



Department of  
**Revenue**

# Tennessee Automobile Dealership Manual

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## Chapter 1: Introduction and Brief Overview of Tennessee Taxes

Tennessee car dealerships face unique, and at times, complex tax issues. The goal of this manual is to provide car dealerships operating in Tennessee with a central resource regarding Tennessee state and local taxes. This manual provides information on sales and use tax, business tax, franchise and excise tax, and vehicle titling and registration.

Please note that this manual is not all-encompassing. The Department of Revenue's (the "Department") in-depth [manuals](#) on sales and use tax, business tax, and franchise and excise tax provide additional information. Finally, it is always a good idea to consult with a tax professional regarding any tax questions specific to your situation.

### Sales and Use Tax

Sales and use taxes are transactional taxes applied to the sale or use of tangible personal property, including automobiles, or specific services in Tennessee. Sales tax generally applies to the retail sales of any business, organization, or person engaged in the business of making retail sales, including selling, leasing, or renting tangible personal property and selling certain taxable services, amusements, software, and digital products specified in the law.<sup>1</sup> Use tax applies to all items otherwise subject to sales tax except for services and amusements, on which sales tax has not been paid.<sup>2</sup>

Sales and use taxes include a state tax (the rate of which is 7%) and a local tax (the rates vary by jurisdiction, generally between 2.25% and 2.75%). These rates are combined to establish the total sales and use tax rate, generally between 9.25% and 9.75%.

Additional information on sales and use tax is located in Chapter 2.

### Business Tax

The Tennessee business tax is a privilege tax on the privilege of doing business by making sales of tangible personal property or services in Tennessee. This tax is distinct from and applies in addition to Tennessee's franchise and excise tax. The business tax applies to a taxpayer's gross sales. The business tax rate is determined based on the taxpayer's dominant business activity. In most cases, car dealerships that sell to end-users (i.e., the person or business that is going to use the vehicle) are going to be Classification 2 retailers.

Chapter 3 contains additional information about the business tax.

## Franchise and Excise Tax

Franchise and excise taxes are two separate taxes that are administered together. Franchise and excise taxes only apply to taxable entities such as corporations, limited partnerships, limited liability companies, or business trusts that are chartered or organized in Tennessee or that are doing business<sup>3</sup> and have a substantial nexus<sup>4</sup> in Tennessee. For tax years ending on or after January 1, 2024, the franchise tax is based on the taxpayer's net worth, as determined at the close of the tax year. The excise tax is based on the taxpayer's net earnings for the tax year (many states refer to this type of tax as an "income tax").

**Individuals and general partnerships<sup>5</sup> are not subject to franchise and excise tax.** Note that a single-member limited liability company that is owned by an individual *is subject* to the tax. Additionally, an otherwise taxable limited liability company or limited partnership that has become an obligated member entity is exempt from the franchise and excise tax.<sup>6</sup> See Chapter 2 of the Franchise and Excise Tax Manual for a full discussion on franchise and excise tax exemptions. It can be accessed [here](#). Also, see Chapter 4 below for additional information regarding franchise and excise tax that is relevant to automobile dealerships.

## Title and Registration

The Department, in coordination with county clerks across the state, title and register motor vehicles. Chapter 5 of this manual outlines many of the issues commonly encountered by automobile dealerships including, but not limited to, repossessed vehicles, salvage titles, lien notations, and temporary tags.

## Chapter 2: Sales and Use Tax

### Overview

Motor vehicle sales are sales of tangible personal property and are subject to Tennessee sales or use tax. This includes the occasional and isolated sales of motor vehicles.<sup>7</sup> Generally, each time there is a transfer of title to a motor vehicle the transaction is subject to sales or use tax. Sales and use taxes are composed of a state sales tax (7% tax rate) and a local sales tax (the tax rate varies from 1.50%-2.75% depending on the county or municipality). Local sales tax rates may be found by clicking [here](#). The Department administers both the state and local sales tax. This chapter contains information regarding transactions that are subject to sales tax, sales tax exemptions, how to determine the sales price (the amount subject to tax), and other issues frequently encountered by automobile dealerships.

For an in-depth review of the sales and use tax, please see the Department's Sales and Use Tax Manual that may be accessed [here](#).

### Sales Price

*Sales price* is the measure that is subject to sales tax. *Purchase price* is the measure that is subject to use tax. *Sales price and purchase price have the same meaning.* It is the total amount of consideration for which products that are subject to tax are sold. Sales price may also include consideration received by a seller from third parties.

Determining the sales price for sales and use tax purposes is a process that is based on the definition. A seller cannot transform a properly taxable amount or segregate a portion of the sales price into a nontaxable amount by simply separately stating or itemizing amounts on the invoice.

Sales price includes, and no separate itemization or deductions from the sales price are allowed for, the *seller's*:

- Cost of the property sold
- Cost of materials used
- Labor or service costs
- Interest



- Losses
- Transportation costs (incoming freight)
- Taxes imposed on the seller
- Any expenses of the seller
- Charges for any services necessary to complete the sale
- Delivery charges
- Installation charges
- Documentation fees

Additionally, a service that is not specifically enumerated in the statute as a taxable service may be included in the sales price of a taxable good or service. Specifically, the sales price of a good or service equals the “total amount of consideration... for which personal property or services are sold,” without any deduction for such things as the seller’s cost of the property, the cost of the materials, the seller’s travel or transportation costs, and other such expenses of the seller.<sup>8</sup> Thus, when the sale of a non-enumerated service is part of the sale of a taxable good or service, the charges for the non-enumerated service are included in the sales price of the taxable good or service and, as such, are subject to taxation.

For example, while a motor vehicle document processing fee is not an enumerated taxable service, it is necessary to the vehicle sale; thus, it is included in the vehicle’s sales price.

Sales price does **not** include:

- Discounts or coupons not reimbursed by a third party
- Separately itemized interest, financing, or carrying charges
- Separately itemized taxes legally imposed on the consumer
- Separately itemized credit<sup>9</sup> for used items taken in trade

## Taxability of Itemized Charges Billed to Customers

Automobile dealers often separately itemize several charges to the customer. This section provides information regarding the taxability of the most commonly charged fees.

### 1. Titling Fees

Titling fees are not subject to the sales and use tax *to the extent they are actually remitted for titling and registration* of the customer's vehicle. If a dealer charges a customer in excess of the amount actually remitted to the county clerk to obtain titling and registration, then such excess becomes taxable as a part of the sales price. Such fees are not considered a separate article, so they will not result in additional local tax if the selling price of the vehicle is in excess of the local maximum single article amount. See the section below titled "Single Article Application on Motor Vehicles" for an example of how to calculate sales tax on items included in a vehicle's sales price.

### 2. Document Processing Fees and Preparation Fees

Document processing fees and preparation fees are part of the sales price of the vehicle. They are subject to the sales and use tax and are not considered a separate article.

### 3. Services Necessary to Complete the Sale

Charges for any services necessary to complete the sale are part of the sales price. They are subject to the sales and use tax and are not considered a separate article.

### 4. Business Tax

Charges for the Tennessee business tax are part of the sales price of the vehicle. They are subject to the sales and use tax and are not considered a separate article.

- A dealer may pass along its business tax liability by including a separate charge on the invoice to the customer.<sup>10</sup>

## 5. Financing Charges or Interest

Financing charges or interest from credit extended on motor vehicle sales that are separately itemized are not part of the sales price of the vehicle and are not subject to tax.<sup>11</sup> If they are not separately billed or itemized, they become part of the sales price.

## 6. Insurance Policies

Insurance policies such as accident, collision, and Guaranteed Auto Protection (GAP)<sup>12</sup> covering motor vehicles are not included in the taxable base when charges are separately stated on the invoice.

## 7. Extended Warranty or Service Contracts

Extended warranty or service contracts covering the repair and maintenance of motor vehicles are subject to sales tax.<sup>13</sup> However, the local option single article tax limitation on the first \$1,600 of the sales price does not apply to such contracts. Separate charges for warranty or maintenance contracts are taxable but are not part of the sales price of the motor vehicle.

- If a Tennessee resident purchases a warranty or service contract in conjunction with the purchase of a vehicle in another state, with the intent of moving that vehicle back to Tennessee, then use tax will be owed on the warranty, as well as the vehicle, when a person brings the vehicle into Tennessee.

## 8. Rebates and Discounts

Rebates and discounts both reduce the amount charged to the customer. *Rebates* do not reduce the sales price subject to tax, but *discounts* result in a reduction in the sales price.

- Sales and use tax apply to the full sales price before the application of a rebate. A rebate does not change the sales price, but the consumer pays less because a portion of the sales price is rebated to the dealer by the manufacturer.
- If the dealership discounts the price of the vehicle, sales tax is due on the actual amount received.

### *Federal Clean Vehicle Rebate*

Starting January 1, 2024, customers who are eligible for the federal clean vehicle tax credit on the purchase of a qualifying new or previously-owned clean vehicle will have the option of receiving this federal tax credit in the form of an immediate rebate at the point of sale from participating dealers.<sup>14</sup> A rebate of up to \$7,500 is available towards the purchase of a new clean vehicle and up to \$4,000 towards the purchase of a previously-owned clean vehicle. For Tennessee sales and use tax purposes, the tax will apply to the full sales price of the vehicle before application of the federal rebate. The federal rebate is included in the sales price subject to tax because participating dealers are reimbursed by the federal government.

## **9. Incentive Payments**

Incentive payments that meet specific qualifications may reduce the sales price on which tax is collected. Incentive payments are paid by a manufacturer to a dealer and must be paid pursuant to a program implemented by the manufacturer. Under the program, the dealer is required to sell vehicles to purchasers participating in the program *at a reduced sales price without the use of manufacturer's coupons or redemption certificates*, and the manufacturer is required to pay an amount (in money, credit, or otherwise) to the dealer that is based on the unit price of the motor vehicle sold.

- If the incentive payments meet the above qualifications, the dealer may take the credit immediately by reducing the sales price of the vehicle by the amount of the incentive payment and only collecting tax from the purchaser on the reduced amount. Note that but for this specific credit, these payments would be considered third-party reimbursements of purchaser discounts that would be included in the sales price and thus subject to the tax.<sup>15</sup>
- This provision only applies to sales at retail, not sales for resale. A sale of a vehicle by a dealer to a leasing company for resale is not a sale at retail, and thus, incentive payments received by the dealer for such sales do not qualify for the credit.

## **10. Guaranteed Auto Protection**

Guaranteed auto protection ("GAP") waivers generally provide vehicle purchasers with protection against an accident or theft in circumstances where such an event results in a total loss of the value of the vehicle. Automotive dealers often sell these waivers as an

optional or additional sale at the time the customer obtains financing for a vehicle. This waiver is typically an addendum to a retail installment sales contract.

Charges for GAP waivers are not subject to sales and use tax because such charges are not for an enumerated taxable service and such charges are not included in the vehicle's sales price. The charges are purely optional and are separately stated from the sales price of the vehicle.<sup>16</sup>

## **Delivery Made to a Point Outside of the State**

The motor vehicle sale is exempt if the dealer, or one of its employees, makes delivery of the vehicle to a point outside the state of Tennessee. A Certificate of Interstate Delivery by Seller for Automobiles, Other Motor Vehicles, Aircraft, and Boats must be completed at the time of sale. The dealer must retain the certificate to document delivery out of state.

## **Leases**

Leases and rentals covering motor vehicles where the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in 26 U.S.C. § 7701(h)(1) are generally subject to Tennessee sales and use tax.

Sales tax is due on the sales price derived from leases and rentals of tangible personal property when the lease is part of an established business. The tax on leases or rentals is due from the lessee even if the lessor is a tax-exempt entity. Subject to the sourcing provisions outlined below, the tax applies to all leases of tangible personal property delivered to a lessee or renter in Tennessee, regardless of where the lessee or renter will ultimately take or use the property.

### **1. Payments Subject to Tax**

The sales tax applies to the sales price of each periodic payment the lessee agrees to pay under the lease agreement. For leases that require the lessee to make a lump sum payment up front, tax is due on that payment when the payment is made. For leases where the lessee will make periodic (e.g., weekly, or monthly) payments, sales tax should be collected on each lease payment at the time each payment is made. The lease or rental price may include a fixed periodic amount, such as a regular monthly amount, and a variable periodic amount,

such as mileage charges. If the lessee is obligated under the agreement to pay both amounts, then the sum of these amounts is subject to tax.

## **2. Security Deposits, Late Charges, and Optional Charges**

### *Security Deposits*

Forfeited security deposits are considered part of the total consideration paid for the lease of tangible personal property and are subject to sales tax.

### *Late Charges*

Late charges imposed on periodic lease payments made after the payment due date are considered part of the total consideration required to be paid for that periodic payment and are subject to sales tax.

### *Optional Charges*

Optional charges for nontaxable items that are separately stated, however, are not subject to sales tax. For example, if a leased car comes with an option to buy insurance, the insurance would not be included in sales tax calculations.

## **3. Terminal Rental Adjustment Clause**

Lease or rental agreements for motor vehicles and trailers may contain a terminal rental adjustment clause. A terminal rental adjustment clause provides for an increase or decrease in the amount of consideration by reference to the amount realized upon sale or disposition of the property as defined in 26 U.S.C. Section 7701(h)(1).

