

**RULES
OF
DEPARTMENT OF REVENUE
ADMINISTRATIVE DIVISION**

**CHAPTER 1320-01-02
TAXPAYER REMEDIES FOR DISPUTED TAXES**

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1320-01-02-.01 REPEALED.

Authority: T.C.A. §§ 67-1-102 and 67-1-1801. **Administrative History:** Original rule filed April 15, 1987; effective July 29, 1987. Amendment filed July 13, 1988; effective October 29, 1988. Repeal filed June 28, 2016; effective September 26, 2016.

1320-01-02-.02 CORPORATE SURETY BOND.

A corporate surety bond filed to meet the requirements of § 67-1-1801 for a stay of collection shall be in a form as follows, containing the following terms and conditions:

**BOND FOR STAY OF COLLECTION
OF TAX ASSESSMENT**

RE: _____ (style of lawsuit) _____, Chancery Court for
_____ County, _____ Tennessee, _____ No.

_____ (name of taxpayer), a _____ (corporation, organization, or
individual) as principal and _____ (name of surety company), a corporation organized under the laws
of the State of _____ and duly authorized by the Tennessee Commissioner of
Insurance to engage in the surety insurance business in this state pursuant to Chapter 2 of Title 56 of
Tennessee Code Annotated, as surety, are held and firmly bound unto the Tennessee Department of
Revenue and acknowledge by this instrument their obligation to pay to said Tennessee Department of
Revenue a sum not to exceed dollars (\$ _____) which is one hundred fifty percent (150%) of the
amount of the tax assessment (including tax, interest and any applicable penalty) of _____ dollars
(\$ _____) challenged by plaintiff in the above-referenced action.

This instrument is prepared for the purpose of filing in the above-referenced action to stay collection of the challenged tax pending final determination of the suit.

In the event the suit is withdrawn, nonsuited, or dismissed, or if final judgement thereon is rendered in favor of the Commissioner of Revenue as to all or any portion of the challenged assessment, both principal and surety hereunder shall, jointly and severally, satisfy such judgment amount in the case of final court determination, or in the case of dismissal, nonsuit, or withdrawal, the entire amount of the assessment challenged, plus interest subsequently accrued thereon, and any penalty assessed thereon.

Should the principal hereunder satisfy the assessment, including interest and penalty as described above, the surety's obligations hereunder to the Tennessee Department of Revenue will be discharged. Provided that nothing herein shall be construed to require the Commissioner of Revenue to seek payment from the

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principal prior to seeking payment from the surety hereunder and the obligation of the principal and surety to satisfy the tax assessment (including subsequently accrued interest) or judgment amount shall be joint and several up to the amount of this instrument.

This instrument shall remain in full force and effect for the benefit of the Tennessee Department of Revenue so long as any part of the challenged tax assessment or judgment amount remains outstanding and unsatisfied.

TAXPAYER: _____

BY: _____

TITLE

SURETY: _____

BY: _____

TITLE

Authority: T.C.A. §§ 67-1-1801 and 67-1-102. **Administrative History:** Original rule filed April 15, 1987; effective July 29, 1987. Repeal and new rule filed April 19, 1990; effective June 3, 1990.

1320-01-02-.03 IRREVOCABLE LETTER OF CREDIT.

An Irrevocable Letter of Credit filed to meet the requirements of § 67-1-1801 for a stay of collection shall be in a form as follows. containing the following terms and conditions:

IRREVOCABLE LETTER OF CREDIT NO. _____

BENEFICIARY

APPLICANT

State of Tennessee
Department of Revenue
Nashville, Tennessee

(Taxpayer's name
and address)

RE: _____ (style of lawsuit) _____, Chancery Court
for _____ County, Tennessee, No. _____.

Gentlemen:

We hereby issue in favor of the State of Tennessee, Department of Revenue, this irrevocable letter of credit which is available by presentment of your draft drawn at sight on _____ (name of issuing

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bank, subject to the condition that the draft be accompanied by a letter signed by the Commissioner of Revenue or his designate stating either:

- (1) that the above-referenced lawsuit has been withdrawn or dismissed or terminated for any reason or that a judgment has been rendered in favor of the Commissioner of Revenue as to all or any portion of the challenged assessment; or,
- (2) that the above-referenced lawsuit is still pending and that notice has been given that this letter of credit will not be extended or replaced, and certifying that the Commissioner shall retain and deposit the proceeds of this letter of credit as collateral security for its assessments against the plaintiff, and shall return all remaining proceeds to the issuer after the assessment and all interest and penalties accrued thereon are extinguished.

