

HOUSE BILL 157

By Baum

AN ACT to amend Tennessee Code Annotated, Section 7-52-606; Section 38-1-201; Section 39-17-1806; Section 50-6-904; Section 58-2-205; Section 58-2-204; Section 62-44-102 and Title 67, relative to business tax.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 67-4-703, is amended by adding the following as a new subsection:

(d) The business tax levied by this part is eliminated for tax periods that begin on or after January 1, 2024. This section does not absolve any taxpayer of liability for any business tax duly levied by this part, during a tax period that began prior to January 1, 2024.

SECTION 2. Tennessee Code Annotated, Section 67-4-704(a), is amended by deleting the language "Except as otherwise provided in § 67-4-710," and substituting instead the language "Except as otherwise provided in subsection (b) and § 67-4-710,".

SECTION 3. Tennessee Code Annotated, Section 67-4-704, is amended by redesignating the current language as subsection (a) and adding the following as a new subsection (b):

(b) For tax periods that begin on or after January 1, 2024, the state shall not levy or collect a privilege tax pursuant to this part.

SECTION 4. Tennessee Code Annotated, Section 67-4-705, is amended by deleting the language "The making of sales by" in subsections (a) and (c) and substituting instead the language "Except as provided in subsection (b), the making of sales by".

SECTION 5. Tennessee Code Annotated, Section 67-4-705(b), is amended by deleting the language "January 1, 2014," and substituting instead the language "January 1, 2014, and prior to the effective date of this act,".

SECTION 6. Tennessee Code Annotated, Section 67-4-705, is amended by redesignating the current language as subsection (a) and adding the following as a new subsection (b):

(b)

(1) On or after the effective date of this act, a municipality shall not enact an ordinance to levy a privilege tax pursuant to this section.

(2) For tax periods that begin on or after January 1, 2024, a municipality shall not exercise authority to levy or collect a privilege tax pursuant to this section, regardless of whether such authority was granted by an ordinance that was in effect prior to the effective date of this act, or whether the municipality was deemed to have made an effective election prior to the effective date of this act, to impose such tax pursuant to subdivision (a)(2).

(3) This section does not require a municipality to enact an ordinance to repeal a privilege tax authorized prior to the effective date of this act.

SECTION 7. Tennessee Code Annotated, Section 67-4-709, is amended by deleting the section and substituting instead:

For the exercise of the privileges described, enumerated, or referred to in § 67-4-708, every person shall pay the taxes imposed by §§ 67-4-704 and 67-4-705 according to the dominant business activity of the person as follows:

(1) CLASSIFICATION 1 as described in § 67-4-708(1):

(A) For tax periods that begin prior to January 1, 2024:

(i) One-tenth of one percent (1/10 of 1%) of all sales by a retailer classified under § 67-4-708(1)(A), (1)(B), or (1)(C);

(ii) One-fortieth of one percent (1/40 of 1%) of all sales by a wholesaler classified under § 67-4-708(1)(A);

(iii) Three-eighths of one percent (3/80 of 1%) of all sales by a wholesaler classified under § 67-4-708(1)(B) or (1)(C);

(iv) One-twentieth of one percent (1/20 of 1%) of all sales by a retailer classified under § 67-4-708(1)(D); and

(v) One thirty-second of one percent (1/32 of 1%) of all sales by a wholesaler classified under § 67-4-708(1)(E); and

(B) For tax periods that begin on or after January 1, 2024, zero percent (0%) of all sales by every person;

(2) CLASSIFICATION 2 as described in § 67-4-708(2):

(A) For tax periods that begin prior to January 1, 2024:

(i) Three-twentieths of one percent (3/20 of 1%) of all sales by a retailer; and

(ii) Three-eighths of one percent (3/80 of 1%) of all sales by a wholesaler; and

(B) For tax periods that begin on or after January 1, 2024, zero percent (0%) of all sales by every person;

(3) CLASSIFICATION 3 as described in § 67-4-708(3):

(A) For tax periods that begin prior to January 1, 2024:

(i) Three-sixteenths of one percent (3/16 of 1%) of all sales by a retailer; and

(ii) Three-eighths of one percent (3/80 of 1%) of all sales by a wholesaler; and

(B) For tax periods that begin on or after January 1, 2024, zero percent (0%) of all sales by every person;