The additional payments or refunds required under agreements pursuant to a terminal rental adjustment clause are part of the proceeds of the lease.

At the end of a lease term:

- If a motor vehicle sells for less than was estimated by a lessor and lessee at the beginning of the lease and the lessee is required to make an additional payment under the lease, the additional payment is subject to tax if the lease was subject to tax.
- If a motor vehicle sells for more than was estimated by the lessor and lessee at the beginning of the lease and the lessor is required to make a refund to the lessee, the

refund amount is a reduction in the amount of consideration for the lease and the lessor should refund tax on the amount refunded to the lessee, if tax was collected on the original lease payments.

#### **4. Lease Agreement vs. Finance Agreement**

“Lease or rental” does not include finance agreements for the transfer of possession or control of property. When title to the property is to be transferred upon completion of the required payments and the payment of an option price that does not exceed the greater of \$100 or 1% of the total required periodic payments, the transfer is not considered a lease; it is deemed a sale. Sales tax is due at the time of the sale/purchase of the property for which a loan is obtained under a financing agreement, and not on the periodic payments.

Persons making conditional, charge, or installment sales must report the total selling price of such sales and pay the sales or use tax on such sales in the monthly tax period in which the contracts of sales are entered.

#### **5. Damage Settlement on Leased Vehicle**

Insurance proceeds paid to the owner of a leased vehicle pursuant to a damage settlement are exempt from sales and use tax. The exemption applies when the motor vehicle has sustained damage that renders it a salvage vehicle, non-repairable vehicle, or flood vehicle, and the owner transfers title of the leased vehicle to the insurance company. If the insurance company sells the salvage vehicle it obtained because of a paid claim, prior to repair (“as is”), the insurance company may endorse a change in ownership on the certificate of title without paying sales and use tax.

#### **6. Sourcing Leases and Rentals**

For the lease or rental of motor vehicles, trailers, semi-trailers, or aircraft that do not qualify as transportation equipment and watercraft with a displacement of under 50 tons, that require recurring periodic payments, the first and each subsequent periodic payment is sourced to the primary property location.

The primary property location is the address for the property provided by the lessee that is available to the lessor from its records.

##### *Example 1*

A Tennessee resident leases and receives a pickup truck and trailer in Kentucky. The pickup truck and trailer will be registered in Tennessee and located at the lessee's Tennessee address. The lease requires an initial payment of \$3,000 and monthly recurring payments of \$1,000 for four years. The initial \$3,000 payment and monthly recurring \$1,000 payments are sourced to Tennessee. Tennessee sales and use tax law applies.

#### *Example 2*

A Tennessee resident leases a motor vehicle in Tennessee. The lease requires an initial payment and monthly recurring payments for three years. Two years later, the Tennessee resident moves to Florida. The monthly lease payments covering periods following the move to Florida of the primary property location of the motor vehicle are no longer sourced to Tennessee. The lessor must stop collecting Tennessee sales tax on the monthly lease payments following notification by the lessee of the date the primary property location moved to Florida and report the remaining lease payments as exempt interstate sales on its Tennessee return.

#### *Sourcing Leases or Rentals of Transportation Equipment*

Transportation equipment includes:

- Locomotives and railcars that are used to carry persons or property in interstate commerce;
- Trucks and truck-tractors with a gross weight rating of 10,000 pounds or more, or trailers, semi-trailers, or passenger buses that are:
  - Registered through the International Registration Plan, and
  - Operated under the authority of a carrier authorized or certified by the United States Department of Transportation or another federal authority to engage in the carrying of persons or property in interstate or foreign commerce;
- Aircraft that are operated by air carriers authorized and certified by the United States Department of Transportation or another federal authority to engage in the carrying of persons or property in interstate or foreign commerce; and



- Containers designed for use on, and component parts attached or secured on locomotives, railcars, trucks, truck-tractors, trailers, semi-trailers, or passenger buses.

Notwithstanding the primary property location covered by a recurring periodic payment, the lease or rental of transportation equipment is sourced in the following manner:

- When the equipment is received by the purchaser at a business location of the seller, the sale is sourced to that business location;
- When the equipment is not received by the purchaser at a business location of the seller, the sale is sourced to the location where the receipt by the purchaser or the purchaser's donee (designated by the purchaser) occurs. This includes the location indicated by instructions for delivery to the purchaser or purchaser's donee, known to the seller;
- When the two above guidelines do not apply to the transaction, the sale is sourced to the location indicated by an address for the purchaser that is available from the business records of the seller that are maintained in the ordinary course of the seller's business when use of that address does not constitute bad faith;
- When the three above guidelines do not apply, the sale is sourced to the location indicated by an address for the purchaser obtained during the consummation of the sale, including the address of a purchaser's payment instrument, if no other address is available, when use of that address does not constitute bad faith; and

When the four above guidelines do not apply, or in the circumstance where the seller is without sufficient information to determine which sourcing requirement in this list applies, then the location is determined by (1) the address from which the tangible personal property was shipped, (2) from which the digital good or computer software delivered electronically was first available for transmission by the seller, or (3) from which the service was provided.

## Trade-ins

When an item of tangible personal property is taken in trade as a credit or partial payment on the sale of new or used items, the sales and use tax is computed and paid on the net difference between the sales price of the new or used item sold and any credit actually given for the used item accepted in trade.<sup>17</sup>

Before any credit may be allowed for items taken in trade, the traded-in item must be of a *like kind and character* of that purchased and indicated as “trade-in” by model and serial number, where applicable, on an invoice given to the customer.<sup>18</sup> More than one item of like kind and character can be used in the transaction, if needed. Dealers should carefully note the required information for each item involved in the trade.

There are no other general limitations to the trade-in process. There is not a requirement that proof be given that tax was paid previously, whether in Tennessee or in another state, on the traded in item to receive a trade-in credit. Further, the statute applies to all trade-in situations, not just to motor vehicles. For example:

- A purchaser moves to Tennessee from Kentucky and brings his vehicle that is registered in Kentucky. He does not have to pay Tennessee use tax on his personal vehicle that he has brought into Tennessee.<sup>19</sup> Purchaser decides to purchase a new vehicle in Tennessee a week after moving to the state and before he registers his old vehicle in the state. He trades in his Kentucky-registered vehicle for the new vehicle. He is allowed a trade-in credit for the old vehicle (without having to show that tax was previously paid on the old vehicle), and sales tax on the new vehicle is calculated on the difference between the price of the new vehicle and the amount of trade-in credit he received.

Any recovery that may be received or allowed as a result of *insurance* may not be considered a trade-in, and no credit may be given or allowed for such recoveries.<sup>20</sup>

When a trade-in is involved in the purchase of a motor vehicle that has been *imported for use in this state*, the vehicle that was traded-in for the new vehicle must have been previously registered in the State of Tennessee in the name of the person importing the new vehicle into the state before any credit may be given for the allowance given for the trade-in.<sup>21</sup> For example:

- A purchaser lives in Tennessee. He purchases a new vehicle in Kentucky and imports it into Tennessee. He uses a Kentucky-registered vehicle as a trade-in toward the purchase of the new vehicle in Kentucky. Purchaser will owe Tennessee use tax on the vehicle (note that he will get credit for any legally imposed Kentucky tax that he paid on the purchase of the new vehicle). He will not be allowed the trade-in credit when calculating the use tax owed on the new vehicle. He will owe use tax on the full purchase price of the new vehicle.

A trade-in vehicle does not have to be titled in the name of the person trading it in and purchasing a new vehicle. Both the owner of the vehicle being traded in, and the new owner must be present at the time of the trade in. The owner of the vehicle must sign the vehicle over to the dealership for the new owner to receive the trade-in credit against the purchase of the new vehicle. A person cannot trade in a vehicle that is not titled and registered to him/her. For example:

- A father may trade in his vehicle to purchase one for his daughter. However, it is unlawful for someone claiming to own a vehicle to possess an executed certificate of title without the name of the transferee appearing on the certificate of title.<sup>22</sup>

An automobile dealer may also receive a trade-in credit for sales and use tax purposes when *trading in a vehicle used in the dealership's business* for another vehicle from the dealership's inventory to use for the same purpose. Contrary to other transactions involving a trade in, the sales or use tax must have been paid previously on the vehicle being traded in, and both vehicles must be titled and registered in the dealership name.

**⚠ A trade-in deduction is limited to the total sales price of the purchased vehicle. When filing their sales and use tax returns, dealerships should take care to not claim the entire trade-in allowance when the amount for the vehicle traded in is more than the total sales price of the vehicle that is purchased.**

## Parts and Service

The retail sale of *repair parts* by the dealership's parts department and services performed by a service department, including *cleaning, repairs, and installation* of accessories, are subject to the sales and use tax.

## Repairs

When an item of tangible personal property is returned to a dealer pursuant to a sales, *warranty*, or guarantee agreement for repair or replacement, and no charge is made to the customer for the repair or replacement, there is no sales or use tax due. However, if a charge is made to the customer for labor or parts, that charge is subject to the sales or use tax. Charges for repairs not covered by an extended warranty, such as a deductible amount, are subject to tax.<sup>23</sup>

Dealers buying and using tangible personal property *to fulfill sales, warranty, or guarantee obligations* to a customer may purchase and use the tangible personal property without paying sales or use tax.<sup>24</sup>

## Loaner Property

The sale, lease, or rental of property to a dealer that provides the property to its customer free of charge as *loaner property* while the customer's property is being repaired is a sale for resale.<sup>25</sup> This is true regardless of whether the customer's property is being repaired under a warranty contract. Furthermore, because the dealer's transfer of such property is considered a resale, the dealer does not owe use tax on the customer's use of the property.

If a loaner vehicle is provided by the dealer to its customer at no cost pursuant to a warranty contract between the customer and the manufacturer or warranty company, but the dealer charges the manufacturer or warranty company for the customer's use of such vehicle, the charges paid by the manufacturer or warranty company are also exempt from sales tax.

If the dealer charges its customers for the use of a loaner vehicle, then that constitutes a rental and is subject to sales tax. Furthermore, such rental would also be subject to the Tennessee motor vehicle rental surcharge tax.<sup>26</sup> The rental surcharge tax rate is 3% and applies to the gross proceeds of the rental agreement. Such proceeds may include charges related to gas, insurance, and other related charges, but gross proceeds do not include sales tax. The tax must be remitted to the Department quarterly and is reported on the [Motor Vehicle Rental Surcharge Tax Return](#), which may be filed electronically through [TNTAP](#).

## Demonstration Vehicles

Motor vehicles and any items of tangible personal property transferred from inventory to be used by the dealer, dealer's agent, or representative for demonstration or display purposes that are returned to inventory within 120 days are exempt from sales and use tax. If the property is used in excess of 120 days, the dealer must pay use tax on the amount that the cost of the article to the dealer exceeds the sales price of the article at the time it is sold to a purchaser.<sup>27</sup>

To qualify for this exemption, the property must be used only for demonstration or display purposes. Property withdrawn from inventory for personal use (e.g., an automobile dealer taking a vehicle on a family vacation) does not qualify for the exemption. This is true even if such property is later sold by the dealer.

If the property is used for demonstration or display purposes *for more than 120 days*, the use tax owed by the dealer is not due until the property is later sold. It is not until that time that the liability can be determined. In fact, if the property is sold for more than the dealer's cost, the dealer will not owe any use tax at all. Furthermore, there is no specific time limitation during which the property must be sold after being returned to inventory, and there is no requirement that the property be sold in Tennessee for the statute to apply.

## Single Article Application on Motor Vehicles

The local option tax and the state single article tax apply to *each single article* purchased or used in this state. The local option tax only applies to the first \$1,600 of the purchase price of any single article in most jurisdictions. However, in Hamblen and Hancock counties, the local option tax only applies to the first \$300 of the purchase price of a single article. The local option tax rate is dependent on the jurisdiction where the single article is purchased. The state single article tax applies to the amount between \$1,600 and \$3,200. This amount is taxed at a standard 2.75% tax rate. The standard 7% state sales tax rate applies to the entire sales price.

"Single article" refers to any item that is considered, by common understanding, to be a separate unit, apart from any accessories, extra parts, or extra equipment, and is capable of being sold as an independent item or as a common unit of measure. Independent units sold in sets, lots, suites, or other such groupings are not considered single articles.<sup>28</sup>

However, there are special rules for motor vehicles. Parts and accessories for motor vehicles are treated as part of one unit (the vehicle) and not separate articles if:

- Installed at the factory and delivered as original equipment;
- Installed by the dealer or distributor prior to, or at the time of, sale and are included in the sale price; or
- Installed prior to the sale because of a requirement of state or federal law.<sup>29</sup>

The single article cap also applies to the lease of motor vehicles. If the motor vehicle is worth \$1,600 or more, only the first \$1,600 in lease payments are subject to the local option tax. The next \$1,600 is subject to the state single article tax. Any lease payments received greater than \$3,200 are only subject to the standard 7% state sales tax rate.

