

**RULES  
OF  
TENNESSEE DEPARTMENT OF HUMAN SERVICES  
TENNESSEE BUSINESS ENTERPRISES**

**CHAPTER 1240-06-09  
SETTING ASIDE FUNDS**

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**1240-06-09-.01 SET-ASIDE ASSESSMENT.**

- (1) The Set-Aside Assessment (or administrative fee) is a charge levied against the net proceeds of each vending facility. The manager is responsible for the payment to the Agency of this assessment each month. It represents a certain percentage of the net proceeds realized as a result of the facility's operation. Incentives and/or discounts may be offered to those managers who meet established performance standards, pay fees on-line, hire legally blind employees, or meet other established requirements.
- (2) Net proceeds are determined from gross sales, less merchandise cost and other allowable expenditures, plus commissions, vending machine income remitted to the manager under chapter 1240-06-14, and rebates, bonuses, ATM and other fees paid to or collected by the manager. The amount of set-aside assessment may not be deducted as an expense in computing net proceeds.
- (3) All funds collected as set-aside assessments are deposited into an interest-bearing account, and earned interest income shall be used for the same purposes as outlined in 1240-06-09-.02.
- (4) The percentage of net proceeds to be paid to the Agency by each manager is predicated upon a schedule negotiated between the Agency and the Committee, determined to be sufficient for the TBE's operation, while at the same time allowing for the retention of reasonable reserves by the Agency. In no event shall any negotiated schedule exceed a maximum of fifteen (15) percent as prescribed by T.C.A. § 71-4-509, nor shall any new or modified schedule be implemented without the approval of the U.S. Rehabilitation Services Administration.

**Authority:** T.C.A. §§ 4-5-201 et seq., 49-11-601 et seq., 71-1-104, 71-1-105(12), 71-4-509, 71-4-604 and 71-4-604(c); 34 C.F.R. § 395 et seq. and 34 C.F.R. § 395.9(c). **Administrative History:** Original rule filed August 30, 1978; effective November 29, 1978. Amendment filed May 25, 1983; effective June 24, 1983. Amendment filed December 11, 1986; effective January 25, 1987. (Formerly numbered as 1240-6-8-.01) Repeal and new rule filed April 27, 1998; effective August 28, 1998. Repeal and new rule filed April 8, 2005; effective June 22, 2005. Amendments filed May 25, 2017; effective August 23, 2017.

**1240-06-09-.02 PURPOSE FOR WHICH SET-ASIDE ASSESSMENTS MAY BE USED.**

- (1) Pursuant to the provisions of 34 C.F.R. §§ 395.8 and 395.9, funds derived from set-aside assessments can only be used for the following purposes:
  - (a) Maintenance and repair of equipment,
  - (b) The purchase of new equipment,

(Rule 1240-06-09-.02, continued)

- (c) The replacement of equipment,
  - (d) Management services,
  - (e) Assuring a fair minimum of return to vendors, and
  - (f) The establishment and maintenance of retirement or pension funds and/or health insurance contributions, if it is so determined by a majority vote of blind vendors licensed by the State licensing agency, after such agency provides to each such vendor information on all matters relevant to such proposed purposes.
- (2) The Agency shall maintain sufficient records to assure the reasonableness of the use of set-aside assessments in the operation of TBE and for those purposes designated.

**Authority:** T.C.A §§ 4-5-201 et seq., 49-11-601 et seq., 71-1-104, 71-1-105(12), 71-4-501 et seq., and 71-4-604(c); 34 C.F.R. § 395 et seq. and 34 C.F.R. 395.9(c). **Administrative History:** Original rule filed August 30, 1978; effective November 29, 1978. Amendment filed November 8, 1979; effective January 29, 1980. Amendment filed May 25, 1983; effective June 24, 1983. Amendment filed November 6, 1985; effective December 6, 1985. Amendment filed December 11, 1986; effective January 25, 1987. (Formerly numbered as 1240-6-8-.02). Amendment filed March 10, 1989, effective April 24, 1989. Repeal and new rule filed April 27, 1998, effective August 28, 1998. Repeal and new rule filed April 8, 2005; effective June 22, 2005. Amendments filed May 25, 2017; effective August 23, 2017.

