

**RULES
OF
DEPARTMENT OF REVENUE
ADMINISTRATIVE DIVISION**

**CHAPTER 1320-01-01
ADMINISTRATION**

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1320-01-01-.01 REPEALED.

Authority: T.C.A. § 67-1-101 to implement § 9-1-108. **Administrative History:** Original rule certified June 7, 1974. Repeal filed June 28, 2000; effective September 11, 2000.

1320-01-01-.02 CREDIT FOR DISHONORED CHECKS.

- (1) Credit will be given by the Commissioner or Revenue to municipal or county officers for dishonored checks or money orders tendered to such officers in payment of State taxes, licenses and fees, under the following conditions:
 - (a) Credit will be allowed only for the amount of the check or money order which represents the state tax, license, or fee due and owing to the State regardless of the total amount of the check or money order.
 - (b) The dishonored check must show that it was deposited by the third business day after receipt; that it was returned unpaid by the bank on which it was drawn; that it was subsequently redeposited by the third business day after its return and that it was returned unpaid for the second time. Where it is the practice of the depositor's bank to automatically redeposit a dishonored check before it is returned unpaid to the depositor, the date of such action as noted on the check by the bank will be accepted as fulfilling the time requirement for redeposit.
 - (c) The municipal or county officer must initiate civil action to recover the amount of any dishonored check or money order within thirty (30) calendar days after the second or final return of the dishonored check or money order. If, prior to the initiation of the civil action, it is deemed advisable to send a notice to the taxpayer prior to initiating civil action, such notice must be mailed not later than the fourth business day after final return of the check or money order and the notice must include a limitation period for response not to exceed fifteen (15) days. If such notice does not result in recovery, civil action must be initiated within ten (10) calendar days after expiration of the period specified in the notice.
- (2) Any claim for credit submitted to the Commissioner of Revenue by a municipal or county officer must be accompanied by:
 - (a) A copy of the tax, license, or fee document for which the dishonored check or money order was tendered.
 - (b) A copy of the 15-day notice, if any.

(Rule 1320-01-01-.02, continued)

- (c) A copy of the document initiating civil action by the municipal or county officer, along with the results of the civil action.
 - (d) A copy of the dishonored check or money order.
 - (e) The registration plate or privilege license and/or copies of receipts for state taxes.
- (3) If a registration plate or license cannot be repossessed because the taxpayer cannot be located, a statement to this effect must accompany the claim. If the taxpayer resides outside the county where the dishonored check or money order was tendered, all available information known to the county or municipal officer concerning such taxpayer should be furnished with the claim.
- (4) In all cases the municipal or county officer is expected to make every reasonable effort to effect collection of any dishonored check or money order. If unsuccessful in this, he is expected to obtain the return of the license or registration plate if same can be found in his county and take all necessary steps to prevent the operation of any unlicensed business or unregistered motor vehicle.
- (5) A claim for credit will be denied unless filed with the Department of Revenue within twelve (12) months from the date civil action was initiated.

Authority: T.C.A. § 67-101 to implement § 9-108. **Administrative History:** Original rule certified June 7, 1974. Amendment filed September 11, 1978, effective December 29, 1978.

1320-01-01-.03 PAYMENT IN IMMEDIATELY AVAILABLE FUNDS

- (1) The commissioner may require persons owing \$10,000 or more in connection with any return, report or other document filed with the department to make such payment in immediately available funds. Upon notification by the commissioner, a person meeting the criteria set out in paragraph (2) of this rule for a particular tax type shall be required to make all payments of such tax type(s) in funds which are immediately available to the state no later than the due date of said tax or taxes. The term immediately available funds shall mean funds which are available to the State on the date of payment. Payment in immediately available funds may be made only by the following methods:
- (a) Automated Clearing House Debit (ACH-debit),
 - (b) Automated Clearing House Credit (ACH-credit),
 - (c) Wire Transfer through the Federal Reserve System (FedWire),
 - (d) Transfer into a State of Tennessee account in a Tennessee depository from the person's account at the same depository, or
 - (e) Currency deposited in a State of Tennessee account at a Tennessee depository or delivered to the central office of the Department of Revenue in Nashville, Tennessee.