## 1. Examples

### Example 1

- A person in Nashville, Tennessee buys a new car for \$35,000. Nashville's local sales tax rate is 2.25%. The sales tax is calculated as follows:

Item	Sales Price	State Taxable	State Single Article	Local Taxable
Vehicle	\$ 35,000	\$ 35,000	\$ 1,600	\$ 1,600
Applicable Tax Rates		7.00%	2.75%	2.25%
State and Local Tax Due		<b>\$ 2,450</b>	<b>\$ 44</b>	<b>\$ 36</b>
Total Tax Due	<b>\$ 2,530</b>			

### Example 2

- A person in Jackson, Tennessee, buys a new car for \$20,000 but also has a trade-in worth \$10,000 and adds dealer installed accessories. Jackson's local sales tax rate is 2.75%.

Item	Sales Price	Less: Trade-In	State Taxable	State Single Article	Local Taxable
Vehicle	\$ 20,000	\$ (10,000)	\$10,000*	\$ 1,600	\$ 1,600
Dealer installed accessories	\$1,000	-	\$1,000*	-	-
Document Fees	\$450	-	\$450	-	-
Labor	\$225	-	\$225*	-	-
<b>Total</b>	<b>\$ 21,675</b>	<b>\$ (10,000)</b>	<b>\$ 11,675</b>	<b>\$ 1,600</b>	<b>\$ 1,600</b>
Applicable Tax Rates			7.00%	2.75%	2.75%
State and Local Tax Due			<b>\$ 817</b>	<b>\$ 44</b>	<b>\$ 44</b>
<b>Total Tax Due</b>	<b>\$905</b>				

\* Because the dealer installed accessories fall under the single article definition, they are included in the sales price and included in the single article cap.

### Example 3

- A person in Nashville, Tennessee purchases a vehicle as well as an extended warranty. The sales tax applies as follows:

Item	Sales Price	State Taxable	State Single Article	Local Taxable
Vehicle	\$ 15,000	\$ 15,000	\$ 1,600	\$ 1,600
Document Fee	\$499	\$499		
Business Tax	\$22.50	\$22.50		
Applicable Tax Rates		7.00%	2.75%	2.25%
State and Local Tax Due		<b>\$ 1,086.50</b>	<b>\$ 44</b>	<b>\$36</b>
Extended Warranty	\$2,000	\$2,000		\$2,000
Warranty Tax Rate		7.00%		2.25%
Warranty Tax Due		<b>\$140</b>		<b>\$45</b>
<b>Total Tax Due</b>	<b>\$ 1,351.50</b>			

The warranty's total sales price is subject to the 9.25% rate (7% state plus 2.25% local) because it does not qualify as a single article, and it is not included in the vehicle's sales price.

## Repossessions

A dealer who repossesses, or enforces a lien against, property the dealer has sold, on which there is an unpaid balance of greater than \$500, may deduct on the current sales and use tax return an amount equal to the unpaid balance minus \$500. The amount of unpaid balance does not include interest, carrying charges, or other similar charges. The dealer must document the credit by maintaining records of the parties and items involved, dates of the sale and the repossession, the original purchase price, and the amount of the unpaid balance.<sup>30</sup> Dealers who have sold or assigned the security agreement to a financial institution without recourse to the dealer may not claim a repossession tax credit. Financial institutions purchasing security agreements may not claim a repossession tax credit.<sup>31</sup>

The repossession credit is only available for the principal amount of the motor vehicle sold. A previous balance on a vehicle traded in that has been combined with the price of the vehicle sold only qualifies for the repossession credit on the portion that is attributable to the vehicle sold.<sup>32</sup>

The repossession credit cannot be taken at a tax rate different from that used in the calculation of the sales tax due on the original sale.

Repossession credit is available for local tax only when the purchaser paid an amount applied to the principal that was less than the maximum local taxable for a single article. The credit is available for the state single article only when the amount applied to the principal was less than the amount subject to the state single article on the original purchase.

The Department developed a useful worksheet for calculating the repossession credit. It can be found on the Department's website on the [Sales and Use Tax Forms](#) page under "Other Forms" – "Repossession Credit Calculation".



## 1. Repossession Credit Expansion 2023

### Overview

Effective July 1, 2023, Public Chapter 467 (2023) expanded the eligibility of the repossession sales and use tax credit. To qualify for the expanded credit, the dealer must:

- Principally (50% or more) sell used automobiles;
- Collect a down payment averaging not more than 5% of the automobile's sales price;
- Assign 100% of its security instruments to an affiliated finance company that occupies the same physical headquarters location in Tennessee as the dealer;
- Advance from its own funds the sales tax amount on each purchase; and
- Reimburse the finance company for the sales tax the finance company is unable to collect from the purchaser.<sup>33</sup>

The affiliated finance company must also have the right to repossess or enforce any lien against an automobile that it financed.

### Definitions

A finance company is an "affiliate" of the dealer if the finance company controls the dealer, the dealer controls the finance company, or they are under common control.

"Control" is defined as the possession, direct or indirect, of the power to direct or cause the direction of the management or policies of a person, whether through the ownership of voting securities, by contract, or otherwise.

### Commissioner Approval

Before a dealer utilizes the repossession credit under the expanded criteria, the dealer must first obtain the Commissioner of Revenue's written approval that the dealer and the assignee finance company are affiliates and satisfy the requirements listed above.

## 2. Repossession Credit Examples

### *Example 1*

A dealer sold a car for \$5,000. The dealer financed the sale. The buyer defaulted on the note after paying a \$500 down payment and monthly payments totaling \$2,500. \$500 of the monthly payments was for interest. The buyer also paid a \$100 document fee and business tax of \$15.30.

On the car dealer's books, the customer's account appeared as follows:

<b>Base price of automobile</b>	\$ 5,000.00
<b>Document fee</b>	\$ 100.00
<b>Business tax</b>	\$ 15.30
<b>State sales tax</b>	\$ 358.08
<b>Local sales tax (2.75%)</b>	\$ 44.00
<b>State single article</b>	\$ 44.00
<b>Total sales price plus tax</b>	\$ 5,561.38
<b>Down payment</b>	\$ 500.00
<b>Payments (\$500 applied to interest)</b>	\$ 2,500.00
<b>Loan amount (sales price, less down payment)</b>	\$ 5,061.38
<b>Payment on principal (payments, less interest)</b>	\$ (2,000.00)
<b>Late fees</b>	\$ 250.00
<b>Towing fees</b>	\$ 100.00
<b>Balance owed, per dealer's records</b>	\$ 3,411.38

Payment amounts attributed to the principal and to interest should be separately specified in records.

The amount of credit for sales tax that the dealer is allowed is computed as follows:

	State Taxable	Local Taxable	State Single Article
Sales price, excluding tax	\$ 5,115.30	\$ 1,600.00	\$ 1,600.00
Less: down payment	\$ (500.00)	\$ (500.00)	-
Less: payments on principal	\$ (2,000.00)	\$ (1,100.00)	\$ (900.00)
Unpaid principal	\$ 2,615.30	\$ 0.00	\$ 700.00
Less: required reduction	\$ (500.00)	-	\$ (500.00)
Repossession credit base	\$ 2,115.30	\$ 0.00	\$ 200.00
Multiplied by tax rate	x 7.00%	x 2.75%	x 2.75%
Credits	<b>\$ 148.08</b>	<b>\$ 0.00</b>	<b>\$ 5.50</b>

On the sales tax return, \$2,115.30 would be deducted on Schedule A, Line 8 for reposessions. This amount would also be added back on Schedule B, Line 2 for local tax.

To receive the state single article credit on the sales tax return, divide the \$5.50 credit by 0.07 and enter this amount, \$79.00, on Schedule A, Line 9 and Schedule B, Line 2. This amount would be included on Sch. B, Line 2 – Adjustments, to ensure local tax is not refunded (because the local taxable amount of \$1,600 was paid by the down payment and part of the payments on principal). This will ensure that the deduction on Sch. B, Line 2 will not be excluded from the local taxable base.

Because the local single article is taxed before the state single article tax is applied, any payments that are made would first apply to the local tax base, including the \$500 required reduction. In this example, the total payments made were greater than the local tax base. Therefore, the dealer did not receive a credit for unpaid local tax.

### *Example 2*

Use the same example above, but in this example the buyer put \$500 down and made monthly payments of \$1,000. \$500 of the monthly payments is applied towards interest. The amount of credit for sales tax that the dealer is allowed is computed as follows:

	State Taxable	Local Taxable	State Single Article
Sales price, excluding tax	\$ 5,115.30	\$ 1,600.00	\$ 1,600.00
Less: down payment	\$ (500.00)	\$ (500.00)	-
Less: payments on principal	\$ (500.00)	\$ (500.00)	-
Unpaid principal	\$ 4,115.30	\$ 600.00	\$ 1,600.00
Less: required reduction	\$ (500.00)	\$ (500.00)	-
Repossession credit base	\$ 3,615.30	\$ 100.00	\$ 1,600.00
Multiplied by tax rate	x 7.00%	x 2.75%	x 2.75%
Credits	<b>\$ 253.08</b>	<b>\$ 2.75</b>	<b>\$ 44.00</b>

On the sales tax return, \$3,615.30 would be deducted on Schedule A, Line 8 for repossessions. This amount would be added back on Schedule B, Line 2 for local tax. For the \$2.75 local single article credit, the \$100.00 from the repossession credit base in the local tax column above would be reported on Schedule B, Line 6. To calculate the state single article credit on the sales tax return, divide the \$44.00 credit by 0.07. This amount, \$629.00, should be reported on Schedule A, Line 9 and Schedule B, Line 2.

### Example 3

Use the same example above, but in this example the buyer put \$500 down and made monthly payments of \$1,300. \$500 of the monthly payments is applied towards interest. The amount of credit for sales tax that the dealer is allowed is computed as follows:

	State Taxable	Local Taxable	State Single Article
Sales price, excluding tax	\$ 5,115.30	\$ 1,600.00	\$ 1,600.00
Less: down payment	\$ (500.00)	\$ (500.00)	-
Less: payments on principal	\$ (800.00)	\$ (800.00)	-
Unpaid principal	\$ 3,815.30	\$ 300.00	\$ 1,600.00

Less: required reduction	\$ (500.00)	\$ (300.00)	\$ (200.00)
Repossession credit base	\$ 3,315.30	\$ 0.00	\$ 1,400.00
Multiplied by tax rate	x 7.00%	x 2.75%	x 2.75%
Credits	<b>\$ 232.08</b>	<b>\$ 0.00</b>	<b>\$ 38.50</b>

On the sales tax return, \$3,315.30 would be deducted on Schedule A, Line 8 for repossessions; this amount would also be added back on Schedule B, Line 2 for local tax. To calculate the state single article credit on the sales tax return, divide the \$38.50 credit by 0.07. The resulting amount, \$550.00, should be reported on Schedule A, Line 9 and Schedule B, Line 2.

Note, in this example, only \$300 of the \$500 required deduction was needed to reduce the unpaid local tax base to zero. Therefore, the remaining \$200 of the reduction was applied to the state single article tax base.

#### Example 4

A dealer, owned by Company A, sold a car for \$5,000. The dealer sold the sales contract to Finance Company, also owned by Company A, without recourse. The buyer defaulted on the note after paying a \$500 down payment and monthly payments totaling \$2,500. Finance Company claimed the credit on its sales and use tax return. **However, claiming this credit was improper because the finance company purchased the sales contract without recourse.**

## Bad Debt

A dealer who has paid the sales or use tax on a sale made to an account that later becomes a debt that qualifies as a bad debt that may be charged off for federal income tax purposes, may take that same amount as a credit on the current sales tax return for the tax period during which the debt is written off as uncollectable and eligible to be deducted for federal purposes.<sup>34</sup> If that account is subsequently paid to the dealer, the dealer will report the amounts paid on the next sales tax return filing and remit the tax amount due.

For purposes of calculating a bad debt deduction for Tennessee sales and use tax, “bad debt” is as defined in the Internal Revenue Code (IRC) § 166.<sup>35</sup> A full explanation of how IRC § 166 operates can be found in [Revenue Ruling # 11-59](#). However, the amount calculated pursuant to IRC § 166 is adjusted for sales and use tax purposes. The bad debt deduction taken for Tennessee sales tax purposes does not include:

- Financing charges or interest;
- Sales or use tax charged on the purchase price;
- Uncollectible amounts on property that remains in the possession of the seller until the full price is paid;
- Expenses incurred in attempting to collect any debt; and
- Repossessed property.<sup>36</sup>

The entity claiming the bad debt deduction must be the entity that writes the bad debt off its books and records.

## Detailing Services

Purchases of detailing services and repair services performed on motor vehicles that are held for resale by a licensed motor vehicle dealer or licensed automobile auction are exempt from sales and use tax.<sup>37</sup>

“Detailing services” mean “services that cosmetically or functionally refurbish or restore to like-new or serviceable condition or appearance and that are intended to enhance or increase the sales value of used or pre-owned motor vehicles in preparation for the vehicles being offered for sale at wholesale or retail in the ordinary course of the seller’s business, or that cosmetically or functionally prepare new vehicles for sale at wholesale or retail in the ordinary course of the seller’s business.”<sup>38</sup>

“Detailing services” does not include simply washing or cleaning motor vehicles, unless said services are performed in conjunction with the activities described above. For example:

- A licensed used car dealer purchased a detailing service from Detailer for one of its vehicles in inventory. The service included a thorough cleaning of the vehicle’s interior and exterior, waxing, buffing, paint touch ups, dent repair, reattaching a piece of exterior trim, patching the vinyl seats, and applying a ceramic coating to the

exterior. This sale is exempt because the vehicle was being held for resale by a licensed motor vehicle dealer and although the vehicle was cleaned, it was done in conjunction with several services that cosmetically restored the vehicle.

