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## Chapter 10: Credits

### Overview

Tennessee law provides several credits against business tax liability. These credits are generally found in Tenn. Code Ann. § 67-4-713.

**⚠ The total business tax credits outlined below and available to a taxpayer in Tenn. Code Ann. § 67-4-713 may not be used to offset more than 50% of the taxpayer's liability.**

### Personal Property Taxes

Personal property taxes properly paid under Tenn. Code Ann. Title 67, Chapter 5, Part 5 or Part 13 may be taken as a credit against the total business tax liability of the taxpayer actually paying the personal property taxes.<sup>1</sup> The following conditions apply:

- Personal property taxes are allowable as a credit only to the extent that the property is located at the place of business covered by the business tax return on which the credit is being claimed.<sup>2</sup>
- The property is taxed in the same city or county that the return is being filed.
- Personal property taxes are allowable as a credit only for taxes paid either during the tax period covered by the return or prior to the due date of the return.<sup>3</sup>
- There is no credit available for payment of property taxes on real property.
- Only the amount of personal property tax paid to the county will be used to determine the credit on the county business tax return.
- Only the amount of personal property taxes paid to the city will be used to determine the credit on the city business tax return.

#### 1. Personal Property Taxes Assessed During Audit

Personal property taxes assessed pursuant to an audit and subsequently paid may be

taken as a credit either on the business tax return filed for the year in which the additional personal property tax was paid or on the return covering the immediately previous year.<sup>4</sup> If the credit is taken in the previous year, an amended business tax return must be filed for that year.<sup>5</sup>

## **2. Taxes Paid on Property Leased or Rented**

A taxpayer that leases personal property to a third party, but pays property tax on the leased property, may take the credit on its business tax return filed for its business location, as long as the leased property is located in the same jurisdiction that is receiving the taxpayer's business tax allocation. This would only apply if:

- The property is leased to others by the taxpayer; and
- The taxpayer paid personal property tax on the property.

In cases where a lease or rental agreement provides specifically for payment of personal property taxes by the lessee or renter to the lessor or owner, personal property taxes paid by the lessee to the lessor covering any period of time extending beyond June 1, 1971, arising from assessments made against the lessor or owner may be taken as a credit against the business tax liability.<sup>6</sup> The lessor may not take the credit authorized to the lessee pursuant to Tenn. Code Ann. § 67-4-713(a)(3).<sup>7</sup>

### *Examples*

- Company C, located in Franklin, Tennessee, leases printers to multiple businesses located in Brentwood and Franklin Tennessee. Company C pays the personal property tax on the printers. Company C reports the receipts from all the leases on its Franklin and Williamson County business tax returns.
  - Company C may take credits for the personal property tax it paid on the printers located in Franklin on its city business tax return and for the personal property tax it paid to Williamson County on its county business tax return.
  - Company C may *not* take a credit for the Brentwood printers on its city return but may do so on its county return.

- Propane Dealer (“PD”) is in Chattanooga, Tennessee. PD leases propane tanks throughout Tennessee and pays property tax on all the leased tanks. PD reports the receipts from the leases of the tanks on its Chattanooga and Hamilton County returns.
  - PD may take a credit for the property tax it paid on the tanks in Chattanooga on its city business tax return.
  - PD may also take a credit on its county business tax return for the property tax that it paid to Hamilton County on the tanks located in Chattanooga, East Ridge, Soddy-Daisy, and Red Bank.
  - However, PD may not take a credit for any property tax that it paid outside of Hamilton County.

### **3. Providers of Video Programming Services**

Providers of video programming services, as defined in Tenn. Code Ann. § 67-6-102, are allowed the personal property tax credit to the extent that:

- The property is located in a jurisdiction where the taxpayer’s receipts are sourced in accordance with Tenn. Code Ann. § 67-4-717; and
- The property is taxed by that jurisdiction.<sup>8</sup>

### **4. Special School District Taxes**

Personal property taxes paid pursuant to a special school district tax levied by a public or private act may be taken as a business tax credit.<sup>9</sup> This credit only applies to special school districts located in Gibson County and Carroll County.

### **5. Property Transferred to a Government Entity**

The amount of Tennessee personal property taxes that a person would normally owe except that, pursuant to an agreement between the person and a local governmental or instrumentality, the person’s personal property has been transferred to a local government or instrumentality, may be credited against the business tax liability provided that:

- The person shall be eligible for such credit only to the extent of the tax generated from its receipts for services rendered by such person to an affiliated person.
- Either person directly owns or controls 80% or more of the other, or 80% or more of both persons is directly or indirectly owned or controlled by a common parent.
- The provisions of this section are not affirmatively rejected by a two-thirds vote of the legislative body of the county or municipality exercising jurisdiction over the governmental unit or instrumentality.<sup>10</sup>

## Privilege Taxes

A business tax credit may be taken for the pro rata portion of any of the following taxes paid:

- Gross receipts tax for Production Credit Associations,
- Beer taxes,
- Privilege and excise taxes, and
- Property tax, extending past June 1, 1971, and repealed as of that date.<sup>11</sup>

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<sup>1</sup> Tenn. Code Ann. § 67-4-713(a)(2).

<sup>2</sup> Tenn. Code Ann. § 67-4-713(a)(2)(A).

<sup>3</sup> Tenn. Code Ann. § 67-4-713(a)(2)(B).

<sup>4</sup> Tenn. Code Ann. § 67- 4-713(a)(2)(C).

<sup>5</sup> *Id.*

<sup>6</sup> Tenn. Code Ann. § 67-4-713(a)(4).

<sup>7</sup> *Id.*

<sup>8</sup> Tenn. Code Ann. § 67-4-713.

<sup>9</sup> Tenn. Code Ann. § 67-4-713(a)(4).

<sup>10</sup> Tenn. Code Ann. § 67-4-713(a)(5).

<sup>11</sup> Tenn. Code Ann. § 67-4-713(a)(1).