

Taxable Sales by Providers of Exempt Services

Notice #14-13

Business Tax

October 2014



Highlights

- *A provider of exempt services is exempt only on the receipts from those exempt services.*
- *A provider of exempt services is subject to business tax on its sales of tangible personal property and/or taxable services.*
- *Business classification is based on taxable sales.*

INTRODUCTION

Businesses that primarily provide services exempt from business tax still must pay business tax on sales of taxable tangible personal property and taxable services.

DISCUSSION

Tennessee law imposes business tax on the sales of most services. However, there are 16 different categories of services that are exceptions listed in the law. For a taxpayer's service to be exempt, it must also meet the descriptions listed in the Standard Industrial Classification Index (SIC Code) for the type of service listed. If a service qualifies as an exempt service, then the sales proceeds from that service are exempt from business tax.

However, even if a taxpayer is primarily engaged in an exempt service, it is still generally responsible for paying business tax on any sales of tangible personal property and taxable services. The taxpayer will need to get a business license and report and pay the business tax on its taxable sales. The taxpayer's classification will be determined based on the taxable sales.

Example 1: Services provided by deposit banking institutions are exempt from the business tax. ABC Bank makes vehicle loans as part of its business activities. However, when a loan on a vehicle goes into default, the bank will repossess the vehicle and then sell the vehicle at auction. ABC Bank must get a business license and pay the business tax on the sales of the vehicle. The bank would be a Classification 2 taxpayer, since it sells new or used vehicles.

Example 2: Veterinary medical services are exempt from the business tax. Veterinarian Y, in addition to his veterinary medical practice, sells pet foods and medications to be administered at home by the owner. The veterinarian also provides non-medical grooming services. Veterinarian Y must get a business license and pay the business tax on sales from the food, medication and non-medical grooming services. His or her classification will be determined by whichever taxable item sold (pet food, medications, or grooming services) makes up the larger portion of his or her taxable sales. If it is pet food or grooming services, the veterinarian will be a Classification 3 taxpayer and pay at the Classification 3 rate on all of his taxable sales. If it is medications, the veterinarian will be a Classification 2 taxpayer and pay at the Classification 2 rate on all of his taxable sales.

A provider of exempt services is only exempt from the business tax on its receipts from those exempt services when they are separately itemized on a purchase invoice.

- *Providers of exempt services who have a business tax liability on other sales can request to enter a Voluntary Disclosure Agreement.*

Voluntary Disclosure

If a service-based business owes business tax on other taxable sales, it may contact the Department of Revenue about entering into a Voluntary Disclosure Agreement. Voluntary disclosure allows taxpayers to limit the look-back period for paying taxes and interest, and it also allows them to avoid the assessment of a delinquency penalty. For more information regarding Voluntary Disclosure Agreements, taxpayers should call the Department's Audit Division at (615) 741-8319.

Assistance

If a taxpayer has questions about whether its business is liable for business tax, whether it sells a taxable service, what its business tax classification is, or any other business tax issues, the taxpayer may call the Department's Taxpayer Services Division at (615) 253-0600 or send an email to business.tax@tn.gov.



References:

*T.C.A. § 67-4-708(3)(C)
TENN. COMP. R. & REG.
1320-4-5-.48(1)*

The information provided here is current as of the date of publication but may change as a result of new statutes, regulations or court decisions. While this notice is intended to be comprehensive, events and situations unanticipated by this notice may occur. In such cases you should contact the Department or your tax professional for further guidance.