## Exemptions

### 1. Government and Non-Profit Entity Exemption

Vehicles sold, leased, or transferred directly to the Federal Government, State of Tennessee, a Tennessee county or municipality or an agency of these governments are exempt from sales and use tax.<sup>39</sup> A fully completed copy of the Tennessee Government Certificate of Exemption form or the Streamlined Certificate of Exemption form must be provided to the retailer or the county clerk upon requesting title and registration.

Vehicles sold, leased, or transferred directly, and solely, to a Tennessee qualified non-profit entity<sup>40</sup> are exempt from sales and use tax. The qualified organization must provide the dealer or county clerk with its Tennessee sales and use tax exemption certificate when titling and registering the vehicle. A fully completed Streamlined Sales Tax Certificate of Exemption form, which must include the Tennessee exemption number, may be used in place of the Tennessee exemption certificate.

Vehicles sold, leased, or transferred are not exempt if the transfer shows dual ownership of the vehicle, such as a transfer to a non-profit organization and an individual. For example:

- An employee purchases a vehicle and registers it in both his name and the nonprofit's name. Because the registration shows dual ownership, the sale is subject to Tennessee sales and use tax.

### 2. Members of the Armed Service Exemption

Motor vehicles registered in Tennessee are exempt from sales and use tax if the vehicle is sold to any of the following military service members:<sup>41</sup>

- A member of a uniformed service in active military service of the United States,<sup>42</sup> who is stationed in Tennessee, or a military reservation located partially within Tennessee<sup>43</sup> under orders of the member's branch of service;

- Qualified individuals must be in *full-time* duty in the Army, Navy (including Marine Corps), Air Force, or Coast Guard of the United States<sup>44</sup>
- A member of the Tennessee National Guard, or reserve member of a uniformed service of the United States, who is a participant in the active guard and reserve program (AGR)<sup>45</sup> and is stationed in the state or at a military reservation located partially within the boundary of the state and that of another state under orders of the member's branch of service; or
- A member of the Tennessee National Guard, or a reserve member of a uniformed service of the United States, who has been called into active military service of the United States and who is stationed in a combat zone. This exemption applies from the effective date of official military orders assigning the individual to a combat zone and expires 90 days after the effective date of official military orders releasing the individual from the combat zone.

Veterans are not current service members in a branch of the United States military, so they are not eligible for the exemption.<sup>46</sup> However, new or used vehicles sold, given, or donated to disabled veterans or active-duty service members who have a service-connected disability and who receive a Veterans Affairs automobile grant, are exempt from sales tax, registration fee, and local motor vehicle privilege tax.<sup>47</sup> The sales and use tax exemption is limited to the portion of the sales price that exceeds the amount of the grant received by the vehicle's seller.<sup>48</sup>

Vehicles that qualify for the exemption must meet **all three** of the following requirements.<sup>49</sup>

- The vehicle must meet the statutory definition of a "motor vehicle"<sup>50</sup>
- The vehicle must be registered in Tennessee<sup>51</sup>
- The vehicle must be both titled and registered in the name of the qualifying individual, either alone or jointly with a spouse or lineal relative<sup>52</sup>

Automobiles, trucks, motorcycles, off-highway motor vehicles,<sup>53</sup> motor homes, and campers<sup>54</sup> may be purchased without payment of sales or use tax if they are properly titled and registered in the name of eligible members of the armed forces.

As stated, all three requirements must be met for the exemption. Certain vehicles are subject to registration in Tennessee but do not meet the definition of a "motor vehicle" and would not qualify for the exemption. Likewise, vehicles that meet the definition of a "motor vehicle" but are not registered under Title 55 do not qualify for the exemption. Trailers, semi-



trailers, boats, electric scooters, motorized bicycles, most golf carts, and vehicles used exclusively for agricultural purposes, such as a farm tractor do not qualify for the exemption.<sup>55</sup> Leased or rented motor vehicles remain titled in the name of the lessor; therefore, the exemption does not apply to leased or rented motor vehicles.

### *Documentation is Required for the Exemption*

To establish eligibility for the military service member exemption, the purchaser must provide to the county clerk (and to the seller of the vehicle if the purchase occurs in Tennessee) a copy of the official orders related to the purchaser's stationing and, if applicable, the purchaser's status as a member of the AGR program. Such orders and documentation must be retained in the seller's files, and a copy must accompany the application for registration. Please refer to the Tax Guide for Military Members and Veterans for examples of different types of documents that may be provided by military service members to establish eligibility for the exemption.

## **3. Three Day Removal Exemption**

Tennessee law allows a buyer to purchase or lease a motor vehicle in Tennessee and have up to three days to remove the motor vehicle to another state without having to pay Tennessee sales or use tax on the purchase. **This exemption only applies to sales and use tax.** It does not, for example, apply to business tax or franchise and excise tax.

A [Seller/Purchaser Affidavit of Exemption for Motor Vehicles, Trailers, and Boats Sold for Removal from Tennessee Within Three Days](#) (3-Day Affidavit) must be completed indicating the city and state to which the item will be delivered.

The 3-Day Affidavit exemption includes but is not limited to:

- Motor vehicles
- Trailers
- Motorcycles including dirt bikes
- Snowmobiles
- Off-highway motor vehicles<sup>56</sup>
- Sand and dune buggies or other "all-terrain vehicles" (ATVs)
- Boats (boat trailers when purchased with a boat)
- RVs
- Manufactured or mobile homes

Please note, a vehicle registered in another state but permanently located in Tennessee is not eligible for this exemption. Buyers signing a 3-Day Removal Affidavit, who are Tennessee residents and intend to locate and/or primarily use the car in Tennessee, may be held liable for tax, penalty, and interest.

#### **4. Motor Carrier Exemption**

A motor carrier may purchase motor vehicles and trailers used in interstate commerce exempt from sales and use tax. For a motor vehicle to qualify for this exemption the following requirements must be met:

- Gross Vehicle Weight Rating of Class 3 (16,000 lbs.) or above;
- Used to transport passengers or cargo;
- Used principally (more than 50%) in interstate or foreign commerce; and
- Used by a carrier holding common or contract carrier operating authority granted by the federal government or other state regulatory agency.<sup>57</sup>

This exemption also applies to purchases made by motor carriers operating under another carrier's operating authority via an agreement that complies with the federal regulations found in 49 C.F.R. Part 376 (commonly referred to as an Independent Service Provider Agreement or "ISP Agreement"). Motor carriers should be prepared to provide additional documentation to evidence that they qualify for the exemption. Such documentation may include motor carrier registration documents issued by the Federal Motor Carrier Safety Administration, insurance documents, or vehicle specific documents.

## Chapter 3: Business Tax

### Overview

The Tennessee business tax is a privilege tax on the privilege of doing business by making sales of tangible personal property or taxable services in Tennessee and its local jurisdictions. While anyone doing business in the state is subject to the state-level business tax, unless specifically exempt, each municipality must adopt the tax to impose it within its city limits. Business is defined as “any activity engaged in by any person, or caused to be engaged in by the person, with the object of gain, benefit, or advantage, either direct or indirect.”<sup>58</sup>

The business tax applies to a taxpayer’s gross sales of tangible personal property and services. Taxpayers with less than \$100,000 in gross sales are exempt from business tax but have local business licensure requirements if making more than \$3,000 in gross sales. For an in-depth review of the business tax, please see the Department’s Business Tax Manual that may be accessed [here](#).

### Registration and Licensing

#### 1. Registration

Every person subject to state-level and/or municipal-level business tax must register with the Department before engaging in business in the state.<sup>59</sup> The Department registers businesses under *one consolidated business tax account*. For businesses with multiple locations, the Department will register each business location, both in-state and out-of-state (if applicable) by assigning separate profile identifications under the consolidated account to reflect business tax activity at each location.

#### *In-State Businesses*

Businesses with a Tennessee location may register for business tax directly with the Department or through the county clerk in the county where the business is located. Businesses located in a city that has enacted the municipal-level business tax may register directly with the Department through TNTAP or through the appropriate city official.<sup>60</sup>

When a taxpayer registers directly with the Department, the taxpayer does not have to communicate with the county clerk to alert the county clerk of the registration. The same is true when a taxpayer registers through TNTAP or with the county clerk.

Businesses with multiple locations must register and remit tax for each location.<sup>61</sup> If the business is not located in Tennessee, it must register directly with the Department. Taxpayers who extend operations into other counties or cities without establishing an office, headquarters, or other place of business generally do not have to register in such counties.<sup>62</sup>

### *Out-of-State Businesses*

Businesses that do not have a Tennessee location but are still subject to the business tax must register directly with the Department through TNTAP.

## **2. Business Licenses**

In addition to registering, generally every in-state business subject to state-level or municipal-level business tax must also obtain a business license before engaging in business in this state.<sup>63</sup> Businesses meeting specific gross sales thresholds may forego obtaining a standard business license in favor of a minimal activity license.

Businesses must display each respective business license at each of their locations.<sup>64</sup> The licenses vary based upon gross sales thresholds per jurisdiction, which are as follows:

- Standard business license: \$100,000 or more in gross sales<sup>65</sup>;
- Minimal activity license: More than \$3,000 but less than \$100,000 in gross sales; and
- Businesses with \$3,000 or less in gross sales do not have to obtain a business license. Either a minimal activity license or a standard license may be obtained.

Businesses choosing to have a standard business license must file a business tax return with the Department and remit tax for that location. The minimum tax is \$22 for each location - \$44 if located in a city as both city and state tax are due.

**⚠ The Department does not issue business licenses. These licenses are issued by the appropriate county clerk or city official. Businesses must contact their local county clerks and city officials if there are issues in obtaining a business license.**

## Determining Gross Sales

The business tax is based on a business's gross taxable sales (also referred to as "gross receipts") per location. A business's gross sales are comprised of all the business location's sales without any deduction whatsoever of any kind or character, unless specifically provided by Tennessee law.<sup>66</sup> Gross sales are multiplied by the appropriate classification rate to calculate the amount of tax owed per location.

Generally, all sales of tangible personal property, including motor vehicles, and services made in Tennessee will be subject to business tax unless the sale or business is specifically exempt under Tennessee law.

## Classifications

An entity's business tax classification determines the rate of tax that will apply. There are five major business tax classifications as well as a separate category for antique malls, flea markets, transient vendors, and the like. Business tax classifications are found in Tenn. Code Ann. § 67-4-708.

Businesses choose their classification for each of their locations based on the "dominant business activity" of the location. "Dominant business activity" is the activity that produces the most taxable income for the business location.<sup>67</sup> Only one classification applies per business location.

An entity with a dominant business activity of selling motor vehicles is considered a Classification 2 business.<sup>68</sup> However, an entity that sells motor vehicles and performs services but receives more service revenue than revenue from the sales of motor vehicles would be considered a Classification 3 business.

## **Retailer vs. Wholesaler**

Businesses must also determine if they are primarily engaged in the business of making retail sales or wholesale sales for business tax purposes. The determination of whether a business is a retailer or wholesaler is made on a location-by-location basis. This is important because the business tax rate differs for retailers and wholesalers at a given location. Generally, a business is a retailer if at least 50% of taxable gross sales are retail sales and a wholesaler if more than 50% of taxable gross sales are wholesale sales.

### **1. Retailer to Retailer Sales**

Retailer to retailer sales are generally subject to business tax. However, transfers of tangible personal property from a retailer to another retailer for consideration that does not exceed the cost of the tangible personal property including freight and storage costs and transportation costs incurred are not defined as sales and are not subject to business tax. These types of sales are often accommodation sales.

For example:

- A customer at a car dealership in Nashville wants a black car with black interior. The Nashville dealership only has a white car with black interior. However, the dealership finds the car at a Memphis dealership. The Memphis dealership sells the car to the Nashville dealership at cost plus transportation. Both dealerships are retailers, but because the sale was made at cost plus transportation, it is not considered a sale for business tax purposes.

More information on accommodation sales is available below in part 5 of the Deductions section.

## **Exemptions**

### **1. Sales of Extended Warranties**

Sales of extended warranties by warranty companies fall within the 16 services that are specifically exempt from business tax. To determine if a service is exempt for business tax purposes, Tenn. Code Ann. § 67-4-708(3)(c) provides that the SIC Code should be used to identify exempt services. Sales of car warranties fall within Major Group 63 of the SIC Code as automobile warranties are classified as insurance products.

### *Sales of Extended Warranties by Auto Dealers*

Sales of extended warranties by auto dealers to the end consumer, where the dealer plays a mere agent role in the transaction and retains a commission for the sale, are taxable at the retail rate to the auto dealer on the commission portion of the sale.<sup>69</sup>

Additionally, when an automobile covered by an extended warranty contract is serviced by a franchised auto dealer, the auto dealer generally bills the warranty company for parts and labor used to repair said automobile under contract. Sales of parts and services by the auto dealer to the warranty company are wholesale sales.<sup>70</sup>

### *Sales of Warranties v. Sales of Service Contracts*

Sales of warranties and sales of service contracts are treated differently for business tax purposes. Service contracts are essentially pre-paid car services, and generally, cover routine maintenance items such as oil changes and tire rotations. Car services and repairs are taxable services that are taxed at the retail rate; therefore, service contract sales are also subject to business tax at the retail rate. Extended warranty contracts generally cover contemplated repairs resulting from breakdowns.

