

Other/Miscellaneous:

Tennessee: Notice Explains How DOR Must Certify if Business Tax was Reported at Retail or Wholesale Rate

Notice No. 22-04, Tenn. Dept. of Rev. (5/22). The Tennessee Department of Revenue (Department) issued a notice reflecting new law [see H.B. 1937 (2022) and *State Tax Matters*, Issue 2022-13, for more details on this recently enacted legislation], which effective January 1, 2023, requires the Department to make available to each taxpayer that files a Tennessee business tax (TBT) return a certificate that indicates whether a taxpayer filed a TBT return at the wholesale rate or at the retail rate, for each of a taxpayer's locations. According to the notice, these certificates are valid for one year, beginning on the original date of the taxpayer's return and expiring on the due date of the taxpayer's next return, and the certificates will be made available annually to taxpayers through the Department's "TNTAP portal" upon filing their TBT return. The notice further explains that vendors may request the certificate from their customers to verify whether the customer filed TBT as a wholesaler or a retailer for a given location, and vendors that receive a certificate from a customer may rely on the certificate for transactions occurring during the certificate's effective period for purposes of determining their own TBT liability. Furthermore, vendors that receive a certificate from a customer will *not* owe additional TBT and will *not* receive a refund of TBT based on a retroactive change in the customer's status as a wholesaler or a retailer for the period covered by the certificate.

URL: <https://www.tn.gov/content/dam/tn/revenue/documents/notices/business/bus22-04.pdf>

URL: <https://wapp.capitol.tn.gov/apps/Billinfo/default.aspx?BillNumber=HB1937&ga=112>

URL: https://dhub.blob.core.windows.net/dhub/Newsletters/Tax/2022/STM/220401_14.html

The notice generally explains that the TBT rate for "Classification 1-3" taxpayers depends on whether the taxpayer is a wholesaler or retailer. Generally, a taxpayer is a wholesaler and subject to the wholesale rate on all its taxable sales when at least 50% of its gross sales are to retailers for resale; and a taxpayer is a retailer and subject to the retail rate on all its taxable sales when at least 50% of its gross sales are to consumers. In this respect, the notice cautions that "it is important for taxpayers to know whether their customer is a wholesaler, retailer, or consumer." Please contact us with any questions.

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