

**RULES  
OF  
DEPARTMENT OF REVENUE  
INHERITANCE, GIFT, AND INCOME TAX DIVISION**

**CHAPTER 1320-3-2  
INCOME TAX RULES**

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**1320-3-2-.01 INCOME.**

- (1) Income is considered to be received for the purpose or the law when:
- (a) It is actually paid in cash;
  - (b) Check or other negotiable instrument, or equivalent, is mailed to taxpayer, regardless of date received;
  - (c) When credited upon the books of a bank, banking institution, broker or any agent of the taxpayer;
  - (d) When payment is made in merchandise or other commodities of intrinsic value.

*Authority:* T.C.A. §§67-1-102 and 67-2-113. *Administrative History:* Original rule certified June 7, 1974.

**1320-3-2-.02 EXEMPTION.** Accrued dividends or interest received by a seller of stocks, bonds, notes, or mortgages shall be reported by him for taxation: but such accrued interest or dividends thus advanced by the purchaser will be held taxable to the purchaser unless he filed with the Department the name or names of the seller and amounts so accrued, to obtain this exemption. The fact that an obligation is past due does not remove the interest thereon from taxation under the Code.

*Authority:* T.C.A. §§67-1-102 and 67-2-113. *Administrative History:* Original rule certified June 7, 1974.

**1320-3-2-.03 LIQUIDATING DIVIDENDS.** Dividends paid to any person by corporations will not be recognized as liquidating dividends unless the corporation is actually undergoing liquidation. No authority is contained in the Code by which depletion dividends can be regarded as non-taxable.

*Authority:* T.C.A. §§67-1-102 and 67-2-113. *Administrative History:* Original rule certified June 7, 1974.

**1320-3-2-.04 FIDUCIARY RELEASED.** Before a fiduciary can be released and a final accounting made of the estate of trust in his charge, all taxes reflected under the provisions of the Code upon the fiduciary, which have become due, must have been paid; and taxes which may become due must have been secured by a bond, deposit or otherwise, and said fiduciary must file with the Department the names and addresses of the beneficiaries of the estate and trust, together with a statement of the amount and character of the wealth going to each.

*Authority:* T.C.A. §§67-1-102 and 67-2-113. *Administrative History:* Original rule certified June 7, 1974.

**1320-3-2-.05 AMOUNT OF INCOME NOT TAXABLE.** Any person having a legal domicile in Tennessee or maintaining a place of residence in Tennessee for more than six (6) months in the tax year and receiving income in the form of dividends from stock or interest on bonds in a gross amount greater than \$1250 for an individual return or \$2500 for a joint return must file a Tennessee income tax return, notwithstanding that such income may be subject to the exemptions provided in T.C.A. §67-2-104.

*Authority:* T.C.A. §§67-1-102, 67-2-107, and 4-5-225. *Administrative History:* Original rule certified June 7, 1974. Amendment filed February 17, 1988; effective May 29, 1988. Repeal by Public Chapter 502; effective June 30, 1989. New rule filed February 23, 1990; effective April 9, 1990.

**1320-3-2-.06 BLINDNESS.** For the purpose of T.C.A. §67-2-104, an individual is blind only if his central visual acuity does not exceed 20/200 in the better eye with correcting lenses or that the widest diameter of the visual field subtends an angle no greater than 20 degrees.

*Authority:* T.C.A. §§67-1-102 and 67-2-113. *Administrative History:* Original rule certified June 7, 1974.

**1320-3-2-.07 REPORT REQUIRED.** No person shall be excused from making the complete report required by law because of the failure of the Commissioner or his representative to send or give out forms to him.

*Authority:* T.C.A. §§67-1-102 and 67-2-113. *Administrative History:* Original rule certified June 7, 1974.

**1320-3-2-.08 RESIDENCE CHANGES.** A person moving into the State during the year is liable for the tax on income received from the date of moving into the State. A person moving out of the State during the year is liable for the tax on income received from January 1st to date of change in residence.

*Authority:* T.C.A. §§67-1-102 and 67-2-113. *Administrative History:* Original rule certified June 7, 1974.

**1320-3-2-.09 STOCK OF ANOTHER CORPORATION.** When a corporation gives stock of another corporation as a dividend, the value of the stock is fully taxable; unless such distribution is made pursuant to decrees ordering divestiture of stock in enforcement of anti-trust statutes.

*Authority:* T.C.A. §§67-1-102 and 67-2-113. *Administrative History:* Original rule certified June 7, 1974.

**1320-3-2-.10 CAPITAL GAIN DIVIDENDS.** All dividends from Investment Trusts, including so-called capital gain dividends, are fully taxable whether taken in cash or additional stock.

*Authority:* T.C.A. §§67-1-102, 67-1-102(a), and 67-2-113. *Administrative History:* Original rule certified June 7, 1974. Amendment filed May 14, 2003; effective July 28, 2003.

**1320-3-2-.11 REPEALED.**

*Authority:* T.C.A. §§67-1-102, 67-1-102(a), and 67-2-113. *Administrative History:* Original rule certified June 7, 1974. Repeal filed May 14, 2003; effective July 28, 2003.

**1320-3-2-.12 REPEALED.**

*Authority:* T.C.A. §§67-1-102, 67-1-102(a), and 67-2-113. *Administrative History:* Original rule certified June 7, 1974. Repeal filed May 14, 2003; effective July 28, 2003.

**1320-3-2-.13 CHARITABLE REMAINDER TRUSTS.**

- (1) Charitable remainder trusts, as defined in §664 of the Internal Revenue Code, are taxable in the following manner:

(Rule 1320-3-2-.13, continued)

- (a) Income earned by such a trust shall be taxable up to the amount of such income distributed to the income beneficiary whether such income is earned in the tax year or is undistributed income from prior years.
- (b) The amount distributed to the income beneficiary shall be considered paid from the trust income or corpus in the following order:
  1. Income subject to the 6% tax rate under T.C.A. § 67-2-102(a) which is earned in the tax year or is undistributed income of the trust for prior years.
  2. Income not subject to the tax which is earned in the tax year or is undistributed income of the trust for prior years
  3. Trust corpus.

**Authority:** T.C.A. §§67-1-102, 67-1-102(a), and 67-2-113. **Administrative History:** Original rule filed November 29, 1976; effective December 29, 1976. Amendment filed May 14, 2003; effective July 28, 2003.

#### **1320-3-2-.14 EXEMPT SHORT-TERM INTEREST.**

- (1) For the purpose of T.C.A. §67-2-101, which provides that the term "bond" shall not include ordinary commercial paper, trade acceptance, etc., maturing in six (6) months or less from the date of issuance, the six (6) month period shall be calculated as follows:
  - (a) By excluding the date of issuance and counting forward one hundred and eighty-two (182) days, and if the one hundred and eighty-second day falls on a Saturday, a Sunday, or a legal holiday, by including the next following day; or
  - (b) By beginning on the date of issuance and including the corresponding date in the sixth (6th) succeeding month, except where the sixth (6th) succeeding month does not have a corresponding date, in which case the corresponding date shall be deemed to be the last date of the sixth (6th) succeeding month; whichever is greater.

**Authority:** T.C.A. §§67-1-102, 67-2-101, and 67-2-113. **Administrative History:** Original rule filed March 1, 1983; effective June 15, 1983. Amendment filed May 11, 1990; effective August 29, 1990.