



# TAXATION IN TENNESSEE

# Franchise and Excise Tax (1/2)

Corporations, limited partnership, limited liability company, or business trust chartered, qualified, or registered in Tennessee or doing business in the state, must register for and pay franchise and excise taxes.

The franchise tax is based on the greater of net worth or the book value of real or tangible personal property owned or used in Tennessee. Franchise tax rate is 0.25% greater of net worth or real tangible property in Tennessee. The minimum franchise tax of USD 100 is payable if an entity is incorporated in the state or registered with the state to do business, regardless of whether the entity is active or inactive. The excise tax is based on net earnings or income for the tax year. Excise tax rate is 6.5% of Tennessee taxable income.



## Due Date

The due date for the franchise and excise tax return is on the 15th day of the fourth month following the end of the accounting year.



## Filing Requirements

The primary form for franchise and excise tax filing is the FAE 170, Franchise, Excise Tax Return.



## Extension of time to file

Tennessee allows for a seven month extension to file the franchise and excise tax return.



# Franchise and Excise Tax (2/2)



## Estimated Tax Payment

Businesses subject to the franchise and excise tax may be required to make estimated tax payments throughout the year if their tax liability is equal to or exceeds USD 5,000 both in prior year or current year. Estimated tax payments are typically made in quarterly installments on the 15th day of the fourth, sixth, and ninth months of the current tax year and the 15th day of the first month of the next succeeding tax year.



## Interest and Penalty

If the return is delinquently filed, a penalty is calculated at a rate of 5% for each 30-day period, or portion thereof, that a return is delinquent, up to a maximum of 25% of the delinquent amount. However, the minimum penalty is USD 15.

Interest is due on any amount of tax that is paid after the statutory due date of the return. The interest rate effective July 1, 2023, through June 30, 2024, will be 12.25%.

# Business Tax (1/5)

Business taxes in Tennessee applies to various types of entities, including corporations (both C corporations and S corporations), partnerships, limited liability companies (LLCs), sole proprietorships, and other business entities operating in the state. If a business has substantial nexus in the state and is engaged in any vocation, occupation, business, etc., or conducts business without establishing a physical location then it is subject to a state business tax. With a few exceptions, all businesses that sell goods or services must pay the state business tax. Further, if an entity has a business location in a city that has enacted the business tax, then the entity is required to pay the city business tax as well.



Out-of-state businesses with substantial nexus in Tennessee will be subject to business taxes in Tennessee. Substantial nexus includes, but is not limited to, any of the following:

- The taxpayer is organized or commercially domiciled in Tennessee,
- The taxpayer owns or uses its capital in Tennessee,
- The taxpayer has a systematic and continuous business activity in this state that has produced gross receipts attributable to customers in Tennessee; or
- The taxpayer has a bright-line presence in the state.

A person has a bright-line presence in the state for a tax period if any of the following applies:

- i) Receipts: > \$ 500,000 or 25% of total receipts from sales in TN or Property:
- ii) > \$ 50,000 or 25% of total property by value in TN or
- iii) Payroll: > \$ 50,000 or 25% of compensation paid in TN

# Business Tax (2/5)

Each taxpayer is classified by its dominant business activity (the activity that produces its largest portion of taxable sales) on a per location basis. Every classification has its own tax rate, so classification that determines the tax rate must be applied to all the taxable sales at that location. There are five different classifications for taxable activities as well as a separate category for antique malls, flea markets, and the like.



**Class 1A** - Businesses in the 1A classification are selling the following products or provide the following services: Food and beer for home consumption, except for retail sales of delicatessens and candy Services performed by food brokers.

**Class 1B** - Businesses in the 1B classification are traders of the following products: Building materials, builder's hardware, Electrical supplies, Farm equipment, Glass, Hardware, Heating and air conditioning equipment, Lumber Paint, Plumbing, Roofing materials, Service station, sales of tangible personal property except for gasoline, diesel fuel and motor oil Tools.

