



STATE OF TENNESSEE

Sales Tax for Data Centers, Headquarters and Call Centers

JUNE 2022

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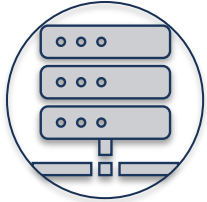
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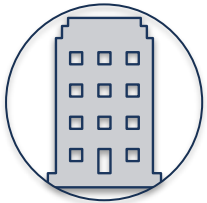
- www.tn.gov/Revenue
- Revenue.support@tn.gov
- 615.253.0600 (M-F 8-4:30 CST)



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 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.

DATA CENTERS

A qualified data center may make certain purchases exempt from sales tax.

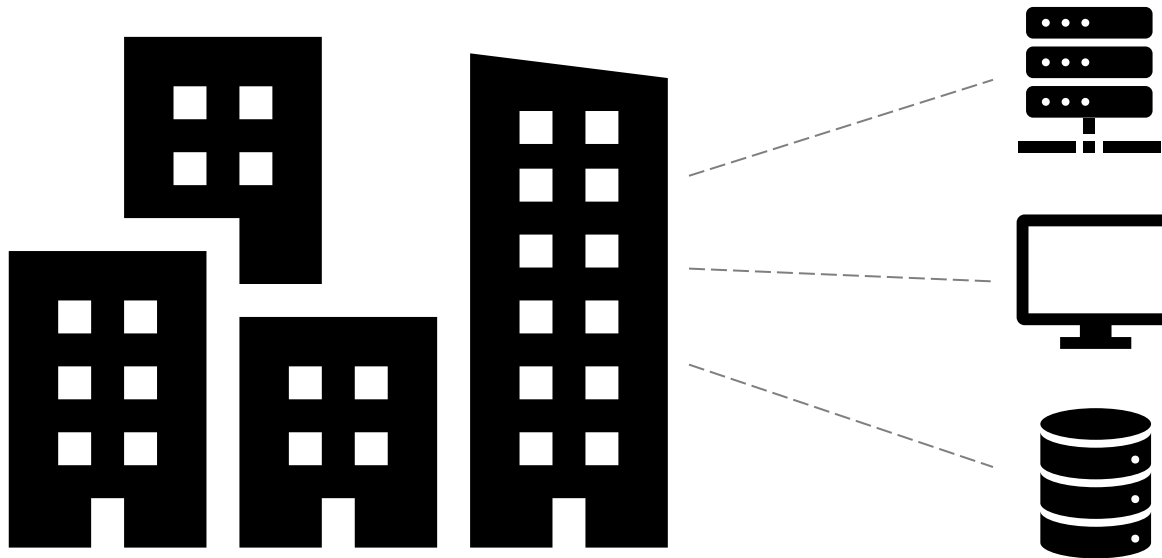
Tenn. Code Ann. §67-6-102

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.

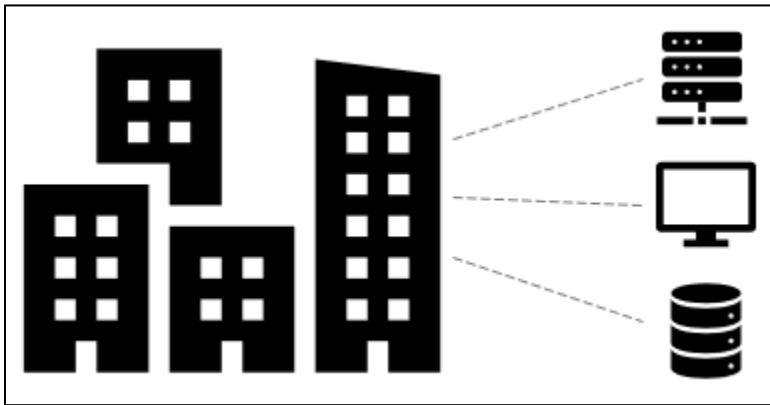
- ❑ **Create at least 15 net new full-time employee jobs** during the investment period *paying at least 150% of the states' average occupational wage*



“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



**CAPITAL INVESTMENT &
JOB CREATION
REQUIREMENTS MET**



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

DATA CENTERS / Applying

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>

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>)

DATA CENTERS / Applying



TENNESSEE DEPARTMENT OF REVENUE Application for Qualified Data center 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 Ide _____
4. Location of Data Center _____
Street City
5. Business Contact _____
Name Phone Number
6. Investment time period (cannot exceed three years) From _____
Month/Day/Year
7. Amount of investment in real property, tangible property, and/or software: _____
8. Number of new full-time jobs created: _____
9. Attach a description of the proposed required capital investment and the new full-time permanent jobs created during the investment period.

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.

HEADQUARTERS

A taxpayer will qualify for a *headquarters tax credit* if it meets certain criteria.

