requested on the form. If the taxpayer is unavailable to sign, the form will be accepted if the tax preparer signs and dates the form and provides the tax preparer's address and telephone number.

Tax Payment and Contact Information

Electronic filing and payment of Hall income tax is available at the Department's website, www.TN.gov/Revenue. This convenient method allows for accurate and efficient processing of your return and payment information. For periods beginning on or after October 1, 2018, the Commissioner of Revenue is authorized to require electronic filing of Hall Income Tax Returns. However, if the taxpayer does not use a certified software vendor or does not have an FEIN, the taxpayer may file a paper return.

Taxpayers filing paper tax returns should make checks or postal money orders payable to Tennessee Department of Revenue. The tax may also be paid in cash at the Department's Nashville office or one of the Department's regional offices. Mail tax returns and payments to:

Tennessee Department of Revenue
Andrew Jackson State Office Building
500 Deaderick Street
Nashville, TN 37242

For additional information, call the Department's statewide toll-free number at (800) 342-1003. Out-of-state callers and callers in the Nashville local area may dial (615) 253-0600. Additional information is also available through our help desk at https://revenue.support.tn.gov/hc/en-us or on the Department's website at www.TN.gov/revenue.

[1] Tenn. Code Ann. § 67-2-102.
[2] *See* TENN. COMP. R. & REGS. 1320-03-02-.01.
[3] TENN. COMP. R. & REGS. 1320-03-02-.09.
[4] Tenn. Code Ann. §§ 67-2-104(e)(1) and (5)-(6).
[5] Tenn. Code Ann. § 67-2-104(e)(5).
[6] Tenn. Code Ann. § 67-2-101(1)(B).
[7] Tenn. Code Ann. §§ 67-2-101(1)(B)-104(e)(1).
[8] Tenn. Code Ann. §§ 67-2-104(e)(14)-(15).
[9] Tenn. Code Ann. § 67-2-104(e)(17).
[10] Tenn. Code Ann. § 67-2-102.
[11] Tenn. Code Ann. § 67-2-101(5).
[12] *Id.*
[13] TENN. COMP. R. & REGS. 1320-03-02-.08.
[14] Tenn. Code Ann. § 67-2-102.
[15] Tenn. Code Ann. §§ 67-2-101(5)-102.
[16] Tenn. Code Ann. § 67-2-110(a).
[17] *Id.*
[18] Tenn. Code Ann. § 67-2-110(a).
[19] Tenn. Code Ann. § 67-2-110(b).
[20] *Id.*
[21] Tenn. Code Ann. § 67-2-104(a).
[22] Tenn. Code Ann. § 67-2-104(c).
[23] TENN. COMP. R. & REGS. 1320-03-02-.06.
[24] Tenn. Code Ann. § 67-2-104(c).
[25] Tenn. Code Ann. § 67-2-104(b).
[26] Tenn. Code Ann. § 67-2-104(f).
[27] Tenn. Code Ann. § 67-2-125(a).
[28] Tenn. Code Ann. § 67-2-125(a)(1).
[29] Tenn. Code Ann. § 67-2-125(a)(4)(A).
[30] Tenn. Code Ann. § 67-2-125(a)(2).
[31] Tenn. Code Ann. § 67-2-125(a)(3).
[32] Tenn. Code Ann. § 67-2-125(a)(5).
[33] Tenn. Code Ann. § 67-2-125(a)(4)(B).
[34] Tenn. Code Ann. § 67-2-125(a).
[35] Tenn. Code Ann. §§ 67-4-2001 *et seq.* and 67-4-2101 *et seq.*
[36] Tenn. Code Ann. § 67-4-2009(7).
[37] Tenn. Code Ann. § 67-4-2007(d).