



Business Tax Updates

Presentation for TGFOA 2024

Business Tax Defined

A privilege tax on the privilege of doing business by making sales of tangible personal property and services within Tennessee and its local jurisdictions.

Tenn. Code Ann. §67-4-701 through 730 &
TENN. COMP. R. & REGS. 1320-4-5-.01 through TENN. COMP. R. & REGS. 1320-4-5-.61

TOPICS FOR TODAY:

- **WHO IS LIABLE**
- **REGISTRATION & LICENSING**
- **EXEMPTIONS, CREDITS & DEDUCTIONS**
- **FILING**
- **RESOURCES**

Who is Liable for Business Tax

1. Substantial Nexus, and
2. Engaged in Taxable Activities, and
3. \$100k+ in TN gross sales

Substantial Nexus

Substantial Nexus for TN Business Tax includes the following:

- ***organized or commercially*** domiciled in TN, or
- ***owns or uses its capital*** in TN, or
- ***systematic and continuous business activity*** in TN that has produced gross receipts *attributable to customers in TN*, or
- ***“bright-line presence”*** in TN

Meeting Bright-line Presence

- ❑ total TN **business receipts exceed** the lesser of \$500k or 25% of the business's total receipts everywhere during the tax period, ***or***
- ❑ average **value of real and tangible personal property owned/rented and used** in TN exceeds the lesser of \$50k or 25% of the average value of all the business's total real and tangible personal property ***or***
- ❑ total amount of **compensation paid** by the business in TN exceeds \$50k or 25% of the business's total compensation

Activities Subject to Business Tax

In addition to having substantial nexus, a business must also be engaged in one of the activities in TCA § 67-4-717(a) before being subject to the business tax, including....

- sale of **tangible personal property (TPP) in TN or delivered to TN** location, or
- sale of a **service that is delivered to TN** location, or
- **leasing/renting of TPP located in TN**