(4) CLASSIFICATION 4 as described in § 67-4-708(4):

(A) For tax periods that begin prior to January 1, 2024:

(i) One-tenth of one percent (1/10 of 1%) of the compensation entitled to under the contract, whether in the form of a contract price, commission, fee, or wage, by the persons enumerated in § 67-4-708(4)(A);

(a) Persons who, during any taxable period, receive more than fifty thousand dollars (\$50,000) of compensation from contracts in a county or incorporated municipality, or both, other than the county or incorporated municipality where domiciled or located, shall be deemed to have a location in the county or municipality, or both, where the work was performed and a business tax return shall be filed for that location for the period in question. Gross receipts reported on a deemed location return shall not be reported on the return of the business's permanent domicile; and

(b) In computing the measure of the tax, except as provided by this part, no deduction will be allowed on account of the cost of tangible property sold, the cost of materials used, labor cost, reimbursed cost, interest, discount, delivery cost, taxes, or no other expense whatsoever paid or accrued and without any deduction on account of losses; and

(ii) One-tenth of one percent (1/10 of 1%) of the gross commissions, margins, fees, or other charges by the persons enumerated in § 67-4-708(4)(B); and

(B) For tax periods that begin on or after January 1, 2024, zero percent (0%) of all compensation from contracts; and

(5) CLASSIFICATION 5 as described in § 67-4-708(5):

(A) For tax periods that begin prior to January 1, 2024:

(i)

(a) Three-tenths of one percent (3/10 of 1%) of the gross income of a business classified under § 67-4-708(5)(A); and

(b) "Gross income of the business" means all interest income, earned discounts, earned lease rentals, commission fees exclusive of insurance commissions, past due charges, contract earnings or charges, collection charges, loan service fees, late fee income, and all other income, without any deduction except as provided by this part; and

(ii) One-fiftieth of one percent (1/50 of 1%) of all sales within the state of a person classified under § 67-4-708(5)(B); and

(B) For tax periods that begin on or after January 1, 2024, zero percent (0%) of gross income and sales.

SECTION 8. Tennessee Code Annotated, Section 67-4-723, is amended by deleting the section and substituting instead:

(a)

(1) Upon receipt of the prescribed application and a one-time payment of fifteen dollars (\$15.00), together with any other information reasonably required, the county clerk, in the case of businesses located within the county, and the

appropriate city official, in the case of businesses located within the incorporated municipality, shall issue a license to the person engaging in such business. The license is nonrenewable and does not expire. If a person has more than one (1) location within the county or incorporated municipality, a separate license, including payment of the one-time fifteen-dollar fee required by this subsection (a), is required for each location. In the case of the county clerk, three dollars (\$3.00) of the fifteen-dollar fee must be earmarked for computer hardware purchases or replacement, but may be used for other usual and necessary computer-related expenses at the discretion of the county clerk. The earmarked amount must be preserved for these purposes and must not revert to the general fund at the end of a budget year if unexpended.

(2) A person shall not conduct business in this state without first acquiring the license required by this subsection (a).

(3) Notwithstanding subdivision (a)(1), a county or municipality may enter an agreement with the commissioner pursuant to which the department will issue the license required by this subsection (a) on behalf of the county or municipality.

(b)

(1) Notwithstanding any law to the contrary, each incorporated municipality and county shall issue a minimal activity license to a person that is exempt from licensing pursuant to § 67-4-712(d); provided, that such person has sales of more than three thousand dollars (\$3,000) but less than ten thousand dollars (\$10,000) per year within the jurisdiction. Such license must be issued upon receipt of an application, to be prescribed by the department, and a one-time payment of fifteen dollars (\$15.00). The application must require the applicant to attest that the applicant is engaged in business within such county or

incorporated municipality but has sales of less than ten thousand dollars (\$10,000) per year within such county or incorporated municipality. A person with sales of more than three thousand dollars (\$3,000) but less than ten thousand dollars (\$10,000) per year within such county or incorporated municipality shall not conduct business in such county or incorporated municipality without first acquiring the license required by this subsection (b). If a person has more than one (1) location within the county or incorporated municipality, a separate minimal activity license, including payment of the fifteen-dollar fee required by this subsection (b), is required for each location.

