

Voluntarily Disclosing Business Tax Liability

Notice #09-15

Business Tax

October 2009



Highlights

- *State Business Tax Compliance Program starts soon.*
- *Taxpayers can avoid penalty by coming forward.*
- *State will contact those not registered for business tax prior to the first return being filed with the state.*
- *Those not registered for business taxes should come forward.*

INTRODUCTION

Chapter 530 of the Public Acts of 2009 amends various provisions of the Business Tax Act for purposes of simplifying the tax and shifting its primary administration from the local level to the state level. This notice is intended to provide taxpayers with information regarding an opportunity to enter into a Voluntary Disclosure Agreement with the Department of Revenue for business tax purposes.

DISCUSSION

The department has obtained data including all taxpayers currently registered with cities and counties that have adopted business tax. **The department will soon initiate a compliance program designed to identify taxpayers subject to business tax but not yet registered and filing returns.** Non-filers will be identified in large part through matching current business tax registration information with a variety of other data sources including registration and reporting data for other state and federal taxes.

Taxpayers who are not yet registered for business taxes with the applicable county clerk and/or city official should review their operations to determine their potential liability. Prior to being contacted by the department, or applicable county clerk and/or city official, taxpayers can contact the department and voluntarily disclose their liability. **Voluntary disclosure will allow taxpayers to limit the look-back period for paying taxes and interest and allow them to avoid the assessment of delinquency penalty.**

Taxpayers not yet registered and filing business tax returns are strongly encouraged to request a voluntary disclosure agreement from the department prior to December 31, 2009. The department will be contacting those not registered for business tax, prior to the first return due with the state. The first returns required to be filed with the Department of Revenue will be the returns for Classifications 1 and 5, due by February 28, 2010.

What is the look-back period?

The look-back period for voluntary disclosure agreements requested this year will be for periods covered by returns due or filed in 2006 through the most current completed reporting year. For example, a Classification 1 taxpayer's reporting period is January 1 – December 31, and the return is due by February 28. A voluntary disclosure request for a Classification 1 taxpayer should cover January 1, 2005 through December 31, 2008.

The look-back period may be extended to at least six years for those businesses that do not voluntarily come forward to register and file for business tax purposes. In addition, a mandatory penalty of up to twenty-five percent (25%) will be assessed on any tax due.

How do I enter into a Voluntary Disclosure Agreement?

To enter into the voluntary disclosure program, a letter must be written to:

Tennessee Department of Revenue
Discovery Unit – Business Tax
P.O. Box 190644
Nashville, TN 37219

➤ Taxpayers must provide the information necessary to determine their tax liability and establish an account with the Department.

➤ Taxpayers must also contact the appropriate county clerk and/or city official to obtain a local business tax license.

What should I put in the letter?

The letter should state what activities the company has in Tennessee. Also, the letter should state if the company is registered for any other taxes (as they may be registered for sales and use or franchise and excise but not business tax). For business tax, the letter should identify the taxpayer's dominant taxable business activity, a basic description of that activity, and the business tax classification the taxpayer believes applies. Every request letter must include a statement that the taxpayer has not been contacted by the department, the county clerk, or the municipal official.

What happens after I enter a voluntary disclosure agreement?

You will be required to provide the department with a spreadsheet that includes total taxable gross sales, allowable deductions, net sales subject to business tax, and/or personal property tax credits broken down by each filing period and jurisdiction. You will also need to provide a breakdown of the amount of both wholesale and retail sales. A standard schedule is available on the department's Web site. In addition, you must provide a completed Application for Registration, which is also available on the department's Web site and will be used by the department to establish your state business tax account.

Do I still need to obtain a local business tax license?

Yes, once a voluntary disclosure agreement for business taxes is completed, you must contact the county clerk and/or municipal official to obtain a business tax license. Although the state is assuming primary responsibility for business tax administration, a business will continue to obtain a business license from the county clerk and/or city official. There will be a one-time licensing fee of \$15 dollars that will be paid both to the county clerk and, if the business is located within the municipality, to the designated city official. There will be an annual renewal of the business license through the county clerk and/or city official for no additional fee each year, provided the business files a return with the Department of Revenue and remits the amount due. The first returns that should be filed with the department are the returns due on February 28, 2010, for taxpayers in Classifications 1 and 5.

The following table gives the tax rate, taxing period, and filing due date for each classification:

CLASSIFICATION	RETAIL	WHOLESALE	TAX PERIOD	DUE DATE
Class 1A	0.001	0.00025	January 1 - December 31	February 28
Class 1B & 1C	0.001	0.000375	January 1 - December 31	February 28
Class 1D - Fuel	0.0005	N/A	January 1 - December 31	February 28
Class 2	0.0015	0.000375	April 1 - March 31	May 31
Class 3	0.001875	0.000375	July 1 - June 30	August 31
Class 4	0.001	N/A	October 1 - September 30	November 30
Class 5	0.003	N/A	January 1 - December 31	February 28

Who do I contact for further questions about voluntary disclosures?

Revenue's Audit Division at (615) 741-8319.

Who do I contact for general Business Tax information?

Revenue's Taxpayer and Vehicle Services Division at 1-800-342-1003 or by email to business.tax@TN.gov. You may also contact your local County and/or City business tax offices.



References:

PC 530 §§ 69-93
(2009)

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.