



State of Tennessee
PUBLIC CHAPTER NO. 467

HOUSE BILL NO. 1994

By Representatives McCormick, Moore, Watson, Todd, Brown, Sanderson, Kevin Brooks, Weaver, Shepard

Substituted for: Senate Bill No. 1519

By Senators Norris, McNally

AN ACT to amend Tennessee Code Annotated, Title 55; Title 67 and Chapter 1134 of the Public Acts of 2010, relative to taxation.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Public Chapter 1134 of the Public Acts of 2010 is amended by deleting the language "67-4-2006(b)" from the amendatory language of Section 9 and by substituting instead the language "67-4-2006(b)(1)".

SECTION 2. Tennessee Code Annotated, Section 67-4-2012, is amended by adding the following as a new, appropriately designated subsection:

() Notwithstanding any provision of this section to the contrary, any gain on the sale of an asset that is designated as goodwill and is required to be included as Class VII assets pursuant to the reporting requirements of 26 U.S.C. §§338(b)(5) and 1060, and associated regulations, shall be excluded from both the numerator and the denominator of the apportionment formula receipts factor.

SECTION 3. Tennessee Code Annotated, Section 67-4-2111, is amended by adding the following as a new, appropriately designated subsection:

() Notwithstanding any provision of this section to the contrary, any gain on the sale of an asset that is designated as goodwill and is required to be included as Class VII assets pursuant to the reporting requirements of 26 U.S.C. §§338(b)(5) and 1060, and associated regulations, shall be excluded from both the numerator and the denominator of the apportionment formula receipts factor.

SECTION 4. Tennessee Code Annotated, Section 67-4-2111(b)(3)(C), is amended by deleting the language "67-4-2013(a)(1)-(6)" and by substituting instead the language "67-4-2013(a)(1)-(7)".

SECTION 5. Tennessee Code Annotated, Section 67-6-702(b), is amended by deleting the language "with respect to industrial and farm machinery as defined in § 67-6-102, and".

SECTION 6. Tennessee Code Annotated, Section 67-6-507(a), is amended by deleting the first sentence in its entirety and by substituting instead the following:

The provisions of this chapter do not apply with respect to the use, consumption, distribution or storage of tangible personal property, computer software, or computer software maintenance contracts for use or consumption in this state, upon which a like tax equal to or greater than the amount imposed by this chapter has been paid in another state, the proof of payment of such tax to be according to rules and regulations made by the commissioner.

SECTION 7. Tennessee Code Annotated, Section 67-1-703(b), is amended by deleting the language "chapter 6 of this title" and by substituting instead the language "chapter 6 of this title or part 7 of chapter 4 of this title".

SECTION 8. Tennessee Code Annotated, Section 67-4-715, is amended by deleting subsection (d) in its entirety and by substituting instead the following:

(d)

(1) Any taxpayer that is required to file its sales and use tax returns electronically under § 67-6-504 is likewise required to file the returns required by this section electronically, and remit the tax electronically, using a method approved by the commissioner.

(2) In addition, when a taxpayer is required to remit payments electronically as set forth in § 67-1-703(b) because the taxpayer's liability under this part is one thousand dollars (\$1,000) or more, then all returns required by this chapter that are associated with such payments shall be filed electronically using a method approved by the commissioner. When any taxpayer is required to file returns and remit payments electronically for any one (1) outlet, location or other place of business, the commissioner may require the taxpayer to file returns and remit payments electronically for each place of business of the taxpayer. The requirement to file electronically shall continue thereafter until such time as the commissioner advises the taxpayer to file by another method.

(3) In addition to any other penalty provided by law, the commissioner shall assess any taxpayer required to file returns by electronic means a penalty of five hundred dollars (\$500) for each instance of filing a return by any other means. Such penalty shall be subject to waiver under the provisions of § 67-1-803. In extenuating circumstances, the commissioner has discretionary authority to waive electronic payment and filing requirements with respect to any returns filed pursuant to this chapter.

SECTION 9. Tennessee Code Annotated, Section 67-1-803(b), is amended by deleting the last sentence in its entirety.

SECTION 10. Tennessee Code Annotated, Title 67, Part 1, Chapter 1, as amended by Section 17 of Chapter 72 of the Public Acts of 2011, is amended by adding the following language to the end of § 67-1-1__:

For purposes of this section, "return" shall be deemed to include any remittance or other tax document, including but not limited to, quarterly estimated payments and extension requests.

SECTION 11. Tennessee Code Annotated, Section 67-4-2006(b)(2), is amended by adding the following as a new, appropriately designated subdivision:

() Any amount in excess of reasonable rent that is received or accrued for the rental, leasing, or comparable use of industrial and commercial property rented, leased, or otherwise provided to an affiliate; provided, however, that this subdivision (b)(2)() shall only apply to the extent the corresponding expense has been added to the net earnings or net losses of the affiliate in accordance with subdivision (b)(1)(N) of this section. For purposes of this subdivision (b)(2)(), "industrial and commercial property" and "reasonable rent" shall have the same meaning as in subdivision (b)(1)(N) of this section.

SECTION 12. Section 10 of this act shall take effect upon becoming a law and shall apply to any return, remittance, or other tax document due on or after April 15, 2011, the public welfare requiring it. Section 11 of this act shall take effect upon becoming a law and shall apply to tax years ending on or after the effective date of this act, the public welfare requiring it. All other sections of this act shall take effect upon becoming a law, the public welfare requiring it.

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PASSED: May 21, 2011



BETH HARWELL, SPEAKER
HOUSE OF REPRESENTATIVES



RON RAMSEY
SPEAKER OF THE SENATE

APPROVED this 10th day of June 2011



BILL HASLAM, GOVERNOR