## **Installment and Credit Sales**

Taxpayers making conditional, charge, or installment sales must report the total selling price of such sales and pay the appropriate business tax due in the reporting period in which the contracts of sale are entered.<sup>71</sup> For example:

- Dealership A sells a motor vehicle to a customer for a total price of \$40,000. The customer puts down an initial payment of \$10,000 and finances \$30,000. Dealership A will report the entire \$40,000 in its gross sales. Please see below for information on the necessary steps if the customer were to default on the financing.

## **Deductions**

Tennessee taxpayers may make various deductions that ultimately reduce their business tax liability. Deductions must be reflected on the business tax return as amounts subtracted from total gross sales. Most of the business tax deductions are in Tenn. Code Ann. § 67-4-711.

## 1. Cash Discounts

Taxpayers may deduct cash discounts allowed and taken on sales from their business tax base.<sup>72</sup> For example:

- A used car dealership has a special July 4<sup>th</sup> promotion offering \$100 off any vehicle advertised at \$5,000 or more. A customer purchases a \$5,000 motor vehicle. The dealership will report the entire \$5,000 in its gross sales and deduct the \$100 cash discount.

All taxpayers that claim a cash discount, or any of the deductions outlined below from their gross sales, must maintain invoices and other documents to substantiate their claims to such deductions; otherwise, the deductions will be disallowed.<sup>73</sup>

### *Federal Clean Vehicle Rebate*

Starting January 1, 2024, customers who are eligible for the federal clean vehicle tax credit on the purchase of a qualifying new or previously-owned clean vehicle will have the option of receiving this federal tax credit in the form of an immediate rebate at the point of sale from participating dealers.<sup>74</sup> A rebate of up to \$7,500 is available towards the purchase of a new clean vehicle and up to \$4,000 towards the purchase of a previously-owned clean vehicle. For Tennessee business tax purposes, the federal rebate is included in the dealer's gross sales subject to tax and **cannot be deducted** from gross sales.

## 2. Trade-In Allowances

Taxpayers may deduct the amount allowed as trade-in value for any article sold.<sup>75</sup>

When an item of tangible personal property is taken in trade as a credit or partial payment on the sale of new or used articles, business tax is calculated on the difference between the sales price of the new or used article sold and any credit given for the used article accepted in the trade.<sup>76</sup> For example:

- A customer purchases a new car from the taxpayer for \$30,000. As part of this transaction, the customer trades in its used car for which the taxpayer gives the customer a trade-in value of \$9,000. *The taxpayer will report on its business tax return the gross sale of \$30,000 and then take a deduction for the \$9,000 trade-in value.*



A credit will not be allowed for trade-ins unless the item traded is of a like kind and character of that which is purchased and indicated as a trade-in by model and serial number, where applicable, on an invoice given to the customer.<sup>77</sup>

### **3. Repossessed Goods**

Taxpayers may sell items of tangible personal property, such as motor vehicles, and provide financing for the sale with a security agreement. Under the security agreement, the taxpayer retains a security interest in the property until it is paid in full. If the purchaser defaults on the required payments, the dealer may repossess the property. When a taxpayer repossesses property that is sold pursuant to the terms of a security agreement, the taxpayer may take a deduction for the difference between the remaining amount due on the selling price of the repossessed property less \$500.

Of the unpaid balance due on the repossessed property, only the amount that constitutes principal is eligible for this deduction; amounts that constitute interest, carrying charges, or similar charges cannot be deducted. Also, amounts that constitute sales and use tax, late fees, repossession fees, towing fees, or any other fees that are added after the original sale may not be deducted. Taxpayers claiming this deduction must maintain adequate documentation to substantiate the sale and subsequent repossession of the item(s) in question; this documentation should include the following:

- Identity of the parties and items involved;
- Dates of the sale and repossession;
- Amount of original purchase price subject to business tax;
- Terms of the security agreement (recourse/nonrecourse, repayment schedule);
- Detailed list of amounts paid (including down payment, principal, and interest); and
- Itemized list of charges that comprise the outstanding balance of the loan (including the unpaid principal balance).

The repossession deduction is available only if the taxpayer holds the note or has transferred the note with recourse to another entity. Recourse means that the entity

receiving the note (generally a financial institution) has the right to demand payment from the taxpayer that made the sale. If the sales contract goes into default, the financial institution returns the financed item to the dealer. The dealer is required to reimburse the finance company for the unpaid portion of the loan and pay any other fees incurred by the purchaser, such as additional interest, late fees, repossession fees, etc. If the taxpayer transfers the note without recourse to another entity, neither the taxpayer nor the other entity would be entitled to claim the deduction.

If a bank or other financial institution purchases a contract without recourse from a taxpayer, relating to tangible personal property sold by the taxpayer under a security agreement or other title-retained instrument, said bank/financial institution may not take any deduction or credit for any unpaid balances remaining due on such contract following repossession of the property or any action to enforce the lien. In this instance, the taxpayer would not be eligible for the deduction either.

**⚠ Audit Tip: The auditor should verify that the amount of the deduction does not exceed the amount of gross sales originally reported from the sale. If a previously financed amount is combined with a current sale on a security agreement, only the amount that applies to the repossessed item qualifies for the deduction.**

#### *Example – Repossession Deduction*

A car is sold for \$5,000 and financed by the taxpayer. The customer defaults on the note after remitting a \$500 down payment and an installment payment of \$2,500 (\$500 of this payment is for interest). The taxpayer also charged the customer a \$100 doc fee and business tax of \$15.30. On the taxpayer's books, the customer's account appears as follows:

Base price of automobile	\$ 5,000.00
Doc fee	\$ 100.00
Business tax	\$ 15.30
State sales tax	\$ 358.08
Local sales tax	\$ 44.00
State single article	\$ 44.00
Total sales price plus tax	<u>\$ 5,561.38</u>
Down payment	\$ 500.00
Installment payment	\$ 2,500.00 (\$500.00 applied to interest)
Loan amount	\$ 5,061.38 (Total sales price less down payment)
Payment on principal	\$ (2,000.00) (Installment payment less interest)
Late fees	\$ 250.00
Towing fees	\$ 100.00
Balance owed per taxpayer's records	<u>\$ 3,411.38</u>

The repossession deduction permitted for business tax purposes is calculated as follows:

Sales price (excluding sales tax)	\$ 5,115.30
Less: down payment	\$ (500.00)
Less: payment on principal	\$ (2,000.00)
Unpaid principal	<u>\$ 2,615.30</u>
Less: statutory deduction	\$ (500.00)
<b>Repossession deduction</b>	<u><b>\$ 2,115.30</b></u>

#### **4. Sales of Tangible Personal Property in Interstate Commerce**

Taxpayers may deduct from their business tax base sales in bona fide interstate commerce. Deliveries of tangible personal property and services to customers located in this state are sales subject to the business tax, regardless of whether the property is subsequently transported outside the state. However, deliveries of tangible personal property or services to customers outside this state by the taxpayer or a common carrier, before a customer obtains possession, are sales exempt from the business tax.

### *Example*

A Tennessee car dealer sold a car to a customer that is an out-of-state resident. The customer came to the dealer's lot to purchase the car. After the purchase, the customer took possession of the car and drove it off the lot. The customer utilized a 3-day affidavit to purchase the car exempt from sales tax. However, because the customer took possession of the vehicle in Tennessee, the car dealer cannot deduct this sale for business tax purposes.

## **5. Accommodation Sales**

Sales receipts from a bona fide accommodation sale are not subject to business tax and may be deducted from a taxpayer's gross sales in determining their business tax base, provided that such sales have been included in the gross sales reported on the Business Tax Return.

An "accommodation sale" is an occasional and incidental sale for resale by a person regularly engaged in the business of making sales of the type of property that is sold for resale to other persons similarly engaged in the business of selling such property.<sup>78</sup> The amount paid by the buyer to the seller for an accommodation sale may include additional charges for the cost of freight, in storage costs, and transportation costs incurred in the transfer of the property from the seller to the buyer.<sup>79</sup>

For example:

- Dealership A has a purchase order from a customer for a new vehicle with customized specifications. However, Dealership A does not have a vehicle in stock that meets the customer's requirements. Dealership B does have such a vehicle in stock. Dealership B sells the vehicle to Dealership A at cost, which includes transportation costs incurred by Dealership B. This transaction qualifies as an accommodation sale, and Dealership B may deduct from its business tax base the proceeds from the sale. However, the amount paid by the buyer to the seller cannot exceed the amount paid by the seller to their vendor in acquiring the property and any additional, permissible charges for costs incurred by the seller.
- Assume the same facts as in the previous example, except that Dealership B charges Dealership A markup of 20% in excess of Dealership B's cost for the vehicle. Because the selling price of the vehicle to Dealership A exceeds Dealership B's cost, the sale does not qualify as an accommodation sale and Dealership B may not deduct the proceeds from the sale.

## Personal Property Tax Credit

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>80</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>81</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>82</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 for the state business tax purposes.
- Only the amount of personal property taxes paid to the city will be used to determine the credit for the city business tax purposes.

## Chapter 4: Franchise and Excise Tax

### Overview

Automobile dealerships that operate as a taxable entity, such as a corporation, S corporation, limited partnership, or limited liability company, and do business in Tennessee are subject to franchise and excise tax. The tax applies whether the taxpayer operates solely within Tennessee or in multiple states including Tennessee, so long as the taxpayer has established a substantial nexus (discussed below) in Tennessee.

A taxable entity is subject to franchise and excise tax if it is “doing business” and has a “substantial nexus” in Tennessee. Doing business is defined broadly as “any activity purposefully engaged in within Tennessee, by a person with the object of gain, benefit, or advantage.”<sup>83</sup> A taxpayer will establish a substantial nexus in Tennessee if it meets any one of the following criteria:<sup>84</sup>

- The taxpayer is organized or commercially domiciled in this state;
- The taxpayer owns or uses its capital in this state;
- The taxpayer has systematic and continuous business activity in this state that has produced gross receipts attributable to customers in this state;
- The taxpayer licenses intangible property for use by another party in this state and derives income from that use of intangible property in this state; or
- The taxpayer has bright-line presence in this state. A person has bright-line presence in this state for a tax period if any of the following applies:
  - The taxpayer's total receipts in this state during the tax period, as determined under Tenn. Code Ann. § 67-4-2012, exceed the lesser of five hundred thousand dollars (\$500,000) or twenty-five percent (25%) of the taxpayer's total receipts everywhere during the tax period;
  - The average value of the taxpayer's real and tangible personal property owned or rented and used in this state during the tax period, as determined under Tenn. Code Ann. § 67-4-2012, exceeds the lesser of fifty thousand dollars (\$50,000) or twenty-five percent (25%) of the average value of all the taxpayer's total real and tangible personal property; or

- The total amount paid in this state during the tax period by the taxpayer for compensation, determined under Tenn. Code Ann. § 67-4-2012, exceeds the lesser of fifty thousand dollars (\$50,000) or twenty-five percent (25%) of the total compensation paid by the taxpayer.

**Individuals and general partnerships<sup>85</sup> are not subject to franchise and excise tax.**

(Note that an SMLLC that is owned by an individual *is subject* to the tax.) In addition, an otherwise taxable limited liability company or limited partnership that has become an obligated member entity is exempt from the franchise and excise tax.<sup>86</sup> See Chapter 2 of the Franchise and Excise Tax Manual for a full discussion on franchise and excise tax exemptions. It can be accessed [here](#).

## Franchise Tax

For tax years ending on or after January 1, 2024, the franchise tax is based on the taxpayer's net worth, as determined at the close of the tax year. "Net worth" is defined for franchise tax purposes as the difference between a taxpayer's total assets less its total liabilities computed in accordance with generally accepted accounting principles.<sup>87</sup>

The net worth value reported on the franchise tax return (Form FAE170, Schedule F) should be determined using the taxpayer's books and records prepared under generally accepted accounting principles (GAAP).<sup>88</sup> However, if the taxpayer does not maintain its books and records in accordance with GAAP, the taxpayer may compute and report its net worth value in accordance with the accounting method used by the taxpayer for federal tax purposes, so long as the method fairly reflects such values.<sup>89</sup> If the taxpayer maintains both GAAP and tax basis books and records, the taxpayer *must use* its GAAP books and records to determine its franchise tax base. If the taxpayer's book basis records are not maintained in accordance with GAAP, it *must use* its tax basis records in completing the franchise tax return.<sup>90</sup>

An automobile dealership's in-house financial statements are generally intended for operational/management purposes and may not conform to GAAP or federal tax basis standards. If this is the case, the dealership's in-house financial statements should not be used in completing the franchise tax return; the federal tax basis financial statements and records should be used. See Chapters 9 and 10 of the Franchise and Excise Tax Manual for more information on the franchise tax. It can be found [here](#).