Gross Sales Threshold

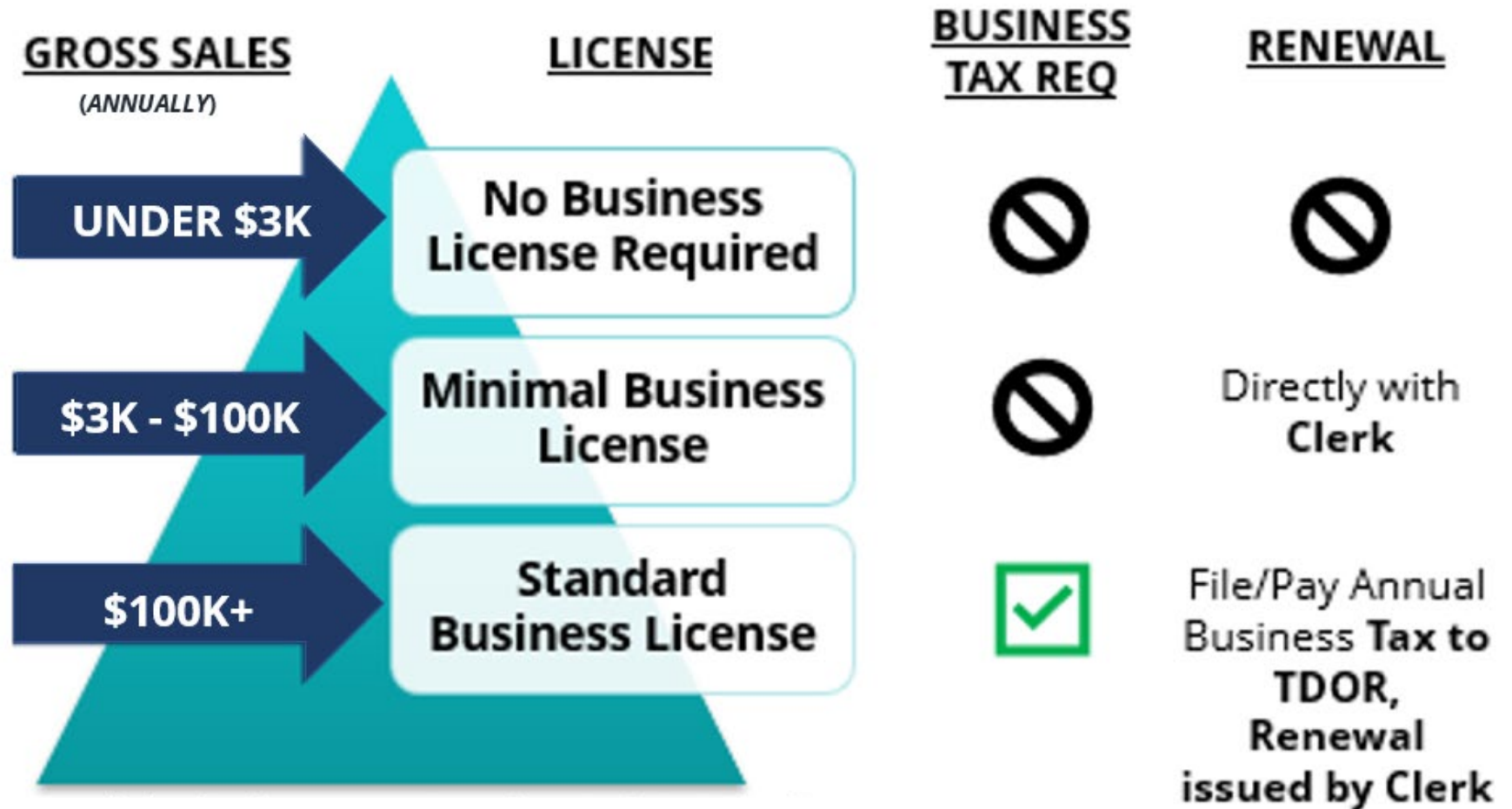
If a business has

- ✓ met substantial nexus +
- ✓ is engaged in an activity listed per TCA +
- ✓ has over **\$100k in gross sales** attributed to any county in TN

= register and file for TN Business Tax



Major Change for Business Licensing



NEW THRESHOLD based on total gross per jurisdiction

New Threshold

- Businesses having gross sales less than \$100,000 for FYE 12/31/2023 should contact TDOR at 615-253-0600 or revenue.support@tn.gov to switch their filing status to “not required”.
- After the switch, the current business license is still good until the date printed on the license. Upon expiration, the business would visit the city/county clerk to obtain a minimal activity license each year.

[IMPORTANT NOTICE #23-08](#) has all the details!