**Class 1C** - Businesses in the 1C classification are sellers of farm, nursery and related products including: Bulbs, Feed, Fertilizer, Grain, Hay, Nursery stock, Seeds, Other farm, lawn and garden tools and supplies

**Class 1D** - Businesses in the 1D classification provide retail sales of gasoline, diesel fuel and motor oils.

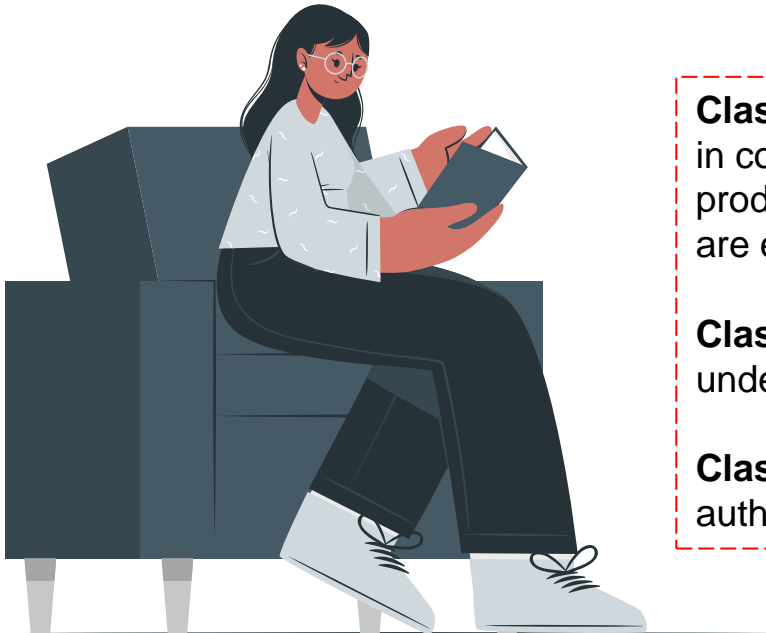
**Class 1E** - Businesses in the 1E classification provide wholesale sales of gasoline and diesel fuel.

# Business Tax (3/5)

## Class 2 –

This classification covers sales of tangible personal property, including various items such as clothing, home furnishings, vehicles, prescription drugs, and food and drinks from restaurants etc. Any business selling tangible personal property not specified elsewhere falls under this classification.

**Class 3 –** Classification 3 encompasses service businesses, with certain exemptions listed. Some businesses selling tangible personal property are also included here, such as those dealing in coins, leather goods, and office supplies. However, if selling both tangible personal property and taxable services, taxes are based on the dominant taxable business activity.



**Class 4 -** Classification 4 pertains to contractors and sales of farm products. Those engaged in construction, repair, and installation services, as well as the sale of livestock or farm products, fall under this classification. However, direct producers and sellers of farm products are excluded from this classification.

**Class 5A -** Industrial loan and thrift companies required to obtain a certificate and a license under the state code are subject to business taxation under Classification 5A.

**Class 5B -** Natural gas marketers that are not regulated by the Tennessee regulatory authority.

# Business Tax (4/5)

The business tax rates vary, depending on the classification of the business - retailer or a wholesaler. However, every Class from 1-4 and 5B taxpayer must pay at least a minimum tax of **USD 22 per location**. Out of state Class 1-4 and 5B taxpayers must pay a **single USD 22 minimum tax**. Class 5A taxpayers must pay a minimum tax of USD 450 per location but will not be liable for more than USD 1,500 per location.

Tax rate is also affected depending on whether a taxpayer is categorized as a retailer or a wholesaler at a given location. Once the taxpayer determines as a retailer or a wholesaler at a particular location, the respective rate will apply to all of the taxpayer's taxable gross sales at that location.

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	0.001*
Class 5B	Not applicable	Not applicable	0.0002



\* The tax rate for Class 5A taxpayers was updated from 0.003 to 0.001 pursuant to the law change on May 11, 2023. This updated rate applies to tax years beginning on or after December 31, 2023.

# Business Tax (5/5)



## Due Date

The business tax return is due on the 15th day of the fourth month following the end of the tax year.



## Filing Requirements

The primary form for business tax filing is BUS 428, Business Tax Return.



## Interest and Penalty

If the return is delinquently filed, a penalty is calculated at a rate of 5% for each 30-day period, or portion thereof, that a return is delinquent, up to a maximum of 25% of the delinquent amount. However, the minimum penalty is USD 15.