The commissioner may designate an agent to aid in the administration of the methods described in subparagraphs (a), (c) and (d) above.

- (2) The commissioner's determination of whether a person will be required to make payment in immediately available funds, as set out in paragraph (1) of this rule will be based on the average tax payment for each tax type.

(Rule 1320-01-01-.03, continued)

- (a) A person's average tax payment will be determined by dividing the amount of tax shown to be due during the past consecutive 12 months, or such other period as the commissioner may deem appropriate, by the number of returns, reports or documents actually filed during the same period. Provided, however, for those tax types computed on an annual basis, for which quarterly payments are either required or permitted to be made by applicable law, the average tax payment will be determined by dividing the amount of tax shown to be due for the applicable annual reporting period by the number four (4).
 - (b) Persons with less than one year's reporting experience in Tennessee may be determined by the commissioner to be required to make payment in immediately available funds whenever it appears from information available to the commissioner that such person is likely to meet the criteria in paragraph (2)(a) of this rule.
 - (c) An individual determination shall be made for each separately registered location.
 - (d) Once the commissioner's determination pursuant to paragraph (2) of this rule is made all payments of the same tax type must be made in immediately available funds even if some payments fall below \$20,000.
- (3) Persons whose average tax payment for a particular tax type is \$20,000 or more will be notified by the commissioner that payment of tax will be required to be made in immediately available funds. A person so notified shall make an election as to which one of the methods set out in paragraph (1) of this rule it will use and shall provide such other information as the commissioner may require.
 - (4) Persons making consolidated payments of tax for separately registered locations shall be required to make such consolidated payment in immediately available funds if any location for which payment is being made has been determined by the commissioner to meet the criteria set out in paragraph (2) of this rule.
 - (5) Each payment under this rule shall be limited to a single tax type except when two or more tax types are permitted to be paid on a single return, as in the case of franchise and excise taxes. Whenever two or more tax types are permitted to be paid on a single return, a person determined by the commissioner to meet the criteria set out in paragraph (2) of this rule for one of the tax types shall make payment on said return in immediately available funds regardless of whether the average tax payment of the other tax type(s) is \$20,000 or more.
 - (6) If a tax payment due date falls on a Saturday, Sunday or banking holiday, the tax payment must be made so that the funds are immediately available on the first business day thereafter.
 - (7) Persons not meeting the criteria set out in paragraph (2) of this rule who desire to make payments of tax by one of the methods set out in paragraph (1) of this rule may be permitted to do so. Such persons shall make the same election, complete the same forms and be subject to the same requirements as those persons required to make payment in immediately available funds.
 - (8) The requirement to make payment in immediately available funds does not change the requirement to file returns, reports and documents associated with said payments in the manner prescribed by statute and by rules and regulations promulgated by the commissioner.
 - (9) Failure to timely or properly make payment in immediately available funds shall subject the person to penalty and interest as provided by law for delinquent or deficient tax payments. If payment is made in other than immediately available funds in the manner prescribed in

(Rule 1320-01-01-.03, continued)

paragraph (1) of this rule, in addition to any penalty which may be imposed, interest shall be added to the amount of tax due from the due date of the tax payment to the date that the funds become available to the State which shall be presumed, in the absence of evidence to the contrary, to be the second business day following receipt of payment.