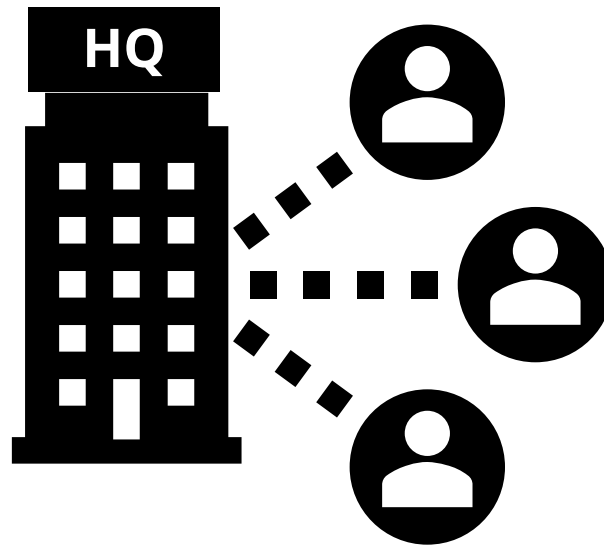
Certain *private communications services* are exempt from the sales tax for qualifying headquarters.

Tenn. Code Ann. §67-6-389,224

HEADQUARTERS / Definition

i **“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



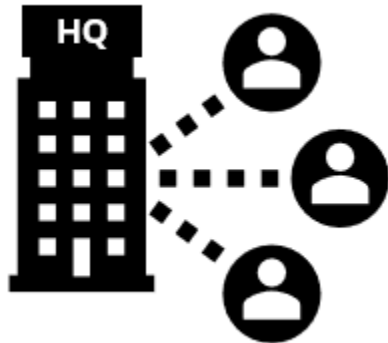
HEADQUARTERS CREDITS - Qualifying

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 remodels** 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

HEADQUARTERS CREDITS - Process



**CONSTRUCTION,
CAPITAL INVESTMENT &
JOB CREATION
REQUIREMENTS MET**



(Apply/Receive
Approval)

**CREDIT FOR
SALES TAXES
PAID FOR
CONSTRUCTION**


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.
 - https://www.tn.gov/content/dam/tn/revenue/documents/forms/sales/f1302301_06118.pdf
 - 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>



HEADQUARTERS FACILITY - Applying

 **TENNESSEE DEPARTMENT OF REVENUE**
Application for Headquarters Facility
Sales and Use Tax Credit

RV-F1302301 (6/18)

1. Business Name _____ FEIN _____
2. Mailing Address _____
Street City State
3. Sales Tax Account ID _____ Location ID _____
4. Location of Facility _____
Street City County
5. Business Contact _____
Name Phone Number Email
6. Is the qualifying headquarters facility being leased? Yes No
If yes, name the lessor of the qualifying headquarters facility _____
(Note, the lessor must also submit an application and investment plan.)
7. Are you the lessor of the qualifying facility? Yes No
If yes, name the lessee of the qualifying facility _____
8. Investment time period (cannot exceed six years) From _____ to _____
Month/Day/Year
9. Amount of capital investment _____
10. Number of new full-time jobs created _____
11. Will any of the construction of the facility be subcontracted? Yes No
12. Attach a description of the proposed required capital investment, including the building materials, machinery, and equipment that will be used in the construction and/or operation of the facility.
13. Attach a list of the full-time headquarters staff employee job positions to be created during the investment period in conjunction with the construction, expansion, or remodeling of the facility, including a description of the job functions (executive, administrative or professional) and the salary level.

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.

EXEMPTION FOR QUALIFIED HEADQUARTERS FACILITY



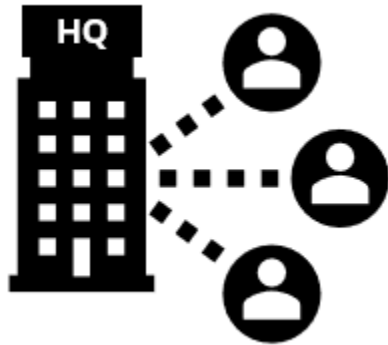
“Private communication services”:

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



**QUALIFYING PRIVATE
COMMUNICATIONS &
HQ'S QUALIFYING FOR
CREDIT**



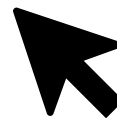
(Apply/Receive
Approval)

**PRIVATE
COMMUNICATIONS
SERVICES ARE
EXEMPT FROM
SALES TAX**

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



CALL CENTERS

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


i **“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>
 - 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:

<input type="checkbox"/> Customer services	<input type="checkbox"/> Collections of receivables
<input type="checkbox"/> Soliciting sales	<input type="checkbox"/> Receiving reservations
<input type="checkbox"/> Reactivating dormant accounts	<input type="checkbox"/> Receiving orders
<input type="checkbox"/> Conducting surveys or research	<input type="checkbox"/> Taking orders
<input type="checkbox"/> 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

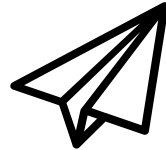
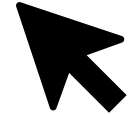
- General Information: Taxes > Sales & Use Tax
- FAQ Articles: Revenue Help > Sales & Use Tax
- Webinars: Taxpayer Education > Tax Webinars > Webinar Video Archive
 - Completing the Sales Tax Return

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