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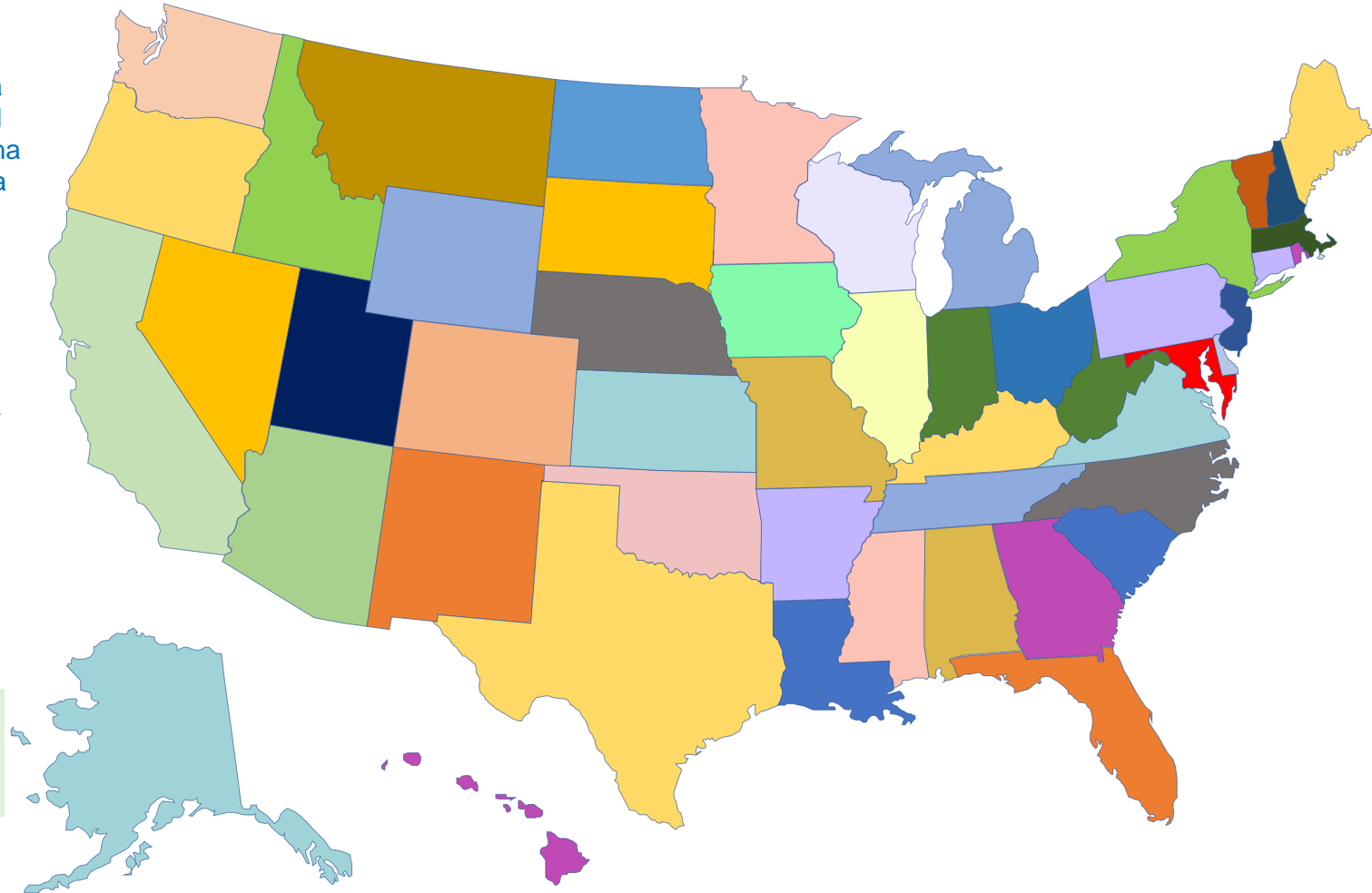




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# THANK YOU

## USA

### M2K Advisors Inc

16192 Coastal Highway,  
Lewes, County of Sussex,  
Delaware - 19958

## Singapore

### M2K Advisors Pte Ltd

The Octagon,  
105 Cecil Street, #13-02  
Singapore 069534

## India

### M2K Advisors LLP

7th Floor, Briley One,  
No. 30/ 64 Ethiraj Salai,  
Egmore, Chennai – 600 008,  
Tamil Nadu, India

## India - Bengaluru

### M2K Advisors LLP

WeWork, No.43, Residency  
Road, Shanthala Nagar,  
Ashok Nagar,  
Bengaluru 560025

## UAE - Dubai

### M2K Advisors

701 C Aspin Commercial  
Tower, Sheikh Zayed Road,  
Trade Center First, Dubai  
PO Box - 50810

## Australia

### M2K Advisors Pty Ltd

Unit 605E, 888 Collins St,  
Docklands VIC 3008,  
Australia

For any queries, reach us at:

[support@m2kadvisors.com](mailto:support@m2kadvisors.com);

+1 (707) 800-8229



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