- (10) Any person required by the commissioner to make tax payments in immediately available funds may apply to the commissioner to be relieved of such requirement if it appears that such person no longer meets the criteria set out in paragraph (2) of this rule. Any person making an election to make tax payments by one of the methods set out in paragraph (1) of this rule may apply to the commissioner to be relieved of such requirement if such person no longer desires to make payment of tax by one of said methods. A person may not make more than one (1) such application per calendar year. Any person may not make more than one (1) such application per calendar year. Any person making such an application shall continue to make payment by the method chosen under paragraph (1) of this rule until such time as it is finally determined that the person should be permitted to make tax payments by other than one of said methods.
- (11) It is the intent of the commissioner to examine each person's compliance with the requirements of this rule. If a person making payment under this rule repeatedly fails to correctly complete a transaction under its chosen method of payment, the commissioner may, in his discretion, require that the person make future payments by another method set out in paragraph (1) of this rule.

Authority: T.C.A. §§ 67-1-102 and 67-1-703(b) (1989 Tenn. Pub. Acts 332). **Administrative History:** Original rules filed August 14, 1976; effective September 13, 1976. New rule filed November 13, 1989; effective January 1, 1990. Amendment filed June 28, 2000; effective September 11, 2000.

1320-01-01-.04 through 1320-01-01-.28 REPEALED.

Authority: T.C.A. §§ 4-509 and 67-101. **Administrative History:** Original rules filed August 14, 1976; effective September 13, 1976. Repealed by Public Chapter 575; effective July 1, 1986.

1320-01-01-.29 TAXPAYER IDENTIFICATION NUMBERS.

- (1) The Commissioner of Revenue may require, for purposes of tax administration, any person who is liable for any tax administered by the Department of Revenue to disclose to the Department his social security account number or his federal employer's identification number as issued by the U.S. Internal Revenue Service.
- (2) The failure to disclose, upon request, such information to the Department of Revenue will be cause for the Commissioner to deny or revoke, pursuant to law, any taxpayer's authority to do business in the State of Tennessee.

Authority: T.C.A. § 67-101(2). **Administrative History:** Original rule filed March 20, 1978; effective June 14, 1978.

1320-01-01-.30 PUBLIC RECORDS REQUESTS.

- (1) Definitions as used in this rule:
- (a) Office of Open Records Counsel ("OORC"): The office established pursuant to T.C.A. §§ 8-4-601 et seq., or any successor office or entity.
- (b) Personal Information: The term "personal information" shall have the same meaning as defined under T.C.A. § 55-25-103 of the Tennessee Uniform Motor Vehicle Records Disclosure Act.

(Rule 1320-01-01-.30, continued)

- (c) Public Records: The term “public record” shall have the same meaning as defined under T.C.A. § 10-7-503(a)(1)(A) of the Tennessee Public Records Act.
 - (d) Public Records Request Coordinator (“PRRC”): The individual, or individuals, designated in Section (3) of this rule who has, or have, the responsibility to ensure public record requests are routed to the appropriate records custodian and are fulfilled in accordance with the Tennessee Public Records Act (“TPRA”). The PRRC may also be a records custodian.
 - (e) Records Custodian: The office, official, or employee lawfully responsible for the direct custody and care of a public record. The records custodian is not necessarily the original preparer or receiver of the record.
 - (f) Requestor: A person seeking access to a public record, whether it is for inspection or duplication.
 - (g) Return: The term “return” shall have the same meaning as defined under T.C.A. § 67-1-1701.
 - (h) Tax administration information: The term “tax administration information” shall have the same meaning as defined under T.C.A. § 67-1-1701.
 - (i) Tax information: The term “tax information” shall have the same meaning as defined under T.C.A. § 67-1-1701.
 - (j) Taxpayer identity: The term “taxpayer identity” shall have the same meaning as defined under T.C.A. § 67-1-1701.
 - (k) Tennessee Public Records Act (“TPRA”): The Tennessee Public Records Act as codified in Title 10, Chapter 7, of the T.C.A.
- (2) Records Presumed to be Open for Inspection Unless Otherwise Provided by Law
- (a) The public records of the Tennessee Department of Revenue are presumed to be open for inspection unless otherwise provided by law. In accordance with the TRPA, nothing in this rule shall be construed as requiring the Department to sort through files to compile information or to create or recreate a record that does not exist.
 - (b) This rule shall not be construed to broaden or narrow the scope of exceptions to the TPRA, including confidentiality laws codified in Title 10, Title 55, Title 67, or elsewhere.
 - (c) A taxpayer’s returns, taxpayer identity, and tax information are confidential and are not available to the general public through a public records request. Requests for copies of returns, tax information, a taxpayer’s identity, or tax administration information will be denied unless an exception to Tennessee’s confidentiality laws applies.
 - (d) A person’s personal information associated with motor vehicle records is confidential and is not available to the general public through a public records request. Requests for personal information contained in motor vehicle records will be denied unless an exception to Tennessee’s confidentiality laws applies.
- (3) Requesting Access to Public Records
- (a) Public record requests shall be made to the PRRC or the PRRC’s designee. The PRRC shall be the department’s acting Public Information Officer or designee.