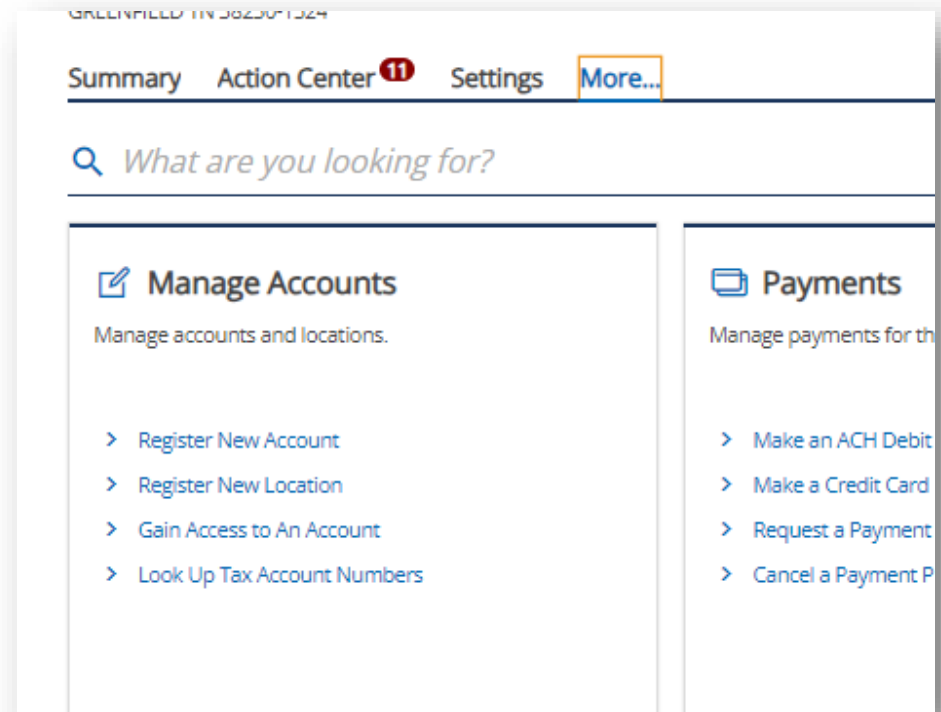
Tennessee Works Tax Act



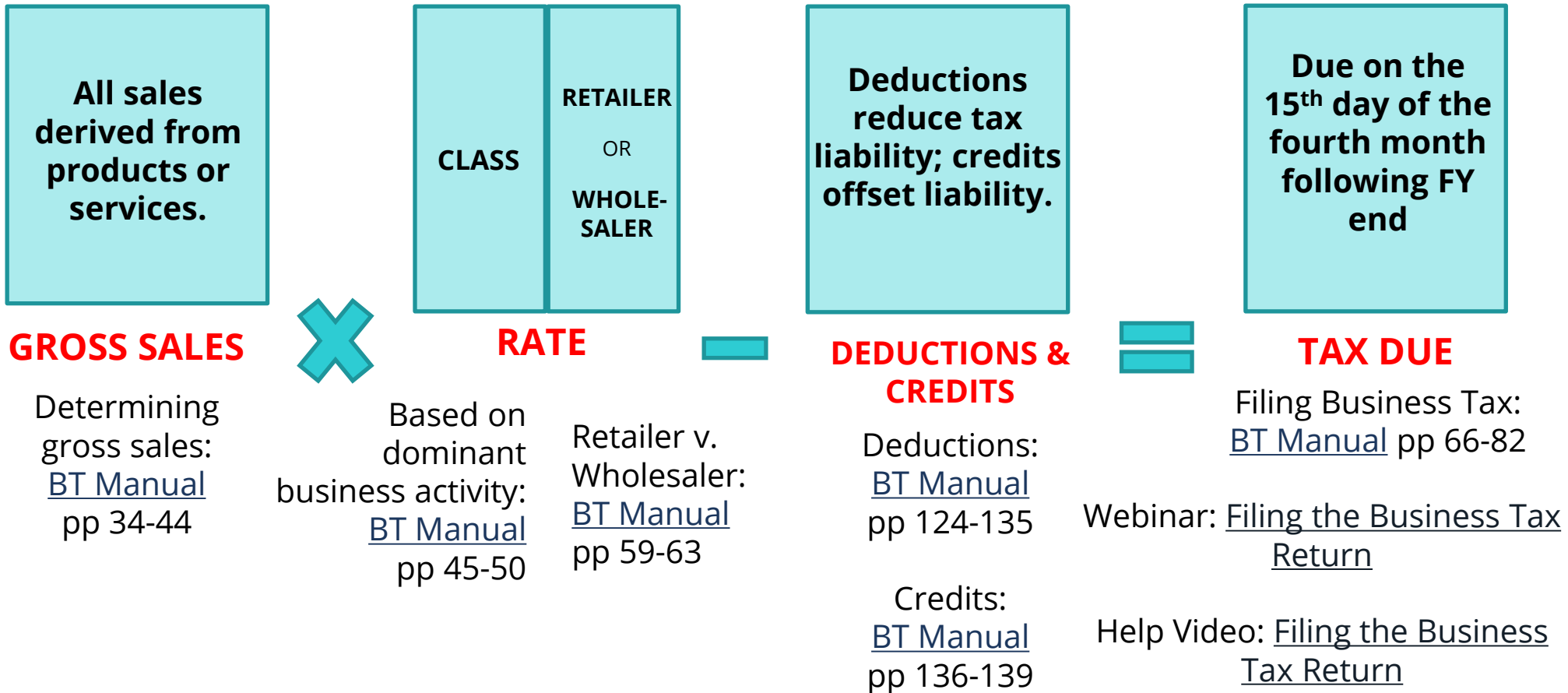
Business Tax Registration

1. Obtaining a standard business license from the county/city clerk automatically registers you for Business Tax
 - After you receive the license, you will be sent a letter from TDOR. You can use the information on this letter to add access to the Business Tax account in TNTAP

