

Tenn. Code Ann. § 67-5-903

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Current through 2017 Regular Session (Chapter 493).

[Tennessee Code Annotated](#) > [Title 67 Taxes And Licenses](#) > [Chapter 5 Property Taxes](#) > [Part 9 Classification and Assessment -- Tangible Personal Property](#)

67-5-903. Schedules -- Property used for business, professions, manufacturing.

(a) All partnerships, corporations, other business associations not issuing stock and individuals operating for profit as a business or profession, including manufacturers, except those whose property is entirely assessable by the comptroller of the treasury, shall be furnished by the assessor not later than February 1 of each year, a schedule requiring the taxpayer to list in detail all tangible personal property owned by the taxpayer and used or held for use in such business or profession, including, but not limited to, furniture, fixtures, machinery and equipment, all raw materials, supplies, but excluding all finished goods in the hands of the manufacturer and the inventories of merchandise held for sale or exchange, such schedule to be approved by the director of property assessments. Failure of the assessor to send a schedule or failure of the taxpayer to receive a schedule shall not relieve or excuse any taxpayer from filing such schedule by March 1, nor shall it prevent the assessor from issuing a forced assessment against the taxpayer.

(b) It is the duty of the taxpayer to list fully such tangible personal property used, or held for use, in the taxpayer's business or profession on such schedule, including such other information relating thereto as may be required by the assessor, place its correct value thereon, sign the schedule, and return it to the assessor on or before March 1 of each year. In lieu of detailing acquisition cost on the reporting schedule, the taxpayer may certify that the depreciated value of tangible personal property otherwise reportable on the form is one thousand dollars (\$1,000) or less. The assessor shall accept the certification, subject to audit, and fix the value of tangible personal property assessable to the taxpayer pursuant to the schedule, at one thousand dollars (\$1,000). This value shall be subject to equalization pursuant to § 67-5-1509. The certification stated on the schedule shall warn the taxpayer that it is made subject to penalties for perjury and subject to statutory penalty and costs if proven false. The taxpayer shall designate on the schedule one (1) or more individuals as owner or owners of the business, or responsible person or persons in the event of dissolution of a corporate or limited liability entity, for the purposes of § 67-5-513(a).

(c) A taxpayer who fails, refuses or neglects to complete, sign and file the schedule with the assessor of property as provided in subsection (b) shall be deemed to have waived objections to the forced assessment determined by the assessor, subject only to the remedies provided in subsection (d). In determining a forced assessment, the assessor

shall consider available evidence indicative of the fair market value of property assessable to the taxpayer under this section, and having determined the assessable value of the property, the assessor shall give the taxpayer notice of the assessment by United States mail, addressed to the last known address of the taxpayer or the taxpayer's agent at least five (5) calendar days before the local board of equalization commences its annual session.

(d) The remedies of a taxpayer against whom a forced assessment is made are as follows:

(1) The taxpayer may appeal to the county board of equalization pursuant to § 67-5-1407, but shall present a completed schedule as otherwise provided in this section;

(2) If the deadline to appeal to the county board of equalization has expired, then the taxpayer may request the assessor to mitigate the forced assessment by reducing the forced assessment to the standard depreciated value of the taxpayer's assessable property plus twenty-five percent (25%), so long as the failure to file the schedule or failure to timely appeal to the county board of equalization was not the result of gross negligence or willful disregard of the law. Mitigation of the forced assessment shall follow the procedure, including appeal, prescribed for correction of error under § 67-5-509, but must be requested within the same deadline as provided for amendment of a schedule pursuant to subsection (e). Gross negligence shall be presumed if notice of the forced assessment, in a form approved by the state board of equalization, was sent certified mail, return receipt requested, to the taxpayer's last known address on file with the assessor.

(3) Whether or not an assessor's error affected the original assessment, the assessor may correct a forced assessment using the procedure provided and subject to the deadlines provided in § 67-5-509, upon determining that the taxpayer was not in business as of the assessment date for the year at issue, and upon determining that the taxpayer did not own or lease tangible personal property used or held for use in a business as of the assessment date for the year at issue.