(Rule 1320-01-01-.30, continued)

- (b) In order to ensure that requests are routed to the appropriate records custodian and fulfilled in a timely manner, requests may be made via online submission, if that option is available, by email to TNRevenue.PublicRecords@tn.gov, or by mail to:

Attn: Public Records Request Coordinator
Tennessee Department of Revenue
Andrew Jackson Building, 11th Floor
500 Deaderick Street
Nashville Tennessee 37242.

- (c) Requests for inspection of records are not required to be made in writing. However, the PRRC may request a mailing or email address from the requestor in order to provide any written communications required under the TPRA.
- (d) Requests for copies of records shall be made in writing to the PRRC, and may be made using the attached Public Records Request Form. The Department of Revenue may modify or update the request form as needed.
- (e) A taxpayer is not required to submit a public record request to obtain copies of the taxpayer's own returns or tax information.
- (4) Process for Responding to Public Records Requests

(a) Public Record Request Coordinator

1. Upon receipt of a public record request, the PRRC shall acknowledge receipt of the request. The PRRC shall promptly forward the request to the Department's General Counsel and/or designated staff attorney, who shall make an initial determination of the following:
 - (i) Whether the requested records are described with sufficient specificity to identify it;
 - (ii) Whether the requested records come within the scope of an exception to the TPRA; and
 - (iii) Whether the Tennessee Department of Revenue is the custodian of the requested records.
2. Following review of the public record request by legal counsel, the PRRC may take any of the following action(s), as appropriate:
 - (i) If the requested record is not described with sufficient specificity to identify it, contact the requestor to see if the request can be amended;
 - (ii) Contact the requestor to obtain proof of Tennessee citizenship;
 - (iii) Contact the requestor to obtain proof that the requestor is authorized to access requested records that come within the scope of an exception to the TPRA;
 - (iv) If requested records are in the custody of a different governmental entity, and the PRRC knows the correct governmental entity, advise the requestor of the correct governmental entity and PRRC for that entity if known;

(Rule 1320-01-01-.30, continued)

- (v) Inform the requestor of any form(s) required to request copies of records;
 - (vi) Inform the requestor of any applicable fees, including labor thresholds and waivers; and
 - (vii) Inform the requestor that the Department intends to aggregate multiple or frequent requests, as set out further in this rule.
3. If appropriate, after the review of records pursuant to Section (4)B of this rule, the PRRC shall deny the public record request in writing and provide a brief explanation of the grounds for denial, such as one of the following:
- (i) The requestor is not, or has not presented evidence of being, a Tennessee citizen.
 - (ii) With respect to requests for records that are within the scope of an exception to the TPRA, the requestor has not presented sufficient proof that the requestor is authorized to access the records.
 - (iii) The request lacks specificity.
 - (iv) The Tennessee Department of Revenue is not the custodian of the requested records.
 - (v) The records do not exist.
4. If appropriate, after the review of records pursuant to Section (4)B of this rule, the PRRC shall promptly provide to the requestor all records to which an exception to the TPRA does not apply.