2. Register a location on TNTAP
 - If you register a location on TNTAP, you will need to then purchase the business license from the city/county clerk



Business Tax: Overview



Business Tax Rates

Classification	Retailer Rates	Wholesaler Rates	General Rate
Class 1A	0.001	0.00025	
Class 1B &1C	0.001	0.000375	
Class 1D	0.0005	Not applicable	
Class 1E	Not applicable	0.0003125	
Class 2	0.0015	0.000375	
Class 3	0.001875	0.000375	
Class 4	Not applicable	Not applicable	0.001
Class 5A	Not applicable	Not applicable	0.003
Class 5B	Not applicable	Not applicable	0.0002

Choosing Classification

Class	Dominant Business Activity
1 (A)	Food and beer for home preparation/consumption and food brokerage services
1 (B)	Lumber, building materials, tools, builders' hardware, farm equipment, plumbing, heating and air conditioning equipment, and other hardware
1 (C)	Hay, grain, feed, fertilizer, seeds, bulbs, nursery stock, and other farm, lawn, and garden supplies/tools
1 (D)	Gasoline, diesel fuel, and motor oils at retail
1 (E)	Gasoline and diesel fuel at wholesale
Class	Dominant Business Activity
5 (A)	Industrial loan, thrift
5 (B)	Natural gas marketers

Class	Dominant Business Activity
2	Specific TPP: -Motor vehicles -Clothing (excluding custom) -Home furnishings (excluding antiques) -Prescription drugs -Prepared food -Coal, wood, ice, fuel oil, and liquefied petroleum gas -Cut flowers -Advertising specialties
2	"catch all" for all TPP not specifically listed in any other classification
Class	Dominant Business Activity
4	-Constructing or improving real property -Installing tangible personal property -Providing exterminating services -Selling livestock, poultry, farm products -Receiving commissions from the sale of farm product

Class	Dominant Business Activity
3	Specific TPP: -Delicatessens and candy -Made-to-order clothing -Antique furniture, furnishings, and art objects -Artwork -Books, magazines, stationery (including office supplies and writing supplies), accounting and legal forms, office forms and supplies, pens and pencils, school supplies, and writing supplies -Sporting goods and equipment, bicycles, bicycle parts, and accessories -Jewelry -Tobacco products -Toys, games, and hobby kits -Cameras, film, and other photographic supplies -Fireworks -Hearing aids -Luggage -Artist paints and supplies -Non-prescription eye-ware -Pet food -Above-ground swimming pools (in-ground swimming pools are considered improvements to real property) -Pawn shops
3	All services EXCEPT exempt services



Exempt Services

The sales of all services are subject to business tax unless specifically exempt.

If exempt, no business license is needed, and no business tax is due, *unless* the business is also making sales of tangible personal property and/or other taxable services.

- Accounting, auditing, and bookkeeping
- Architecture
- Banks, building and loan associations, mortgage bankers, securities, brokers, investment companies, and other similar organizations
- Services performed by charitable and religious organizations
- Domestic services performed in private households
- Educational services offered by elementary and secondary schools, colleges, universities
- Engineering
- Legal services
- Medical, dental, and allied health services
- Veterinary services

Excluded Entities

Business Tax does not apply to the following persons/entities:

- **Manufacturers** – must have industrial machinery exemption for sales tax.

NEW Effective May 11, 2023, to qualify for the manufacturing exemption the sales of manufactured products may be made from the manufacturing **location or a storage or warehouse facility that is located within a ten-mile radius of the manufacturing location.**

Excluded Entities, Cont'd

- **Trucking companies** offering services to the public (common carrier).
- Any institution operated **for religious or charitable purposes**, with respect to any profits that are earned from the sale of contributed items.
- Many others listed in the law and our Business Tax Manual located at www.TN.gov/revenue under ***Tax Resources***.