SPECIAL CONDITIONS: A draft accompanied by the above statement concerning the nonextension or non-replacement of the credit shall not be honored if presented more than thirty (30) days prior to the original or any extended expiration date of this credit.

The amount of this letter of credit is _____dollars (\$_____), which is 150% of the amount of the challenged tax assessment (including tax, interest and any applicable penalty) of _____dollars (\$_____).

This original of this letter of credit must accompany any draft. Drafts drawn under this credit must be endorsed and contain the clause "Drawn under (Name of Issuer) Letter of Credit No. _____dated _____."

All documents must be presented to the issuer at the following address:

Except so far as otherwise expressly stated, this credit is subject to the Uniform Customs and Practice for Documentary Credits, 1983 Revision, IC Publication No. 400.

The issuer warrants that it is qualified under T.C.A. § 67-1-1801 to issue this letter of credit and is a bank designated by the Treasurer of this State as an authorized depository bank for the deposit of state funds.

This letter of credit shall expire three years from date, but shall be automatically renewed for successive one-year periods, unless and until the issuer shall have delivered written notice of non-renewal to the beneficiary thirty (30) days or more prior to the then-pending expiration date.

(Name of Issuer)

BY: _____

TITLE: _____

Authority: T.C.A. §§ 67-1-1801 and 67-1-102. **Administrative History:** Original rule filed April 19, 1990; effective June 3, 1990.

1320-01-02-.04 NOTICE OF LIEN.

- (a) Notices of lien filed to obtain a stay of collection pursuant to T.C.A. § 67-1-1801(c)(l)(C) must include either all of the taxpayer's property both real and personal, wherever situated, or unencumbered property of the taxpayer located in this state equal in value

(Rule 1320-01-02-.04, continued)

to at least one hundred fifty percent (150%) of the amount of the assessment or the portion thereof challenged by the suit. A notice of lien must be filed with the register of deeds of the county of the taxpayer's domicile or principal place of business in this state, the register of deeds of the county where the property is located, and the office of the Secretary of State.

- (b) The notice of lien filed with the register of deeds shall be in a form as follows, containing the following terms and conditions:

NOTICE OF STATE TAX LIEN

Pursuant to the provisions of T.C.A. § 67-1-1801, a lien exists in favor of the State of Tennessee upon the following property (check one):

- All property wherever situated, both real and personal, and rights, title and interest in property acquired either prior to or subsequent to the filing of this notice, belonging to the hereinafter named taxpayer.
- Property located in Tennessee, otherwise unencumbered, and having a value equal to at least one hundred fifty percent (150%) of the amount of the assessment (including any penalty and interest) challenged in a lawsuit filed or to be filed by the taxpayer pursuant to the provisions of T.C.A. § 67-1-1801.

This property is described as follows:

(description of property, value and exact location)

This lien is given for the purpose of obtaining a stay of collection of tax assessment (including penalty and interest) challenged by the taxpayer in a lawsuit filed or to be filed by the taxpayer pursuant to the provisions of T.C.A. § 67-1-1801.

This lien secures the payment of _____ (amount of assessment, penalty and interest challenged in lawsuit) (\$ _____) plus subsequently accrued interest.

The current amount of this lien may be obtained by inquiry of the Tax Enforcement Division of the Tennessee Department of Revenue.

Name of Taxpayer Account Number: _____ Account Number: _____

Residence or Place of Business: _____ County: _____

Witness my hand at _____, Tennessee, on the _____ day of _____, _____.