(e) The taxpayer may amend a timely filed personal property schedule at any time on or before September 1 following the tax year. A personal property schedule may be amended for the following reasons only: adding or deleting of property to correctly reflect the status of the property as of the assessment date; correcting the reported cost or vintage year of property; correcting the name or address of the taxpayer; deleting property that has been reported more than once resulting in a duplicate assessment; reporting property in the appropriate group; and correcting other reporting clerical errors. However, under no circumstances shall a taxpayer be permitted to amend a personal property schedule to submit an original claim for nonstandard value for property that was not the subject of a properly documented claim of nonstandard value in the timely filed personal property schedule. If the assessor agrees with the amended schedule, the assessor shall thereupon revise the assessment and certify the revised assessment to the trustee. If the assessor believes the assessment should be otherwise than claimed in the amended schedule, the assessor shall adjust the assessment and give written notice to the taxpayer of the adjusted assessment. The taxpayer may appeal the assessor's adjustment of or refusal to accept an amended assessment schedule to the local and state boards of equalization in the manner otherwise provided by law. Additional taxes due as the result of an amended schedule shall not be deemed delinquent on or before sixty (60) days after the date notice of the amended assessment was sent to the taxpayer. Amendment of a personal property schedule shall not be permitted once suit has been filed to collect delinquent taxes related to the original assessment. The assessor shall, within sixty (60) days from receipt of the taxpayer's amended schedule, review and accept or reject the schedule. In any event, the taxpayer shall be notified in writing of the results of the review. If the assessor has not notified the taxpayer that the amended schedule has been accepted or rejected within sixty (60) days, the taxpayer's amended schedule shall be deemed not accepted by the assessor.

(f) The schedule approved by the director of property assessments and supplied to taxpayers shall contain schedules

reflecting the following rates of allowable depreciated cost for the listed categories of property, as well as spaces for general data on the particular taxpayer: [Click here to view image.](#)

(g)

(1) Tangible personal property that the taxpayer treats as construction-in-process (CIP) for federal income tax purposes as of the assessment date may be reported in the taxpayer's schedule filed with the assessor at fifteen percent (15%) of its cost as reported for federal income tax purposes. Qualified pollution control property shall be valued as provided in § 67-5-604, notwithstanding its state of completion.

(2) No back assessments of CIP, as the term is used in subdivision (g)(1), shall occur prior to January 1, 1994. If back assessments have occurred involving CIP, those assessments shall be voided and all taxes paid shall be refunded to those taxpayers who have an action or claim pending before an assessing authority or court on the CIP issue.

(h) Property classified as computers under Group 2 shall include all operational computer software. For purposes of this section, "operational computer software" means embedded software so integral to the operation of a computer that the computer could not perform any valuable or useful function without the software. All other computer software, whether prepackaged or custom, is deemed intangible personal property for purposes of this part and is not subject to tax under this part. If computer software other than operational computer software is included in the sale or lease price of a computer without being separately stated, the cost of the software that is not operational computer software shall be included in the reported cost of the computer, unless an appropriate deduction is established by a claim of nonstandard value or by other means provided under rules of the state board of equalization. This subsection (h) shall not be construed to affect the value or taxable status of any other property subject to tax under this chapter. Nothing in this subsection (h) shall affect a taxpayer's right under § 67-5-902, to seek a value different from a standard depreciated cost, where the value more closely approximates fair market value.

History

Acts 1973, ch. 226, § 6; 1975, ch. 171, § 12; 1978, ch. 700, § 1; T.C.A., § 67-620; Acts 1990, ch. 898, §§ 3, 5; 1990, ch. 1075, § 2; 1993, ch. 323, §§ 1, 2; 1995, ch. 305, § 124; 1996, ch. 833, § 1; 1998, ch. 898, § 1; 2000, ch. 649, § 3; 2006, ch. 821, § 1; 2007, ch. 37, § 1; 2007, ch. 38, § 1; 2007, ch. 132, §§ 2, 3; 2007, ch. 179, § 1; 2007, ch. 292, § 1; 2009, ch. 163, § 1; 2011, ch. 93, §§ 1, 4; 2012, ch. 571, § 1; 2013, ch. 353, § 33; 2014, ch. 938, § 3.