## 1. Inventories

For auto dealerships, the most substantial asset included in the franchise tax base will usually be inventory owned by the dealership. Inventory reported on a GAAP basis balance sheet will adhere to guidance contained in the Accounting Standards Codification (ASC) Topic 330 – Inventory. Inventory is included in the total assets used to compute net worth, which is reported on Form FAE170, Schedule F1.<sup>91</sup> Liabilities, such as floor plan financing or business loans, that the dealership incurs to purchase its inventory are deducted from the dealer's total assets to arrive at the net worth amount reported on Schedule F1, Line 1.<sup>92</sup> Deductible liabilities for franchise tax purposes are also determined in accordance with applicable GAAP.

When GAAP basis financial statements are not maintained by the auto dealership, the dealership's federal tax basis financials will be used to compute the franchise tax base. [IRS Publication 538](#) discusses the rules and methods for valuing inventory for federal tax purposes. Tennessee will accept the taxpayer's method of valuing its inventory, whether the taxpayer uses specific identification, FIFO method, LIFO method, or any other method that is permitted under GAAP or federal tax rules, so long as the method fairly reflects the taxpayer's net worth value.

## Excise Tax

The excise tax is based on the taxpayer's net earnings for the tax year. The excise tax return is filed on a separate entity basis. The starting point for computing the excise tax (Schedule J1, J2, J3, or J4) is the net income or loss reported on the taxpayer's federal income tax return (without regard to the federal NOL deduction and certain special deductions), and certain adjustments are required to compute net earnings subject to excise tax (Schedule J).<sup>93</sup> See Chapter 11 of the Franchise and Excise Tax Manual for more information on the excise tax. It can be found [here](#).

## 1. Conformity with Federal Bonus Depreciation

Effective for assets *purchased on or after* January 1, 2023, for purposes of computing net earnings or loss subject to excise tax, Tennessee conforms to the federal bonus depreciation provisions, under Internal Revenue Code §168, as applied under the federal Tax Cuts and Jobs Act of 2017.<sup>94</sup> (Note, for assets *purchased on or before* December 31, 2022, bonus depreciation deductions continue to be disallowed for excise tax purposes.)



## 2. Deduction Allowed for Certain Federal Vehicle Credits (Sales to Tax-Exempt Entities)

For federal income tax purposes, there are certain tax credits available for qualifying vehicles placed in service by a taxpayer during the tax year. These credits include the *previously-owned clean vehicle credit* (IRC § 25E) and the *clean vehicle credit* (IRC § 30D), which are based on the purchase of certain plug-in or fuel cell electric vehicles. Generally, these federal income tax credits are taken by the ultimate consumers of these vehicles, rather than the seller of the vehicles. However, if the ultimate consumer of the vehicle is a federally tax-exempt entity, such as a nonprofit or governmental entity, then the seller of the vehicle may take the tax credit against its federal income tax liability if certain requirements are satisfied.

If the seller takes the tax credit, then it must reduce its federal income tax cost of goods sold deduction by the amount of the tax credit. Because the starting point of the Tennessee excise tax calculation is federal taxable income, this reduced deduction flows into the seller's excise tax base. However, if the seller takes the federal vehicle credit, then it is permitted to deduct the amount of this credit on Schedule J, Line 20 of the Tennessee return, thus restoring the seller's cost of goods sold deduction.<sup>95</sup>

**⚠ Note, this deduction is not allowed in cases where the taxpayer purchases a qualifying vehicle that it places in service for its own business use, rather than to hold for sale.**

## 3. Federal Clean Vehicle Rebate

Starting January 1, 2024, customers who are eligible for the federal clean vehicle tax credit on the purchase of a qualifying new or previously-owned clean vehicle will have the option of receiving this federal tax credit in the form of an immediate rebate at the point of sale from participating dealers.<sup>96</sup> A rebate of up to \$7,500 is available towards the purchase of a new clean vehicle and up to \$4,000 towards the purchase of a previously-owned clean vehicle.

The tax treatment of these rebates for Tennessee excise tax purposes follows the federal income tax treatment. That is:

- The payment received by the dealer from the federal government in reimbursement of the rebate allowed to the customer is excluded from the dealer's gross income;

- The rebate allowed to the customer is not deductible by the dealer (it cannot be deducted on Schedule J, Line 20 of the Tennessee return); and
- The rebate allowed to the customer is included in the sales price of the vehicle and is thus treated as an amount realized to the dealer in determining the taxable gain or loss on the sale of the vehicle.<sup>97</sup>

**⚠ The Department of Revenue does not administer nor allow these federal tax credits against Tennessee franchise and excise tax. Please consult your tax preparer for more information on these federal tax credits.**

#### 4. Excise Tax Standard Deduction

**Effective for tax years ending on or after December 31, 2024**, a new “standard deduction” is available for deduction from a taxpayer’s net earnings subject to excise tax, which is equal to the lesser of the taxpayer’s net earnings (computed without the standard deduction) or \$50,000. This deduction exempts up to \$50,000 of a taxpayer’s net earnings from excise tax. This deduction cannot create or increase a net loss.<sup>98</sup>

### Apportionment

Taxpayers conducting business activities that are taxable both inside and outside Tennessee will apportion their net worth and net earnings for Tennessee franchise and excise tax purposes. A taxpayer is considered taxable in another state only if the taxpayer is conducting activities in that state that, if conducted in Tennessee, would constitute doing business in Tennessee and would subject the taxpayer to either Tennessee's franchise tax or excise tax.<sup>99</sup>

A taxpayer that is eligible to apportion calculates its apportionment ratio on Schedule N of Form FAE170. Tennessee’s standard apportionment formula includes a property factor, a payroll factor, and a sales factor.<sup>100</sup> An automobile dealership that is eligible to apportion will calculate its apportionment ratio on Schedule N. The following paragraphs discuss apportionment topics relevant to most auto dealerships. Please refer to Chapter 14 of the Franchise and Excise Tax Manual for a comprehensive discussion on apportionment. It can be found [here](#).

## 1. Examples – Right to Apportion

- Auto Dealer ABC has a single location in Tennessee and the majority of its automobile sales are made to customers who are located in Tennessee. ABC does make a few sales to customers located in other states, but these sales do not exceed \$500,000 in any one of those other states during the tax year. Because ABC's operations take place solely within Tennessee and ABC only makes a minimal amount of sales in other states, which do not exceed Tennessee's bright-line substantial nexus threshold<sup>101</sup> in any state, ABC does not have the right to apportion and must attribute 100% of its net worth and net earnings to Tennessee for franchise and excise tax purposes.
- Auto Dealer DEF has multiple locations in multiple states, including Tennessee. DEF makes sales at these locations to customers who are located both within and outside the various states in which DEF is located. Because DEF's operations take place in multiple states, regardless of whether the \$500,000 bright-line threshold for sales is exceeded in any other state during the tax year, DEF may apportion its net worth and net earnings for franchise and excise tax purposes.
- Auto Dealer XYZ operates in one or more states but does not have a physical presence in Tennessee (neither business property nor employees). However, XYZ regularly sells automobiles to customers located in Tennessee and these Tennessee sales exceed the \$500,000 bright-line threshold for the tax year. Although XYZ does not have a physical presence in Tennessee, it is subject to franchise and excise tax because it has established a substantial nexus in Tennessee. XYZ is eligible to apportion its net worth and net earnings because it conducts taxable business activities in multiple states.

## 2. Single Sales Factor Apportionment

Tennessee will be transitioning from a three-factor property/payroll/sales apportionment formula to a single sales factor apportionment formula over the next few years. Single sales factor will be mandatory for taxpayers who apportion, with certain exceptions that generally do not apply to automobile dealerships.

Single sales factor will be phased in over the next few years by gradually increasing the weighting of the sales factor in the three-factor apportionment formula as follows:

- For tax years ending on or after December 31, 2023, but before December 31, 2024, the sales factor of the standard, three-factor apportionment formula will be weighted five (5) times, and the total of the property, payroll, and sales factors will be divided by seven (7).
- For tax years ending on or after December 31, 2024, but before December 31, 2025, the sales factor of the standard, three-factor apportionment formula will be weighted eleven (11) times, and the total of the property, payroll, and sales factors will be divided by thirteen (13).
- For tax years ending on or after December 31, 2025, the standard apportionment formula will consist of the sales factor only.<sup>102</sup>

Taxpayers will be given the option to continue using the property/payroll/3x sales factor apportionment formula, *but only if* the application of this formula results in a *higher* apportionment ratio for the tax year (as compared to the ratio derived from the applicable apportionment formula indicated above for the tax year) *and* the taxpayer has net earnings, rather than a net loss, for the tax year, as computed under Tenn. Code Ann. § 67-4-2006. A taxpayer might choose this option to fully utilize existing tax credit balances that are near expiration.

#### 52-53 Week Filers

Taxpayers that have a 52–53-week tax year ending slightly before or after December 31<sup>st</sup> conform to a calendar-year end for purposes of determining which apportionment formula to apply. For example, a taxpayer with a 52–53-week tax year ending on December 27, 2023, would be deemed to have a tax year ending on December 31, 2023, for franchise and excise tax purposes and would apply the increased 5x sales factor weighting to its property/payroll/sales apportionment formula. Likewise, a taxpayer with a 52–53-week tax year ending on January 3, 2024, would be deemed to have a tax year ending on December 31, 2023, and would also apply the increased 5x sales factor weighting to its property/payroll/sales apportionment formula.

### 3. Apportionment – Property and Payroll Factors

As mentioned above, the property and payroll factors will be eliminated from the standard apportionment formula for tax years ending on or after December 31, 2025. The property factor includes all owned or rented real and tangible property used during the tax period in the taxpayer's trade or business.<sup>103</sup> The payroll factor numerator is the total amount of compensation paid in this state during the tax period and the denominator is the total

compensation paid everywhere during the tax period.<sup>104</sup> For additional information about these apportionment factors, see Chapter 14 of the Franchise and Excise Tax Manual.

#### 4. Apportionment – Sales Factor

The sales factor is the ratio of Tennessee sales to everywhere sales. Sales included in the sales factor are all gross receipts from transactions and activity in the regular course of the taxpayer's trade or business.<sup>105</sup> Gross receipts means all receipts from whatever sources derived before any deductions, but not including actual sales returns and allowances.<sup>106</sup>

Sales of tangible personal property are Tennessee sales if the property is delivered or shipped to a purchaser inside Tennessee, regardless of the F.O.B. point or other conditions of the sale. However, if the purchaser is the United States government, the sale is sourced to Tennessee if the property is shipped from a Tennessee office, store, warehouse, factory, or other place of storage.<sup>107</sup> [Revenue Ruling 20-09](#) clarifies that, when determining whether a sale is a Tennessee sale, the determining factor is the purchaser's location – as opposed to where the purchaser takes possession of the property or registers the property. Thus, if an in-state auto dealer sells a vehicle to an out-of-state customer, even if the customer takes possession of the vehicle in Tennessee, the sale is not a Tennessee sale because the customer does not have a location in Tennessee. Conversely, an out-of-state auto dealer who is subject to franchise and excise tax and sells a vehicle to a customer located in Tennessee will source that sale to Tennessee for sales factor apportionment purposes.

Receipts derived from the rental, lease, or license of tangible personal property are sourced to Tennessee if, and to the extent, the property is located in this state.<sup>108</sup> If the property is mobile property that is located both within and without Tennessee during the period of the lease or other contract, the receipts assigned to Tennessee are the receipts from the contract period multiplied by the fraction used by the taxpayer for *property factor purposes* (as adjusted when necessary to reflect differences between usage during the contract period and usage during the taxable year).<sup>109</sup>

- For *property factor purposes*, the value of owned or leased mobile or movable property located both inside and outside of the state is based on the total percentage of time such property is inside the state during the tax period.<sup>110</sup> Mileage is considered a reasonable approximation of time and may be used for this calculation.

- Auto dealers who derive receipts from renting or leasing vehicles to customers must determine the extent to which the rented/leased vehicles are located in Tennessee during the tax period to properly source the receipts for sales factor purposes.
  - If the auto dealer has readily available information or records documenting the location of the rented/leased vehicle during the tax period, then the auto dealer should use this data to determine the percentage of time (whether based on mileage or some other documented factor) the vehicle is located in Tennessee during the tax period.
  - If the auto dealer does not have readily available data documenting the rented/leased vehicle's location during the tax period, then the auto dealer should use the best information available to the auto dealer to make this determination.
- The value of an automobile or truck assigned to a traveling employee will be considered in Tennessee, if the employee's compensation would be assigned to Tennessee for payroll factor apportionment purposes, or if such vehicle is licensed in Tennessee.<sup>111</sup>

## Chapter 5: Title and Registration

### Overview

This chapter provides an overview of the most common vehicle title and registration issues that automobile dealers encounter. All of the forms referenced in this chapter may be accessed [here](#) on the Department's website. There is also additional title and registration information [here](#) on the Department's website.

### Titling Motor Vehicles in Tennessee

The Certificate of Title is a legal document used to authenticate ownership of a vehicle. Tennessee issues titles on all types of vehicles operated upon the highways, including:

motorcycles, mopeds, house trailers, camping trailers, off-road vehicles, snowmobiles, and all-terrain vehicles (ATVs). Tennessee does not require titles for U.S. Government vehicles, implements of husbandry, special mobile equipment not designed for use primarily for transportation of persons or property and only incidentally moved or operated over the highway, collapsible camping trailers, utility trailers (non-commercial), and farm trailers.