Taxpayer _____

By _____

(Rule 1320-01-02-.04, continued)

* FOR REGISTER USE ONLY -PRINT OR STAMP *

BOOK NO.	PAGE NO.	DATE	TIME
REGISTER		BY: _____	
RV-1307 (REV.5-85)			02-018-0503

- (c) A notice of lien must also be filed with the office of the Secretary of State. Notices of Lien filed in the office of the Secretary of State shall be filed in quadruplicate, on 5" x 8" blue paper, in a form as follows, containing the following terms and conditions:

TAXPAYER'S VOLUNTARY GRANT OF LIEN TO DEPARTMENT OF REVENUE

Taxpayer's Name and Business Address:	Lienholder:	Date, Time, Number and Filing Office:
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Tennessee Department of Revenue
 1200 Andrew Jackson Office Bldg.
 Nashville, TN 37242

TAXPAYER ACCOUNT NO. _____

Description of Property Under Lien:

See attached
 (attach copy of notice of lien
 filed with register of deeds,
 including attachments thereto)

Taxpayer's Signature _____

Date _____

- (d) If the taxpayer owns property, either real or personal in other states, a notice of lien must be filed in these states, in the office designated for the filing of liens on property in the county in which the property is located and in the office of the Secretary of State of the foreign state. Such notices shall contain the terms and conditions as provided in subparagraphs (b) and (c) and shall be in the same form to the extent possible to file a valid lien in that state.

(Rule 1320-01-02-.04, continued)

Authority: T.C.A. §§ 67-1-1801 and 67-1-102. **Administrative History:** Original rule filed April 19, 1990; effective June 3, 1990.

1320-01-02-.05 REQUEST FOR INFORMAL CONFERENCE.

- (1)
 - (a) A request for an informal conference must be submitted in writing to the Commissioner of Revenue or the Commissioner's designee in the Department's Administrative Hearing Office.
 - (b) The conference request must be signed by the taxpayer or the taxpayer's authorized representative. If the request is signed by an authorized representative, a Power of Attorney should be provided to the Administrative Hearing Office within five (5) business days.
 - (c) Statements of legal arguments and supporting documentation should be provided, where practicable, to the Administrative Hearing Office at least two weeks prior to the date of the informal conference. Upon written request by the taxpayer, the Commissioner or the Commissioner's designee may grant, in the Commissioner's or designee's discretion, a continuation of the conference in writing for a period of time reasonably necessary for the taxpayer to provide additional information or documentation relevant to the proposed assessment. A continuation may be granted either before or after the conference is held. If the taxpayer fails to provide such additional information or documentation during the time specified for the continuance, the conference decision shall be issued based on the information and documentation available at that time. Additionally, if the taxpayer fails to provide such additional information or documentation during the time specified for the continuance, the Commissioner or the Commissioner's designee may decline to consider a request for reconsideration that is based on any such additional information or documentation provided after the conference decision is issued.
- (2) The written request will be deemed timely:
 - (a) If made via United States mail or a private delivery service that is designated by the Internal Revenue Service under I.R.C. §7502 and transmitted within thirty (30) days after the date of the notice of proposed assessment. A request for an informal conference is a tax document and, when transmitted through the United States Postal mail or a designated private delivery service, its timely filing date shall be determined in accordance with the provisions of T.C.A. § 67-1-107.
 - (b) If made via facsimile, electronic mail, or a non-designated delivery service and received by the Department on or before thirty (30) days after the date of the notice of proposed assessment.
- (3) The day that a notice of proposed assessment is dated shall not be included in calculating the thirty (30) days.
- (4) In the event that the thirtieth (30th) day after the date of a notice of proposed assessment falls on a Saturday, a Sunday, a legal holiday, or a day when state offices in Nashville are closed, the thirty (30) day period shall run at the end of the next day which is not a Saturday, a Sunday, a legal holiday, or a day when state offices in Nashville are closed.
- (5) The person designated to respond to the issues contested at the informal conference shall sign and date the letter by which the taxpayer or his representative is advised of the

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decision(s) made on the issues(s) contested at the conference. The signature date shall be considered the date the informal conference decision is issued.

Authority: T.C.A. §§ 1-3-102, 15-1-101, 67-1-102(A), 67-1-102, 67-1-107, and 67-1-1801.

Administrative History: Original rule filed June 28, 2000; effective September 11, 2000. Amendments filed June 28, 2016; effective September 26, 2016.