(b) Review of Records

1. The PRRC will promptly forward the records request to the appropriate records custodian(s) in the Tennessee Department of Revenue. Upon receiving a public records request, the records custodian shall promptly gather the records and provide them to the PRRC for review. The PRRC will review the records in consultation with the Department's legal counsel to make a final determination as to whether the requested records come within the scope of an exception to the TPRA.
2. If not practicable to promptly provide requested records because additional time is necessary to determine whether the requested records exist; to search for, retrieve, or otherwise gain access to records; to determine whether the records come within the scope of an exception to the TPRA; to redact records; or for other similar reasons, then the PRRC shall, promptly and within seven (7) business days from the receipt of the request, send the requestor a written response as to why it is not practicable to promptly provide the requested records and provide the time reasonably necessary to produce the record or information.
3. If the PRRC denies a public record request, the PRRC shall deny the request in writing as provided in this rule and provide the basis for denial.
4. If the PRRC reasonably determines production of records should be segmented because the records request is for a large volume of records, or additional time is necessary to prepare the records for access, the PRRC shall notify in writing the

(Rule 1320-01-01-.30, continued)

requestor that production of the records will be in segments and that a records production schedule will be provided as expeditiously as practicable. If appropriate, the PRRC should contact the requestor to see if the request can be narrowed.

5. If a records custodian later discovers records responsive to a records request that were omitted from the response, the PRRC should contact the requestor concerning the omission and produce the records as quickly as practicable.

(c) Redaction

1. If a record contains confidential information or information that is not open for public inspection, the PRRC shall prepare a redacted copy prior to providing access. However, if a record constitutes a return, tax information, taxpayer identity, or tax administration information, the PRRC shall prepare a redacted copy only if legal counsel for the Tennessee Department of Revenue determines that providing a redacted record would not be in violation of T.C.A. § 67-1-1702. If questions arise concerning redaction, the records custodian should coordinate with the Department's legal counsel or other appropriate parties regarding review and redaction of records. The PRRC may also consult with the OORC or with the Office of Attorney General and Reporter.
2. Whenever a redacted record is provided, the PRRC should provide the requestor with the basis for redaction. The basis given for redaction shall be general in nature and not disclose confidential information.

(5) Inspection of Records

- (a) The location for inspection of records within the offices of the Tennessee Department of Revenue shall be determined by the PRRC in consultation with the appropriate records custodian.
- (b) Under reasonable circumstances, the PRRC or a records custodian may require an appointment for inspection or may require inspection of records at an alternate location.

(6) Copies of Records

- (a) The PRRC shall promptly respond to a public record request for copies in the most economic and efficient manner practicable.
- (b) Copies will be available for pickup at a location specified by the PRRC.
- (c) Upon payment for postage, copies will be delivered to the requestor's primary address by the United States Postal Service.
- (d) Scanned copies (e.g., PDFs) of the requested records are available upon request and will be delivered to the requestor's email address, as specified in the written request.

(7) Fees and Charges and Procedures for Billing and Payment

- (a) Fees and charges for copies of public records shall not be used to hinder access to public records.
- (b) There shall be no charge for mere inspection of public records. Any charges for producing copies of records shall be in conformity to this rule.

(Rule 1320-01-01-.30, continued)

