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  https://www.tn.gov/revenue/taxpayer-education/tax-webinars.html

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➢ Please submit specific account-related questions or any questions that do not get addressed in this webinar to directly us!
  • www.tn.gov/Revenue
  • Revenue.support@tn.gov
  • 615.253.0600 (M-F 8-4:30 CST)
OVERVIEW

- DATA CENTERS
- HEADQUARTERS
- CALL CENTERS
- RESOURCES/Q&A
SALES TAX LAW

The “Retailers’ Sales Tax Act” imposes tax on tangible personal property and certain enumerated services. Tenn. Code Ann. Title 67, Chapter 6, Part 2

Sales of Tangible Personal Property

TAXABLE UNLESS SPECIFICALLY EXEMPT BY LAW

Sales of Services

NOT TAXABLE UNLESS SPECIFICALLY ENUMERATED BY LAW OR ARE PART OF THE SALES PRICE OF TANGIBLE PRODUCT

Sales may be exempt if:

• The purchase is made by an exempt entity (i.e. reseller, non-profit, data center, headquarters)
• The product is exempt (i.e. healthcare products)
• The usage is exempt (i.e. industrial machinery)

Sales Tax Credit may be applicable for certain qualified purchases.
A qualified data center may make certain purchases exempt from sales tax.

Tenn. Code Ann. §67-6-102
DATA CENTERS / Definition

“DATA CENTER”:
- Building(s) (either newly constructed, expanded, or remodeled)
- Housing high-tech computer systems and related equipment
DATA CENTERS / Qualifying

For a data center to qualify for exemption, it must meet the following requirements over a 3-year period:

- **Make a capital investment** of more than $100,000,000;

  "CAPITAL INVESTMENT":
  - An increase of a business investment in real property, tangible personal property, or computer software owned or leased in the state valued in accordance with generally accepted accounting principles.
  - A capital investment is deemed to have been made as of the date of payment or the date the business entered into a legal binding commitment or contract for purchase or construction.

- **Create at least 15 net new full-time employee jobs** during the investment period **paying at least 150% of the states' average occupational wage**

  "FULL-TIME EMPLOYEE":
  - A permanent, rather than seasonal or part-time position, for at least 12 consecutive months to a person for at least 37.5 hours a week with minimum healthcare.
DATA CENTERS / Exemption

EXEMPT PURCHASES:

✓ Computers
✓ Software
✓ Computer related devices
✓ Repair, installation, warranties, and service contracts used in the operation
✓ Backup power infrastructure/cooling equipment used primarily for and necessary to the operation

SPECIAL RATE:

✓ 1.5% reduced sales tax rate for the purchase of electricity
A Qualified Data Center **EXEMPTION CERTIFICATE** is used to make sales tax exempt purchases of the qualified items and purchases of electricity at the 1.5% reduced rate for the qualified data center.

- Submit an application for each qualified data center location.
  - [https://www.tn.gov/content/dam/tn/revenue/documents/forms/sales/f1325001.pdf](https://www.tn.gov/content/dam/tn/revenue/documents/forms/sales/f1325001.pdf)

For additional information, see Important Notice #16-06 on this topic ([https://www.tn.gov/content/dam/tn/revenue/documents/notices/sales/sales16-06.pdf](https://www.tn.gov/content/dam/tn/revenue/documents/notices/sales/sales16-06.pdf))
The investment period must be no longer than three years. However, the commissioner of economic and community development may extend it up to four years for good cause shown.

To qualify, amount must be over $100,000,000. The investment will be deemed to have been made as of the date of payment or the date of legally binding contract for purchase/construction.
A taxpayer will qualify for a Headquarters Tax Credit if it meets certain criteria.

Certain private communications services are exempt from the sales tax for qualifying headquarters.

Tenn. Code Ann. §67-6-389,224
HEADQUARTERS / Definition

“Headquarters facility”: facility in TN housing international or national headquarters, where staff employees are located and employed, and where the primary headquarters-related functions and services are performed.

Facility must be used as a headquarters for at least 10 years from end of investment period
HEADQUARTERS CREDITS - Qualifying

There is a headquarters facility tax credit for all sales and use tax paid to the State of TN (except tax at the rate of 0.5% on qualified tangible personal property) for construction of a new, expanded, or remodeled headquarters facility.

