



# Tax Manual Updates

June 2023

Please find below, a brief overview of substantive updates the Department made to various tax manuals. These updates are predominately based on new legislation and taxpayer questions or issues, as well as opportunities for improved clarity or expanded guidance. Changes were not made to every manual, only those outlined below.

## **Alcohol Tax Manual**

### **Beer Barrelage Tax**

- Updated the definition of “beer” on page 29 consistent with Public Chapter 236 (2023).

### **Wine Tax**

- Updated the definition of “wine” on page 20 consistent with Public Chapter 236 (2023).

## **Business Tax Manual**

### **Updated Filing Threshold**

- Updated various pages in the manual to reflect the new business tax filing threshold of \$100,000 consistent with the Tennessee Works Tax Act, Public Chapter 377 (2023).

### **Deemed Location for Contractors**

- Updated various pages in the manual to reflect the new deemed location threshold for contractors to \$100,000 consistent with the Tennessee Works Tax Act, Public Chapter 377 (2023).

### **Classification 5A Tax Rate**

- Updated the tax rate for Classification 5A taxpayers from 3/10 of 1% to 1/10 of 1% on page 63 of the manual consistent with the Tennessee Works Tax Act, Public Chapter 377 (2023).

### **Manufacturing Exemption**

- Updated various pages in the manual to state that to qualify for the manufacturing exemption, the sales of manufactured products must be made from the manufacturing location or a storage or warehouse facility that is located within a ten-mile radius of the manufacturing facility consistent with the Tennessee Works Tax Act, Public Chapter 377 (2023).
- Updated page 109 to state that both in-state and out-of-state manufacturers can qualify for the manufacturing exemption consistent with the Tennessee Works Tax Act, Public Chapter 377 (2023).

# County Clerk Sales and Use Tax Manual for Automobiles & Boats

## Transfers of Automobiles Between SMLLCs

- Updated page 23 to provide additional information on the taxability of automobile transfers between two SMLLCs.

## 3-Day Removal of Trailers

- Updated page 10 to explain the sales and use tax exemption that applies to trailers removed from the state within 3 days of purchase.

# Farmers, Nursery Operators, and Timber Harvesters Tax Manual

## Address Change and Certificate Renewal

- Updated page 20 to clarify that if a farmer changes the location of its farm or operation then the farmer must reapply for its agricultural exemption to determine if the new farm or operation qualifies for the agricultural exemption.

# Franchise and Excise Tax Manual

## Conformity with Federal Bonus Depreciation

- Updated Chapter 11 to state that for assets *purchased on or after* January 1, 2023, for purposes of computing net earnings or loss subject to excise tax, the Tennessee Works Tax Act, Pub. Ch. 377 (2023), conforms Tennessee to the federal bonus depreciation provisions, under Internal Revenue Code §168, as applied under the federal Tax Cuts and Jobs Act of 2017.

## Tennessee Paid Family and Medical Leave Tax Credit

- Updated Chapter 15 to state that effective for tax years ending on or after December 31, 2023, but before December 31, 2025, a new Tennessee Paid Family and Medical Leave Tax Credit is allowed against a taxpayer's combined franchise and excise tax liability, which is based on the federal paid family and medical leave credit under Internal Revenue Code §45S.

### **Excise Tax Standard Deduction**

- Updated Chapter 11 to state that effective for tax years ending on or after December 31, 2024, a new \$50,000 “standard deduction” is available for deduction from a taxpayer’s net earnings subject to excise tax.

### **Single Sales Factor Apportionment**

- Updated Chapter 14 to state that Tennessee will be transitioning from a three-factor property/payroll/sales apportionment formula to a single sales factor apportionment formula. Single sales factor will be phased in over a three-year period by gradually increasing the weighting of the sales factor in the three-factor apportionment formula

### **Miscellaneous Apportionment Provisions**

- Updated Chapter 14 to state that for tax years ending on or after December 31, 2023, the net earnings and net worth for a “qualified member” of a “qualified group” must be apportioned in Tennessee using a three-factor apportionment formula that consists of the property factor plus the payroll factor plus three (3) times the sales factor, and the total of the property, payroll, and sales factors will be divided by five (5).
- Updated Chapter 14 to state that beginning with tax years ending on or after December 31, 2023, if, for a given tax year, a taxpayer’s application of the single sales factor apportionment formula (or the modified, 3-factor formulas with increased sales factor weightings, during the applicable transition years) results in a *lower* apportionment ratio than if the taxpayer applied the property/payroll/3x sales factor apportionment formula, then the taxpayer may annually elect to use the property/payroll/3x sales factor apportionment formula, *but only if*:
  - The election results in a *higher* apportionment ratio 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.
- Updated Chapter 14 to state that pursuant to Tenn. Code Ann. § 67-4-2023, eligible taxpayers that meet certain gross sales and sales factor apportionment thresholds for a given tax period may elect to apply the certified distribution sales provisions. This election allows eligible taxpayers to exclude “certified distribution sales” from the numerator of the sales factor for apportionment purposes and to pay an alternative gross receipts tax on such sales instead.

### **Franchise Tax Minimum Measure Exclusion**

- Updated Chapter 10 to state that effective for tax years ending on or after December 31, 2024, the real and tangible property measure of the franchise tax base, as computed under

Tenn. Code Ann. § 67-4-2108 (“minimum measure”), will apply to the value of property that is *in excess of* \$500,000.

### **Extension of Franchise and Excise Tax Credit Carryforward Periods**

- Updated Chapter 15 to state that the Tennessee Works Tax Reform Act of 2023 extends the statutory carryforward periods for several franchise and excise tax credits from 15 years to 25 years, which applies to credits earned in tax years ending on or after December 31, 2008.

### **Brownfield Tax Credit**

- Updated Chapter 15 to reflect the changes Pub. Ch. 86 (2023) makes to the brownfield tax credit. Effective July 1, 2023, the credit amount is 50% of the *purchase price of brownfield property* purchased in a tier 1 or tier 2 enhancement county and 75% in a tier 3 or 4 county. A qualified development project in a tier 3 or 4 county also qualifies for a brownfield credit equal to the *remediation costs* incurred on the project.

## **Recordation Tax Manual**

### **Recording Transfers**

- Updated page 8 to clarify that the county register is forbidden from recording a transfer prior to the payment of the recordation tax.

## **Sales and Use Tax Manual**

### **Trailer Removal from Tennessee**

- Updated pages 273-274 to state that the 3-day removal exemption also includes trailers that are removed for registration and use in another state within 3 calendar days of purchase.

### **Amusement Tax Exemption**

- Added endnote 482 to state that on or after *January 1, 2027*, the amusement tax exemption does not apply to amusements or recreational activities conducted, produced, or provided at a facility owned by a sports authority organized pursuant to title 7, chapter 67, during a period in which the facility is eligible to receive a distribution of state sales tax pursuant to Tenn. Code Ann. § 67-6-103(d). *See Public Chapter 480 (2023)*.