In Tennessee, the title is given to the vehicle owner, or if applicable, the first lienholder. Purchasers must title and/or register the vehicle and pay all applicable fees and taxes. No subsequent ownership transfer can occur until this is completed.

#### 1. Certificate of Title Requirements

The **front** of a Tennessee Certificate of Title must include the following information:

- Vehicle Identification Number (VIN), make, model, year, and body type of motor vehicle;
- Title and County Number;
- Former title number, former title state, sales and use tax amount, and odometer reading;
- Title issued date and purchase date;

- Name and address of any owner(s) as well as the name and address of up to two (2) lien holders; and
- Brands and/or remarks related to the vehicle or the title itself, e.g., Replica, Duplicate, Actual Mileage.

The **back** of a Tennessee Certificate of Title is to be used for the following:

- Transferring ownership of the vehicle;
- Recording all liens;
- Odometer Disclosure;
- Record Date of Sale; and
- Record Sales Tax.

## 2. Certificate of Title Extension

The Certificate of Extension Form is a supplemental document to a Certificate of Title that can only be used by licensed auto dealers to transfer a vehicle, commonly referred to as an “assignment.” This form is commonly used when all assignment spaces on the back of a Certificate of Title are exhausted. The Certificate of Title Extension must be used along with a Certificate of Title. Furthermore:

- The form must reference the title number and VIN.
- The form is not to be used by individuals or non-licensed dealers.
- Each assignment must be in successive order and is not valid until completed in full, with the following:
  - Signature, printed name, and address of the seller (Dealer)
  - Dealer Number and License Jurisdiction
  - Date of sale
  - Signature, printed name, and address of buyer
  - Date of sale and sales price
  - When applicable:
    - Lienholder name and address
    - Odometer Disclosure Statement
    - Trade-in vehicle information and value
    - Sales and Use tax paid



### 3. Power of Attorney

The [Power of Attorney for Vehicle Transactions](#) is a document giving an individual or entity the authority to conduct vehicle titling and registration related transactions on behalf of an owner or registrant. The form can be used to:

- Sign for the owner when buying or selling a vehicle
- Apply for original certificate of title and registration
- Apply for title only
- Apply for a duplicate certificate of title, registration, or renewal
- Apply for a temporary operation permit, trailer permit or seasonal/farm permit
- Apply for a permanent or temporary disabled placard
- Note a lien or extension of a lien
- Change the address of an owner/registrant
- Make an inquiry of the vehicle record on behalf of an owner/registrant, for information accessible to the owner/registrant
- Verify ownership on vehicles found abandoned, immobile or unattended

This form cannot be used by a dealer to disclose the odometer reading as both buyer and seller. The power of attorney must be signed by the owner or registrant, but it does not have to be notarized.

### 4. Title Only Application

Generally, all motor vehicles and other equipment driven upon a highway must be titled and registered in Tennessee. However, there are certain instances when a registration is not required and obtaining only a title is permitted. The county clerk may issue a title without an accompanying registration for specific reasons and the eligibility determination is made on a case-by-case basis. Reasons for issuing a title only include:

- Out-of-state repossession
- Insurance company settlement
- Dealer selling to out-of-state registrant
- Selling a vehicle donated to a non-profit organization
- Selling a vehicle confiscated by a government agency
- Mobile homes

The [Title Only Application](#) may be accessed by clicking the link.

## 5. Duplicate Title

A Duplicate Title is a title that replaces a lost, stolen, mutilated, or defaced title. If a Duplicate Title is issued, the lost, stolen, mutilated or defaced title becomes invalid and may not be used to transfer ownership or encumber the vehicle. The word **DUPLICATE** is printed on the Certificate of Title when a Duplicate Title is issued. Ownership does not change when a Duplicate Title is issued.

The vehicle owner must apply for a Duplicate Title using [Form 201 – Application for Noting of Lien, Duplicate Title, or Multipurpose Use](#). The form is submitted to the applicant's local [county clerk](#).

## Liens

A lien is a form of security interest granted over an item of property to secure the payment of a debt or performance of some other obligation. The owner of the property, who grants the lien, is referred to as the lienor and the person who has the benefit of the lien is referred to as the lienee.

A lienor, or lienholder, is any person or entity that holds a lien, mortgage, conditional sales contract, or any encumbrance against a motor vehicle. There may be multiple liens against the same vehicle by different lienors. Therefore, recording dates become extremely important in determining priority.

### 1. Lien Requirements

The Department will determine if the current title has a lien that needs to be discharged or if the new title should have a lien. The most common places on vehicle title and registration documents where a lien would appear are:

- Front of the title
- Back of the title
- Bill of Sale
- Signature Page on the Multi-purpose Application
- Foreign and Out of State Registrations

**All liens must be discharged prior to transferring ownership except in cases of repossessions.**

## 2. Recording Liens

Liens are recorded in different ways depending on the circumstance:

- In most instances, licensed dealers submit the paperwork to the county clerk for recording the original lien on a vehicle.
- Liens on motor vehicles may also be recorded on an existing certificate of title. A lienor submits an Application for Noting of Lien to the county clerk, along with a valid Tennessee Certificate of Title and a copy of the lien instrument (security agreement).

The noting of lien does not change the ownership.

## 3. Perfecting Liens

“Perfection” is a legal term describing the solidification of a party’s interest in collateral, which ensures that if any other party were to assert a security interest in the same collateral, the first party to perfect their interest gets first priority if the debtor becomes insolvent and cannot pay off its debts.

A primary lien on a motor vehicle is perfected upon delivery of the lien notation application to the county clerk’s office when submitted with required fees, proof of the lien, and proper documentation. A junior lien is perfected when it is physically noted on the certificate of title for the vehicle.

## 4. Discharging Liens

When the vehicle owner pays off their loan in full, the lienor must discharge the lien. This is accomplished by providing the Department with any one of the following:

- The tear away portion at the top of the 8½” x 11” certificate of title with the date of discharge and signature,
- A signed copy of the certificate of title with the date of discharge, or
- A lien release letter on lienor letterhead.

The lienor must report the discharge of lien to the Department’s Vehicle Services Division within 72 hours of the discharge. The lienor is required to deliver the certificate of title to the owner within seven (7) business days of the owner’s request after the lien has been

discharged unless the title shows one or more liens still outstanding. In that situation, the title should be delivered to the next lienor.

## Repossession

When someone purchases a vehicle by loan agreement (lien instrument) and fails to meet the terms of a loan agreement, such as by failing to make the agreed payments, the vehicle serving as collateral for the loan may be repossessed by the lienholder.

After a vehicle is repossessed, the lienholder may transfer the vehicle to a dealer for subsequent sale by signing the back of the certificate of title as the seller and the dealer will sign as the buyer.

If a vehicle is repossessed and there is no evidence of a certificate of title in any state the lienholder may obtain a repossession bond, which allows the lienholder to apply for certificate of title as legal owner of the vehicle.

To support a new application for title and registration after a repossession, the following should be submitted, along with any applicable state and county fees:

- Certification of Sales Under Special Conditions (always required)
- Proof of sales and use tax paid (always required)
- A true copy of the previous lien instrument, under which the vehicle was repossessed (not required, but may be provided)
- A copy of the court order authorizing the repossession
  - If the lien was not noted on the title, the lienholder may have to seek legal remedy to obtain the vehicle.
- A copy of the notice of sale (not required if the lien is noted on the title)
- Bill of sale or auction sales receipt (not required with repossession bond)
- Odometer Disclosure Statement (required if vehicle is less than 10 years old)
- Odometer Discrepancy Certification (required if vehicle is less than 10 years old, and the odometer brand is "not actual," or an odometer reading has been corrected)
- Emissions compliance statement (if applicable)

## Leased Vehicles

Special provisions apply to motor vehicles that are leased versus sold. A leased vehicle is any vehicle for which the temporary possession or use of has been granted to another person,

usually for compensation at a fixed rate. The “lessee” is any consumer who leases a motor vehicle pursuant to a written lease agreement by which a manufacturer's warranty was issued as a condition of sale or which provides that the lessee is responsible for repairs to the motor vehicle. The “lessor” is a business or an individual who grants a lease.

Vehicles leased for a period of 90 days or more will be titled and registered as follows:

- Lessor's name and address will be on the Certificate of Title.
- Lessee's name and address will be on the registration, as the lessee will be the owner of the registration plate.
- If the leased vehicle is part of a commercial fleet, the driver's name should not be included on the Certificate of Title or registration because of the potential for frequent change.
- A standard fleet identification number should also be used.
- A brand reflecting leased vehicle status should not be included on the Certificate of Title.
- The Lessor Authorization must be completed to authorize the lessee to register the vehicle.
- The lessor's Tennessee sales tax number must be shown on the application for title and registration if no sales tax is paid.

Any vehicle leased or rented for less than 30 days shall be titled and registered in the name and address of the lessor. The following documents are required to title and register a leased vehicle:

- [Application for Noting of Lien, Duplicate Title, or Multipurpose Use](#)
- [Leased Vehicle Owner's Authorization to Lessee](#)
- Certificate of Title, MSO, or Certificate of Registration
- [Odometer Disclosure Statement](#), if applicable
- [Power of Attorney for Vehicle Transactions](#), if applicable

## **EZ Tag Program**

Upon the sale of a vehicle, dealers must issue a temporary tag to the purchaser to use on the vehicle until the purchaser receives a registration tag/plate from the county clerk. Licensed dealers are required to use print on demand temporary dealer drive out tags. These print on demand temporary tags are available through Revenue's EZ Tag Program. More information may be found [here](#).

Temporary dealer drive out tags are valid for 60 days. The state fee for a dealer drive out tag is \$6.50 plus a \$2.00 EZ tag processing fee.

## Temporary Operation Permits

In some instances, a 60-day temporary dealer drive out tag may not fully cover the period from a customer's vehicle purchase through receipt of title and registration from the county clerk. A dealer's customers can obtain a temporary operation permit (TOP) beyond their drive out tags for a period of 30 days by completing the [Application for Temporary Operation Permit](#). This application must be made in person at the county clerk's office. A customer may be issued one additional TOP for a 30-day period if they do not receive their title and registration during the first TOP period.

## Special Purpose Plates

Any dealer owning any vehicle that may be legally operated upon the streets or highways of this state with a regular vehicle registration may operate the vehicle using a special purpose dealer plate.<sup>112</sup> The dealer may also authorize the operation of a vehicle bearing special purpose dealer plates by a:

- Customer for temporary purposes not to exceed 72 hours; or
- Customer who is using the vehicle, without charge, while the customer's vehicle is being serviced or repaired by the dealer.

## Odometer Overview

Federal law and regulations issued by the National Highway Traffic Safety Administration (NHTSA) require the odometer reading of any motor vehicle with a manufacture year less than ten (10) years to be accurately disclosed on the title or transfer document. This is known as an odometer disclosure and must be acknowledged by the signatures of both the buyer and the seller at the time of transfer.

The seller discloses this information on the title and certifies it is correct to the best of their knowledge. The buyer acknowledges what the seller has certified. This disclosure may be made on an [Odometer Disclosure Statement](#).

## 1. Odometer Discrepancy

Tennessee allows for odometer disclosure errors to be corrected by using an [Odometer Discrepancy Statement form](#). The Odometer Discrepancy Statement form must be signed by the person who made the original mistake. This may not be accomplished by issuing a power of attorney. Each party involved in each subsequent transfer of ownership must also sign the form acknowledging the corrected odometer disclosure.

## Motor Vehicle Data System

Dealers may utilize the Department's Motor Vehicle Data Services (MVDS) to obtain registration information for use in abandoned vehicle or other special sales under special conditions. Inquiries are governed by Federal Driver's Privacy Protection Act of 2000 (DPPA) and Tenn. Code Ann. §§ 55-25-101, et seq. The system may be accessed at the following link: [MVDS](#).

## Title Brands and Salvage/Non-Repairable Titles

Tennessee's salvage law dictates what vehicles may be transferred and/or registered after being in an accident and applies to all motor vehicles with a manufacture year of less than 10 years, except light duty trucks with a gross vehicle weight of greater than 9,000 pounds. Please see the Department's [Application for Salvage or Non-Repairable Certificate](#) for additional information.

A "salvage vehicle" is any passenger motor vehicle which has been wrecked, destroyed, or damaged to the extent that the total estimated or actual cost of parts and labor to rebuild or reconstruct the passenger motor vehicle to its pre-accident condition exceeds seventy-five percent (75%) of the retail value of the vehicle, as set forth in a current edition of any nationally recognized compilation of retail values.<sup>113</sup>

"Salvage title" means a passenger motor vehicle ownership document issued by the state to the owner of a salvage vehicle. A salvage title shall be conspicuously labeled with the word "Salvage" across the front. Ownership of the passenger motor vehicle may be transferred on a salvage title; however, a passenger motor vehicle for which a salvage title has been issued shall not be registered for use on the roads or highways unless it has been issued a rebuilt title.