Business Tax Deductions

Must be reflected on the business tax return as amounts deducted from total gross sales

- Most deductions are provided in Tenn. Code Ann. § 67-4-711
- Taxpayers must maintain invoices and other documents to substantiate claims to deductions; otherwise, the deductions will be disallowed
- All deductions must be entered by location by the taxpayer and are totaled by the system to include on Schedule A




Business Tax Deductions, , Cont'd

- **SALES OF TANGIBLE PERSONAL PROPERTY IN INTERSTATE COMMERCE**
 - Deliveries of tangible personal property to customers outside this state by the taxpayer or a common carrier, before a customer obtains possession, are sales exempt from business tax.



Business Tax Deductions, Cont'd

- **AMOUNTS PAID BY A CONTRACTOR TO A SUBCONTRACTOR HOLDING EITHER A BUSINESS LICENSE OR CONTRACTOR'S LICENSE** 
- MUST COMPLETE SCHEDULE C AND FILE WITH THE RETURN (CLASS 4 ONLY).
- **CERTAIN OTHER DEDUCTIONS ARE ALLOWED AS WELL**

It is important to maintain records for all deductions taken!

Business Tax : When to File

- Due on the 15th day of the fourth month following the fiscal year end (i.e. for a calendar year fiscal year, return is due on April 15)
- The business license expiration date is the 15th of the month after the tax due date
- There is no option for filing extension

This timeline assumes an entity has a FY end of **12/31**



Business Tax : How to Close

- **Closing all locations**

- Closure request along with the last return and payment should be received within 15 days

- **Closing one or some locations**

- Closure request should be received within 15 days and the taxpayer should wait until normal due date to file and pay the return

The screenshot shows a web interface for a business tax account. At the top, there are navigation tabs: 'Favorites', 'Summary' (highlighted), 'Action Center' (with a red notification icon), 'Settings', and 'More...'. Below the tabs is a search bar labeled 'Filter'. The main content area is divided into two columns. The left column is titled 'Business Tax' and contains fields for 'Business Name', 'Business address', 'City, State ZIP', and 'Action Center Items' (with a red notification icon). The right column is titled 'Account' and shows 'Account number-BUS' and 'Balance \$0.00'. To the right of the account information, there are three blue links with right-pointing chevrons: '> Make a Payment', '> View/File Returns', and '> Additional Actions/Licenses'. A large red arrow points from the 'Balance \$0.00' area towards the 'Additional Actions/Licenses' link.

NOTE: If a business is not closing, but just needs to switch its filing status due to the new business tax threshold (\$100k), call or email us at 615-253-0600 or revenue.support@tn.gov.

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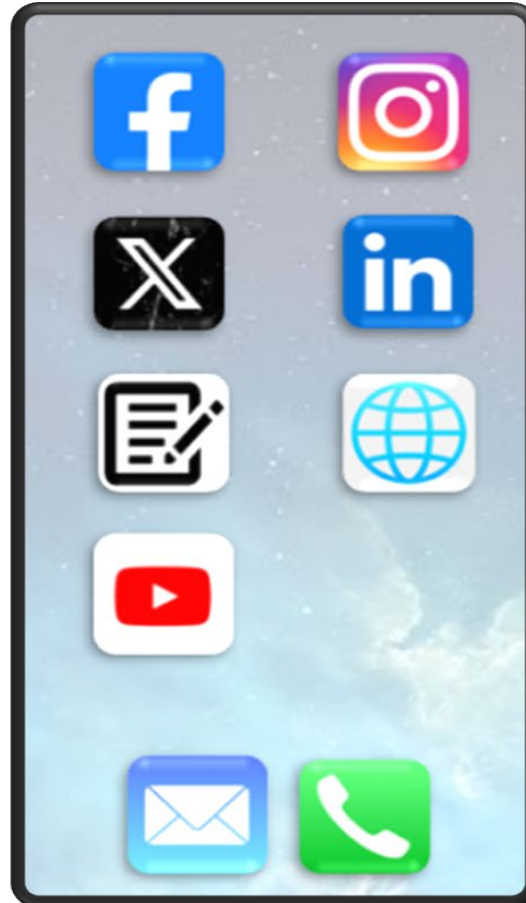
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On the Web:
www.tn.gov/revenue

Call the Tax Help Line:

615.253.0600

SUPPORT STAFF AVAILABLE TO ASSIST YOU M-F 8am – 4:30pm





**Thank
You!**