#### 1240-06-09-.03 REQUIREMENTS FOR FINANCIAL REPORTING.

- (1) Each vending facility manager must file with the Agency a monthly financial report of his/her business operation. The report and payment of set-aside assessments currently due the Agency shall be due on the 8th day of the month following the month in which the business was transacted. Reports shall be submitted in the format and method required by the Agency.
- (2) If a manager fails, without the showing of good cause, to file the monthly financial report and/or fails to make payment of set-aside assessments as required by these rules, the manager shall be placed on probation for a period of thirty (30) days pursuant to chapter 1240-06-03-.02(1) for either one or both of these infractions. For each offense, the Agency shall assess the manager a penalty of \$25.00.
- (3) In the event managers file online and pay their set-aside fees via electronic transfer, the probation and penalties outlined in 1240-06-09-.03(2) above shall apply if an Automatic Clearing House (ACH) transfer is returned for insufficient funds.
- (4) Falsification of records by the manager, as validated by the Agency or other state entity, will result in the termination of a manager's license without placing the manager on probation. The termination will be preceded by a thirty (30) day written notice by the Agency advising the manager of such action and his/her right to appeal in accordance with chapter 1240-6-11.

**Authority:** T.C.A §§ 4-5-201 et seq., 49-11-601 et seq., 71-1-104, 71-1-105(12), 71-4-501 et seq., and 71-4-604(c); 34 C.F.R. § 395 et seq. and 34 C.F.R. § 395.9(c). **Administrative History:** Original rule filed August 30, 1978; effective November 29, 1978. Amendment filed May 25, 1983; effective June 24, 1983. Amendment filed March 10, 1989; effective April 24, 1989. Repeal and new rule filed April 27, 1998; effective August 28, 1998. Repeal and new rule filed April 8, 2005; effective June 22, 2005. Amendments filed May 25, 2017; effective August 23, 2017.

**1240-06-09-.04 REPEALED**

**Authority:** T.C.A §§ 4-5-201 et seq., 49-11-601 et seq., 71-1-104, and 71-4-604(c); 34 C.F.R. § 395 et seq. **Administrative History:** Original rule filed August 30, 1978; effective November 9, 1978. Amendment filed November 8, 1979; effective January 29, 1980. Amendment filed May 25, 1983; effective January 24, 1983. Amendment filed December 11, 1986; effective January 25, 1987. Amendment filed March 13, 1989; effective April 24, 1989. Repeal and new rule filed April 27, 1998; effective August 28, 1998. Repeal filed April 8, 2005; effective June 22, 2005.

**1240-06-09-.05 REPEALED.**

**Authority:** T.C.A §§ 4-5-201 et seq., 49-11-601 et seq., 71-1-104, and 71-4-604(c); 34 C.F.R. § 395 et seq. **Administrative History:** Original rule filed August 30, 1978; effective November 29, 1978. Amendment filed May 25, 1983; effective June 24, 1983. Amendment filed December 11, 1986; effective January 25, 1987. (Formerly numbered as 1240-6-8-.05.) Repeal filed April 8, 2005; effective June 22, 2005.

**1240-06-09-.06 REPEALED.**

**Authority:** T.C.A §§ 4-5-201 et seq., 49-11-601 et seq., 71-1-104, and 71-4-604(c); 34 C.F.R. § 395 et seq. **Administrative History:** Original rule filed August 30, 1978; effective November 29, 1978. Amendment filed June 9, 1981; effective August 18, 1981. Amendment filed December 11, 1986; effective January 25, 1987. (Formerly numbered as 1240-6-8-.06.) Repeal filed April 8, 2005; effective June 22, 2005.

**1240-4-9-.07 REPEALED.**

**Authority:** T.C.A §§ 4-5-201 et seq., 49-11-601 et seq., 71-1-104, and 71-4-604(c); 34 C.F.R. § 395 et seq. **Administrative History:** Original rule filed August 30, 1978; effective November 29, 1978. Amendment filed November 8, 1979; effective January 29, 1980. Amendment filed June 9, 1981; effective August 18, 1981. Amendment filed May 25, 1983; effective June 24, 1983. Amendment filed November 6, 1985; effective December 6, 1985. Amendment filed December 11, 1986; effective January 25, 1987. (Formerly numbered as 1240-6-8-.07.) Amendment filed March 10, 1989; effective April 24, 1989. Repeal filed April 8, 2005; effective June 22, 2005.