

Instructions: Certified Distribution Sales Election

Effective January 1, 2016, certain taxpayers may elect to omit certified distribution sales from the numerator of the receipts factor of their franchise and excise tax apportionment ratios. Instead, for each year in effect, the taxpayer will pay a tax based on the total amount of certified distribution sales excluded from the numerator of the receipts factor (see Tenn. Code Ann. § 67-4-2023).

Taxpayers may make this election if they meet gross sales and gross receipts factor thresholds. The gross sales threshold is met if the taxpayer's certified distribution sales of tangible personal property made in this state during the tax period exceed \$1,000,000,000, as determined under Tenn. Code Ann. § 67-4-2012. The gross receipts factor threshold is met if the taxpayer's receipts factor, as determined under Tenn. Code Ann. § 67-4-2012 without regard to this election, exceeds 10%.

Certified distribution sales are sales of tangible personal property made in this state by the taxpayer to any distributor, whether or not the distributor is affiliated with the taxpayer, that are resold for ultimate use or consumption outside the state. The distributor must certify that the property has been resold for ultimate use or consumption outside this state.

Applicants must include any distributor certifications with this application. These statements should be requested and retained for each year the election applies. The Department may ask for them at a later date. The distributor certification should read as follows:

"[Distributor's name] certifies that tangible personal property was purchased from [taxpayer] in this state and it was resold for ultimate use or consumption outside the state."

The election should be filed on or before the due date of the tax return for the period for which the election is to take effect, and it will remain in effect until revoked by the taxpayer or until the taxpayer no longer qualifies for the election. The taxpayer may revoke the election by notifying the Department in writing on or before the due date of the tax return for the period for which the revocation is to take effect.

Line 1-3: Enter taxpayer information.

Line 4: Enter the beginning date of the tax period the election first applies.

Line 5: Enter the amount of sales of tangible personal property made in Tennessee to distributors during the tax period indicated on Line 4. This amount must be more than \$1,000,000,000

Line 6: Enter the receipts factor percentage. This is determined in the same manner as the excise tax receipts apportionment ratio under Tenn. Code Ann. § 67-4-2012. This amount must be higher than 10%.