

Notice of Rulemaking Hearing
Tennessee State Board of Equalization

There will be a hearing before the Tennessee State Board of Equalization to consider the amendment of rules pursuant to Tenn. Code Ann. §§67-1-305. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tenn. Code Ann. §4-5-204 and will take place in the 17th floor conference room, James K. Polk State Office Bldg., 505 Deaderick Street, Nashville, Tennessee, at 10:30 a.m. on the 23d day of January, 2006.

Any individuals with disabilities who wish to participate in these proceedings should contact the Board to discuss any auxiliary aids or services needed to facilitate such participation. Such initial contact should be made no less than ten (10) days prior to the scheduled meeting date, to allow time for the Board to determine how it may reasonably provide such aid or service. Initial contact may be made with the Board's ADA Coordinator, Elaine Driver, at Ste. 1400, 505 Deaderick St., Nashville, TN 37243-0261 and tele. no. 615/401-7738.

For a copy of this notice of rulemaking hearing, contact: Kelsie Jones, Ste. 1700, 505 Deaderick St., Nashville, TN 37243-0280, and tele. no. 615/747-5379.

Substance of Proposed Amendment

Chapter 0600-5
Assessment of Commercial and Industrial Tangible Personal Property

Rule 0600-5-.01 Definitions is amended by deleting item (6), substituting the following new items:

- (6) "Original cost" shall be defined as all costs incurred by the original owner to place the item in service, and any additional costs incurred by the original or subsequent owners and against which may be asserted a claim of depreciation.
- (7) "Leased tangible personal property" shall mean tangible personal property leased or rented within the meaning of Tenn. Code Ann. Section 67-4-701 et seq., except that property a consumer of services must obtain from the service provider or an affiliate, shall be considered property of the service provider whether or not it is leased or rented.

Rule 0600-5-.01 Definitions is further amended by adding the following sentence at the end of item (14): "Tangible personal property includes computer software."

Rule 0600-5-.01 Definitions is further amended by appropriately renumbering the remaining items, so that the rule as amended reads as follows:

- (8) "Personal property", as defined by T.C.A. §67-5-501(7), includes every species and character of property which is not classified as real property.
- (9) "Raw material" shall be defined as items of tangible personal property, crude or processed, which are held or maintained by a manufacturer for use through refining, combining, or any other process in the production or fabrication of another item or product.
- (10) "Regular assessment" shall be defined as an assessment made on personal property when the taxpayer has filed a personal property schedule with the assessor for the current year and the assessment is based on the information reported by the taxpayer.
- (11) "Residual value" shall be defined as the minimum standard value of property in use or capable of use.
- (12) "Scrap value" shall be defined as the value of personal property no longer capable of use and for which there is no expectation of repair.
- (13) "Straight line depreciation" for tangible personal property shall be defined as depreciation allocated in equal percentages over the economic life of the property and shall be calculated by dividing 100% by the economic life to achieve a yearly depreciation percentage. Percent good factors, also termed depreciation factors, derived from these yearly depreciation percentages shall be rounded to the nearest whole percent.
- (14) "Supplies" shall be defined as expendable items of tangible personal property which are used or held for use in support of a business activity, including but not limited to office supply stocks, stocks of spare parts for maintenance of machinery and equipment, accessories used in manufacturing processes, printing supplies, and cleaning and maintenance supplies.
- (15) "Tangible personal property", as defined by T.C.A. §67-5-501(12), includes personal property such as goods, chattels, and other articles of value which are capable of manual or physical possession, and certain machinery and equipment, separate and apart from any real property, and whose value is intrinsic to the article itself. Tangible personal property includes computer software.

Rule 0600-5-.05 Audit is amended by adding the following new subsections:

- (3) Audits shall be conducted in accordance with a plan submitted by the assessor of property and approved by the State Board of Equalization.
- (4) Assessors shall maintain confidentiality of taxpayer information as required by Tenn. Code Ann. Section 67-5-402, and disclose this information only pursuant to a written request identifying a basis for disclosure consistent with Section 67-5-402.

Rule 0600-5-.06 Standard Valuation is amended by adding the following sentence at the end of subsection (5): “The assessor shall not fix or increase a forced assessment by use of an arbitrary percentage.”

Rule 0600-5-.07 Nonstandard Valuation is amended by adding the following at the end of subsection (1):

The current owner of used tangible personal property may claim cost to the current owner as the cost to be depreciated under the standard useful lives otherwise provided by law, and the current owner’s year of acquisition will be the vintage year for purposes of depreciation. In such cases the current owner must provide proof that the price or allocated price claimed as the current owner’s cost, reasonably approximates the current value of the used tangible personal property.

so that item (1) as amended reads as follows

(1) Notwithstanding the provisions of Rule 0600-5-.06, above, regarding standard valuation, the assessor shall place a value on the property different from the value indicated by the standard valuation provisions if there is sufficient evidence to warrant a different value and documentation of such evidence is included in the file. The assessor shall consider the level of trade at which the property is found and all other relevant and available evidence in determining a nonstandard value. The current owner of used tangible personal property may claim cost to the current owner as the cost to be depreciated under the standard useful lives otherwise provided by law, and the current owner’s year of acquisition will be the vintage year for purposes of depreciation. In such cases the current owner must provide proof that the price or allocated price claimed as the current owner’s cost, reasonably approximates the current value of the used tangible personal property.

Rule 0600-5-.09 Miscellaneous is amended by changing the title to “Classification and situs” and by substituting the following for the first sentence of subsection (1) (c):

The intent of the owner and, where appropriate, the intent of other parties to a transaction involving the owner. Intent shall be determined objectively, considering business custom and usage as well as the stated intent of the owner or parties.

so that the subsection as amended reads as follows:

- (c) The intent of the owner and, where appropriate, the intent of other parties to a transaction involving the owner. Intent shall be determined objectively, considering business custom and usage as well as the stated intent of the owner or parties. This element will come into focus most frequently where leased premises are involved, although it must occasionally be considered where premises are owner-occupied. If the intent of the owner is to move the item upon relocation of the business, the item is more likely to be considered personal property, provided that such a move would be probable, practical, and cost-effective.

Rule 0600-5-.09 is further amended by adding the following new item:

- (d) The following property shall be presumed to be tangible personal property in the absence of proof to the contrary: i) above ground tanks less than five hundred thousand (500,000) gallon capacity; and ii) billboards not embedded in the ground with concrete and steel.

Rule 0600-5-.11 Reporting Schedule is amended by deleting the schedule appearing in the ~~current rule and substituting the schedule attached to this notice.~~ *see attached*

Authority: Tenn. Code Ann. §67-1-305.

I certify that this is an accurate and complete representation of the intent and scope of rulemaking proposed by the State Board of Equalization.

Kelsie E. Jones
Kelsie E. Jones, Executive Secretary
State Board of Equalization

Subscribed and sworn to before me this the 30th day of November, 20 05.

Constance L. Head
Notary Public

My commission expires: 9-30-06

The notice of rulemaking set out herein was properly filed in the Department of State on the 30 day of Nov., 20 05.



Riley C. Darnell
Secretary of State

By: 

Rule 0600-5-.11 Reporting Schedule is amended by deleting the rule in its entirety and substituting instead the following: "The form to be used by taxpayers reporting commercial and industrial tangible personal property shall be Comptroller of the Treasury Form 0025-9557 (Rev. 1998). A substantially equivalent form may be used with prior approval of the director of the state Division of Property Assessments."