(2) Persons with sales of three thousand dollars (\$3,000) or less per year in any incorporated municipality or county may apply for a minimal activity license, as provided for in this subsection (b).

(3) Each minimal activity license is nonrenewable and does not expire.

(4) Notwithstanding subdivision (b)(1), a county or municipality may enter an agreement with the commissioner pursuant to which the department will issue the license required by this subsection (b) on behalf of the county or municipality.

(c) Each business that receives a license under this section shall exhibit such license.

(d) An amount equal to three dollars (\$3.00) per minimal activity license must be retained by the county clerk or city official that issues such license. In the case of a county clerk, such amount must be earmarked for computer hardware purchases or replacement but may be used for other usual and necessary computer-related expenses at the discretion of the county clerk. The amount must be preserved for these purposes and must not revert to the general fund at the end of a budget year if unexpended.

Notwithstanding § 8-21-701, an additional fee shall not be charged to any person for the filing of the application or issuance of the license provided for in this section.

(e) Licenses already in effect as of January 1, 2014, continue to be valid until their original renewal date.

SECTION 9. Tennessee Code Annotated, Section 62-44-102, is amended by deleting subsection (b).

SECTION 10. Tennessee Code Annotated, Section 67-1-1704(d), is amended by deleting the language "is being paid" in the first sentence and substituting instead the language "has been paid for tax periods that began prior to January 1, 2024".

SECTION 11. Tennessee Code Annotated, Section 67-1-1704(d), is amended by deleting the language "are being distributed" in the second sentence and substituting instead the language "have been distributed for tax periods that began prior to January 1, 2024".

SECTION 12. Tennessee Code Annotated, Section 67-4-3002(9)(A), is amended by deleting the language "; provided, further, that the "sales price" shall be reduced by the deductions set forth in § 67-4-711".

SECTION 13. Tennessee Code Annotated, Section 67-4-3203(e), is amended by deleting the subsection.

SECTION 14. Tennessee Code Annotated, Section 67-5-502(e), is amended by deleting the last sentence.

SECTION 15. Tennessee Code Annotated, Section 67-6-309, is amended by deleting subsection (b).

SECTION 16. Tennessee Code Annotated, Section 67-6-526, is amended by adding the language "for tax periods that begin prior to January 1, 2024" after the language "§ 67-4-717".

SECTION 17. Tennessee Code Annotated, Section 7-52-606(b), is amended by deleting subdivisions (1)-(3) and substituting instead:

- (1) Excise and franchise tax law under title 67, chapter 4, parts 20 and 21; and
- (2) Sales tax law under title 67, chapter 6.

SECTION 18. Tennessee Code Annotated, Section 38-1-201, is amended by deleting subsection (c).

SECTION 19. Tennessee Code Annotated, Section 58-2-204(c)(5), is amended by deleting the language ", the business tax imposed by title 67, chapter 4, part 7,".

SECTION 20. Tennessee Code Annotated, Section 58-2-205(2), is amended by deleting the language "and the business tax imposed by title 67, chapter 4, part 7," and substituting instead the language "and the business tax imposed by title 67, chapter 4, part 7 for business tax periods that begin prior to January 1, 2024,".

SECTION 21. Tennessee Code Annotated, Section 67-1-703(b), is amended by deleting the language "chapter 4, part 7 of this title" and substituting instead the language "chapter 4, part 7 of this title for business tax periods that begin prior to January 1, 2024".

SECTION 22. Tennessee Code Annotated, Section 67-5-901(a), is amended by adding the language "for tax periods that begin prior to January 1, 2024" after the language "taxable under chapter 4, part 7 of this title".

SECTION 23. Tennessee Code Annotated, Section 67-5-901(a), is amended by adding the language "for tax periods that begin prior to January 1, 2024" after the language "taxable under chapter 4, part 7 of this title".

SECTION 24. Tennessee Code Annotated, Section 67-4-3202(a), is amended by deleting subdivision (2).

SECTION 25. Sections 8 through 24 of this act take effect January 1, 2024, the public welfare requiring it. All remaining sections take effect upon becoming a law, the public welfare requiring it, and apply to tax periods that begin on or after January 1, 2024.