A “rebuilt title” means the passenger motor vehicle ownership document issued by the state to the owner of a rebuilt vehicle. A rebuilt title shall be conspicuously labeled with the words “Rebuilt Vehicle — Anti-theft Inspections Passed” across the front. Ownership of the passenger motor vehicle may be transferred on a rebuilt title, and a passenger motor vehicle for which a rebuilt title has been issued may be registered for use on the roads and highways.

A “nonrepairable vehicle” is any passenger motor vehicle which is incapable of safe operation for use on roads or highways and which has no resale value except as a source of parts or scrap only or which the owner irreversibly designates as a source of parts or scrap. A nonrepairable vehicle shall be issued a nonrepairable vehicle certificate.

A “nonrepairable vehicle certificate” is a passenger motor vehicle ownership document issued by the state to the owner of a nonrepairable vehicle. A nonrepairable vehicle certificate shall be conspicuously labeled with the word “Nonrepairable” across the front. Ownership of the passenger motor vehicle may only be transferred two (2) times on a nonrepairable vehicle certificate. A passenger motor vehicle for which a nonrepairable vehicle certificate has been issued can never be titled or registered for use on roads or highways.

## Miscellaneous Penalties

Tennessee law contains several penalties that may apply to an auto dealer’s business activity.

- Tenn. Code Ann. § 39-14-132 – It is a Class A misdemeanor to misrepresent the mileage of a used motor vehicle offered for sale, trade-in, or exchange.
- Tenn. Code Ann. § 55-3-127(e)– It is a Class C misdemeanor for any person to possess an executed certificate of title without the name of the transferee appearing on the certificate of title (Open Title Law).
- Tenn. Code Ann. § 55-3-127(a)-(c) - It is a Class C misdemeanor for a lienor to fail to discharge or report the discharge of a lien.
- Tenn. Code Ann. § 55-5-113 - Any person who fraudulently uses a false or fictitious name in any application for the registration of a vehicle or certificate of title, or knowingly conceals a material fact, or otherwise commits a fraud in the application, commits a Class C misdemeanor.



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<sup>1</sup> Tenn. Code Ann. § 67-6-201.

<sup>2</sup> Tenn. Code Ann. § 67-6-203. Effective July 1, 2024, use tax will apply to certain services under SB275/HB323 (2023).

<sup>3</sup> Tenn. Code Ann. § 67-4-2004(14).

<sup>4</sup> Tenn. Code Ann. § 67-4-2004(47).

<sup>5</sup> Tenn. Code Ann. § 67-4-2004(19). "General partnership" means a partnership in which all partners, as defined by state law, are fully liable for the debts of, or the claims against, the partnership. Partners may be "fully liable" even though one (1) or more persons or individuals dealing with the partnership have by contract agreed to limit their claims against one (1) or more partners or against the partnership as a whole.

<sup>6</sup> "Obligated member entity" means a limited liability company, limited partnership, or limited liability partnership, all of whose members or partners are fully liable for the debts, obligations, and liabilities of the entity, as provided in Tenn. Code Ann. § 67-4-2008(b)-(d), and that have filed appropriate documentation to that effect with the secretary of state.

<sup>7</sup> Tenn. Code Ann. § 67-6-102(8)(c).

<sup>8</sup> Tenn. Code Ann. § 67-6-102(87).

<sup>9</sup> Tenn. Code Ann. § 67-6-510.

<sup>10</sup> Tenn. Code Ann. § 67-1-112.

<sup>11</sup> TENN. COMP. R. & REGS. 1320-05-01-.25.1.

<sup>12</sup> Letter Ruling 10-27.

<sup>13</sup> Tenn. Code Ann. § 67-6-236.

<sup>14</sup> <https://home.treasury.gov/news/press-releases/jy1783>

<sup>15</sup> Tenn. Code Ann. § 67-6-341, Letter Ruling 13-11.

<sup>16</sup> Please see Letter Ruling 10-27 for more information on GAP waivers.

<sup>17</sup> Tenn. Code Ann. § 67-6-510(a).

<sup>18</sup> TENN. COMP. R. & REGS. 1320-05-01-.02(2).

<sup>19</sup> Tenn. Code Ann. § 67-6-210(b).

<sup>20</sup> TENN. COMP. R. & REGS. 1320-05-01-.02(4).

<sup>21</sup> TENN. COMP. R. & REGS. 1320-05-01-.03(6).

<sup>22</sup> Tenn. Code Ann. § 55-3-127(e).

<sup>23</sup> Tenn. Code Ann. § 67-6-324.

<sup>24</sup> TENN. COMP. R. & REGS. 1320-05-01-.04.

<sup>25</sup> Tenn. Code Ann. § 67-6-102(75)(B)(i)(a).

<sup>26</sup> Tenn. Code Ann. § 67-4-1901 *et. seq.*

<sup>27</sup> Tenn. Code Ann. § 67-6-305, TENN. COMP. R. & REGS. 1320-5-1-.03(5).

<sup>28</sup> Tenn. Code Ann. § 67-6-702(d).

<sup>29</sup> *Id.*

<sup>30</sup> Tenn. Code Ann. § 67-6-507(d), TENN. COMP. R. & REGS. 1320-05-01-.52.2.

<sup>31</sup> Letter Ruling 11-59.

<sup>32</sup> Value Motor Company v. Farr, 2008 WL 238423 (Tenn. Ct. App.).

<sup>33</sup> Tenn. Code Ann. §§ 67-6-507(d), 48-103-102, Pub. Ch. 467 (2023).

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<sup>34</sup> Tenn. Code Ann. § 67-6-507(e).

<sup>35</sup> Tenn. Code Ann. § 67-6-507(e)(3).

<sup>36</sup> *Id.*

<sup>37</sup> Tenn. Code Ann. § 67-6-392.

<sup>38</sup> *Id.*

<sup>39</sup> Tenn. Code Ann. §§ 67-6-308, 67-6-329(a)(4).

<sup>40</sup> Tenn. Code Ann. § 67-6-322 lists exempt entities including IRC § 501(c)(3).

<sup>41</sup> Tenn. Code Ann. § 67-6-303.

<sup>42</sup> Service members of foreign militaries, even if stationed in Tennessee, are not eligible for exemption.

<sup>43</sup> Fort Campbell is a military reservation located partially in Tennessee and Kentucky such that members stationed in Fort Campbell may be eligible for the military service member exemption.

<sup>44</sup> Tenn. Code Ann. § 58-1-102(2) defines “active military service in the United States.”

<sup>45</sup> Federal active-duty status under Title 10 U.S.C., or full-time National Guard duty under Title 32 U.S.C. 502(f) for a period of 180 consecutive days or greater to provide full-time support to National Guard and Reserve organization.

<sup>46</sup> Tax Guide for Military Members and Veterans

<sup>47</sup> Tenn. Code Ann. § 67-6-353.

<sup>48</sup> [Important Notice 18-15](#) Veterans Affairs (VA) Automobile Grant

<sup>49</sup> Important Notice 07-07.

<sup>50</sup> Tenn. Code Ann. § 55-1-103(c).

<sup>51</sup> Pursuant to Tennessee Code Annotated, Title 55; Tenn. Code Ann. § 67-6-303(a).

<sup>52</sup> Lineal relative includes grandparents, parents, children, grandchildren, etc. and formally adopted children. Stepchildren are not considered lineal relatives.

<sup>53</sup> Tenn. Code Ann. § 55-3-101(c) Off-highway motor vehicles claimed for the exemption must be subject to the certificate of title and special identification device provisions of Title 55. Such vehicles are specifically limited to all-terrain vehicles (ATVs), dirt bikes, dune buggies, and similar vehicles.

<sup>54</sup> Tenn. Code Ann. § 55-1-105(b).

<sup>55</sup> Also, vehicles propelled by power from overhead trolley wires are not exempt.

<sup>56</sup> Tenn. Code Ann. § 55-3-101(c)(2).

<sup>57</sup> Tenn. Code Ann. § 67-6-331.

<sup>58</sup> Tenn. Code Ann. § 67-4-702.

<sup>59</sup> Tenn. Code Ann. § 67-4-706.

<sup>60</sup> Tenn. Code Ann. § 67-4-706(a).

<sup>61</sup> TENN. COMP. R. & REGS. 1320-04-05-.28(1).

<sup>62</sup> TENN. COMP. R. & REGS. 1320-04-05-.28(2).

<sup>63</sup> Tenn. Code Ann. § 67-4-723(a).

<sup>64</sup> Tenn. Code Ann. § 67-4-723(c).

<sup>65</sup> This threshold applies to tax years ending on or after December 31, 2023.

<sup>66</sup> Tenn. Code Ann. § 67-4-702(a)(7).

<sup>67</sup> Tenn. Code Ann. § 67-4-702(a)(5).

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<sup>68</sup> Tenn. Code Ann. § 67-4-708(2)(A).

<sup>69</sup> See Rule 2 and Rule 7 for more information on the taxation of commissions in this specific arrangement.

<sup>70</sup> Tenn. Code Ann. § 67-4-702(a)(26)(D).

<sup>71</sup> TENN. COMP. R. & REGS. 1320-04-05-.22.

<sup>72</sup> Tenn. Code Ann. § 67-4-711(a)(1).

<sup>73</sup> TENN. COMP. R. & REGS. 1320-04-05-.12(3).

<sup>74</sup> <https://home.treasury.gov/news/press-releases/jy1783>

<sup>75</sup> Tenn. Code Ann. § 67-4-711(a)(3).

<sup>76</sup> TENN. COMP. R. & REGS. 1320-04-05-.54(1).

<sup>77</sup> TENN. COMP. R. & REGS. 1320-04-05-.54(2).

<sup>78</sup> TENN. COMP. R. & REGS. 1320-04-05-.01(1).

<sup>79</sup> *Id.*

<sup>80</sup> Tenn. Code Ann. § 67-4-713(a)(2).

<sup>81</sup> Tenn. Code Ann. § 67-4-713(a)(2)(A).

<sup>82</sup> Tenn. Code Ann. § 67-4-713(a)(2)(B).

<sup>83</sup> Tenn. Code Ann. § 67-4-2004(14).

<sup>84</sup> Tenn. Code Ann. § 67-4-2004(47)(A).

<sup>85</sup> Tenn. Code Ann. § 67-4-2004(19). "General partnership" means a partnership in which all partners, as defined by state law, are fully liable for the debts of, or the claims against, the partnership. Partners may be "fully liable" even though one (1) or more persons or individuals dealing with the partnership have by contract agreed to limit their claims against one (1) or more partners or against the partnership as a whole.

<sup>86</sup> "Obligated member entity" means a limited liability company, limited partnership, or limited liability partnership, all of whose members or partners are fully liable for the debts, obligations, and liabilities of the entity, as provided in § 67-4-2008(b)-(d), and that have filed appropriate documentation to that effect with the secretary of state.

<sup>87</sup> Tenn. Code Ann. § 67-4-2106.

<sup>88</sup> Tenn. Code Ann. § 67-4-2106(b).

<sup>89</sup> *Id.*

<sup>90</sup> Compiled, reviewed, or audited financial statements prepared by a third party will generally be accompanied by an opinion letter which should indicate the basis of accounting.

<sup>91</sup> Or Schedule F2, if the taxpayer has a consolidated net worth ("CNW") election in effect. See Chapter 9 of the Franchise and Excise Tax Manual for information on CNW elections.

<sup>92</sup> See also the guidance in Chapter 9 of the Franchise and Excise Tax Manual regarding the potential required addback for affiliated corporation indebtedness on Schedule F1, Line 2.

<sup>93</sup> Tenn. Code Ann. § 67-4-2006.

<sup>94</sup> Public Chapter 377 (2023).

<sup>95</sup> Tenn. Code Ann. § 67-4-2006(b)(2)(F).

<sup>96</sup> <https://home.treasury.gov/news/press-releases/jy1783>

<sup>97</sup> IRC §§ 25E and 30D; Prop. Treas. Reg. §§ 1.25E-3 and 1.30D-5, 88 Fed. Reg. 70310 (Oct. 10, 2023).

<sup>98</sup> Public Chapter 377 (2023).

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<sup>99</sup> Tenn. Code Ann. §§ 67-4-2010 and -2110.

<sup>100</sup> Tenn. Code Ann. §§ 67-4-2012 and -2111.

<sup>101</sup> Tenn. Code Ann. § 67-4-2004(47)(A)(v). See the Franchise and Excise Tax Overview section in this chapter.

<sup>102</sup> Public Chapter 377 (2023).

<sup>103</sup> Tenn. Code Ann. §§ 67-4-2012(b)-(d) and -2111(b); TENN. COMP. R. & REGS. 1320-06-01-.27 and .29.

<sup>104</sup> Tenn. Code Ann. § 67-4-2012(e).

<sup>105</sup> Tenn. Code Ann. § 67-4-2004(44).

<sup>106</sup> Tenn. Code Ann. § 67-4-2004(20).

<sup>107</sup> Tenn. Code Ann. § 67-4-2012(h).

<sup>108</sup> Tenn. Code Ann. § 67-4-2012(i)(1)(B).

<sup>109</sup> TENN. COMP. R. & REGS. 1320-06-01-.42(3).

<sup>110</sup> Tenn. Code Ann. § 67-4-2012(c)(2).

<sup>111</sup> *Id.*

<sup>112</sup> Tenn. Code Ann. § 55-4-226.

<sup>113</sup> Tenn. Code Ann. § 55-3-201.