To qualify, the following criteria must be met:

- Entity **constructs, expands, or remolds** a headquarters facility in TN
- Entity has a **minimum capital investment** of at least $10,000,000
- Entity **creates** at least 100 new full-time employee jobs
CONSTRUCTION, CAPITAL INVESTMENT & JOB CREATION REQUIREMENTS MET

CREDIT FOR SALES TAXES PAID FOR CONSTRUCTION

(Apply/Receive Approval)
HEADQUARTERS CREDITS - Applying

To qualify as a Headquarters facility, apply by using the Application for Headquarters Facility Sales and Use Tax Credit form:

- Submit an application for each qualified location.
  - After tentative approval, the qualified headquarters facility should use the ‘Claim for Credit or Refund of Sales or Use Tax’ form to apply for the credit https://www.tn.gov/content/dam/tn/revenue/documents/forms/sales/f1403301.pdf
Once you are approved and receive an approval letter, you may begin submitting claims for credit.

The Department will notify you of the amount of credit you may take and the process for claiming that credit.
PRIVATE COMMUNICATIONS SERVICES EXEMPTION FOR QUALIFIED HEADQUARTERS FACILITY

Private communications services are exempt from the sales tax, when such services are:

- Utilized for communications with a computer or telecommunications center located in this state
- By a taxpayer that has qualified for the headquarters tax credit provided for in Tenn. Code Ann. § 67-6-224;

or

- By an “affiliate” of such taxpayer.

“AFFILIATE”: any person controlling, controlled by or under common control with such person

• ‘control’: power to direct management or policies of a person, whether through the ownership of voting securities, by contract, or otherwise.
“Private communication services”: telecommunication services that entitle the customer to exclusive or priority use of a communications channel or group of channels, regardless of the way the channels are connected, including:

- dedicated access lines
- switching capability
- extension lines
- stations
- any other associated services that are provided in connection with the use of such channels.
EXEMPTION - Process

PRIVATE COMMUNICATIONS SERVICES ARE EXEMPT FROM SALES TAX

QUALIFYING PRIVATE COMMUNICATIONS & HQ’S QUALIFYING FOR CREDIT

(Apply/Receive Approval)
EXEMPTION - Applying

Qualified headquarters seeking to make purchases of private communications exempt from tax must provide either:

- copy of the authorization letter, or

- fully completed Streamlined Sales Tax certificate of exemption to each dealer from which it intends to make exempt purchases
  - https://www.tn.gov/content/dam/tn/revenue/documents/forms/sales/sst_exemptioncertificate.pdf
There is a sales tax exemption for the purchase of interstate and international telecommunications services used in the operation of a call center.

Tenn. Code Ann. §67-6-356
CALL CENTER / Definition

“CALL CENTER”: single location that uses telecommunications services in any of the following activities...

- customer services
- soliciting sales
- reactivating dormant accounts
- conducting surveys or research
- fundraising
- collection of receivables
- receiving reservations
- receiving orders
- taking orders
CALL CENTERS / Qualifying

For a call center to qualify for exemption for the purchase of interstate and international telecommunications services used in the operation, it must meet the following requirements:

- Meet the criteria of definition of call center
- Have at least 250 employee jobs engaged primarily in call center activities.
- Submit an application
  - [https://www.tn.gov/content/dam/tn/revenue/documents/forms/sales/f1305401.pdf](https://www.tn.gov/content/dam/tn/revenue/documents/forms/sales/f1305401.pdf)
  - application must be approved by the Department, and the taxpayer must be issued a Call Center Exemption Certificate.
CALL CENTER / Application

TENNESSEE DEPARTMENT OF REVENUE
Application for Call Center Interstate and International Telecommunications
Sales and Use Tax Exemption

1. Business Name ___________________________ FEIN or SSN ___________________________

2. Mailing Address ___________________________ Street ___________________________
   City ___________________________ State ___________________________ ZIP Code __________

3. Sales Tax Account No. ___________________________ Location Identifier ___________________________

4. Location of Call Center ___________________________ Street ___________________________
   City ___________________________ County ___________________________

5. Business Contact ___________________________
   Name ___________________________ Phone Number ___________________________
   Email Address ___________________________

6. Will the applicant be using the telecommunication services at the Call Center location? □ Yes □ No

7. Will the applicant be using the telecommunication services for one of the following activities? □ Yes □ No
   If yes, select which one(s) apply, and provide a brief description of the activities:
   □ Customer services □ Collections of receivables
   □ Soliciting sales □ Receiving reservations
   □ Reactivating dormant accounts □ Receiving orders
   □ Conducting surveys or research □ Taking orders
   □ Fund raising

8. Will the applicant have at least 250 employee jobs primarily engaged in at least one of the activities above at the
call center location? □ Yes □ No
RESOURCES

From www.TN.gov/Revenue ......

- General Information: Taxes > Sales & Use Tax
- FAQ Articles: Revenue Help > Sales & Use Tax
- Webinars: Taxpayer Education > Tax Webinars > Webinar Video Archive
  - Completing the Sales Tax Return
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