- (c) The PRRC shall provide requestors with an itemized estimate of any charges prior to producing copies of records and may require pre-payment of such charges before producing requested records.
 - (d) When fees for copies and labor do not exceed \$25.00, the fees may be waived by the PRRC. Requests for waivers for fees above \$25.00 must be presented to the Commissioner of Revenue or his delegate, who is authorized to determine if such waiver is in the best interest of the Tennessee Department of Revenue and for the public good.
 - (e) Fees and charges for copies are as follows:
 - 1. \$2.00 per tax return
 - 2. \$1.00 per motor vehicle record
 - 3. \$1.50 per certified motor vehicle record
 - 4. \$0.15 per page for letter- and legal-size black and white copies.
 - 5. \$0.50 per page for letter- and legal-size color copies.
 - 6. Labor when time exceeds 25 hours.
 - 7. If an outside vendor is used, the actual costs assessed by the vendor.
 - (f) Payment may be made in cash, by personal check, cashier's check or by credit card. Checks must be payable to the Tennessee Department of Revenue.
 - (g) Payment in advance may be required in all situations.
 - (h) Aggregation of Frequent and Multiple Requests
 - 1. The Tennessee Department of Revenue may aggregate record requests in accordance with the Frequent and Multiple Request Policy promulgated by the OORC when more than four requests are received within a calendar month (either from a single individual or a group of individuals deemed working in concert).
 - 2. If aggregating:
 - (i) The level at which records requests will be aggregated is by agency.
 - (ii) The PRRC in consultation with legal counsel is responsible for making the determination that a group of individuals are working in concert. The PRRC must inform the individuals that they have been deemed to be working in concert and that they have the right to appeal the decision to the OORC.
- (8) Forms for Requesting Inspection/Copies of Records and Responding to Requests
- (a) Forms are not required in all instances for requesting inspection or copies of public records; provided that, the PRRC may require forms to provide timely and efficient access and assistance to requestors for copies of records.
 - (b) If the PRRC determines a form is necessary to timely and efficiently process a request for copies of public records, the form shall be as provided in this rule.

(Rule 1320-01-01-.30, continued)

- (c) If the PRRC determines a form is necessary to timely and efficiently provide a response to a request for copies or inspection of public records, the PRRC will use the form developed by the office of open records counsel, as updated and amended.
- (9) With the assistance of General Counsel, the PRRC shall report to the Tennessee Department of Revenue's Internal Audit and Consulting Services Division, on an annual basis, regarding the Tennessee Department of Revenue's compliance with the TPRA for the preceding fiscal year and shall make recommendations, if any, for improvement or changes to this rule.

Authority: T.C.A. §§ 10-7-501; 10-7-503; 55-25-101, et seq.; 67-1-102; and 67-1-1701, et seq.
Administrative History: Original rule filed October 29, 2018; effective January 27, 2019.

PUBLIC RECORDS REQUEST FORM

The Tennessee Public Records Act (TPRA) grants Tennessee citizens the right to access open public records that exist at the time of the request. The TPRA does not require records custodians to compile information or create or recreate records that do not exist.

This form is not necessary to obtain a taxpayer's own tax information, which may be obtained by submitting a written request to the Records Custodian of the Tennessee Department of Revenue, Andrew Jackson Building, 500 Deaderick Street, Nashville, Tennessee, 37242

This form is not necessary to obtain motor vehicle records, which, subject to Tennessee's confidentiality laws, may be obtained by submitting a Vehicle Information Request form available at <https://www.tn.gov/content/dam/tn/revenue/documents/forms/general/f1313801Fill-in.pdf>.

To: Tennessee Department of Revenue, Public Records Request Coordinator

From: _____

Is the requestor a Tennessee citizen? Yes No

Request: Inspection
 Copy/Duplicate (*Note: Fees may apply*)

If costs for copies are assessed, the requestor has a right to receive an estimate. Do you wish to waive your right to an estimate and agree to pay copying and duplication costs in an amount not to exceed \$_____? If so, initial here: _____.

Delivery preference: On-Site Pick-Up
 USPS First-Class Mail
 Electronic

Records Requested:

Provide a detailed description of the record(s) requested, including: (1) type of record; (2) timeframe or dates for the records sought; and (3) subject matter or key words related to the records. Under the TPRA, record requests must be sufficiently detailed to enable a governmental entity to identify the specific records sought. As such, your record request must provide enough detail to enable the records custodian responding to the request to identify the specific records you are seeking.

Signature of Requestor

Date Submitted

Signature of Coordinator

Date Received