

**RULES
OF
DEPARTMENT OF REVENUE
MISCELLANEOUS TAX DIVISION**

**CHAPTER 1320-4-4
GENERAL REVENUE LAW**

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1320-4-4-.01 SALES OF MIXED DRINKS OR SETUPS.

- (1) The term "gross receipts" as set forth in Chapter 41, Title 67, Tennessee Code Annotated, for the purpose of determining the tax base, shall mean the total price for which mixed drinks or setups for mixed drinks are sold and shall include, but not be limited to, the cost of any services required to process the beverage for sale without any deductions therefrom on account of the cost of the beverage, the cost of materials used, losses, cost of entertainment, or any other expenses whatsoever. "Gross receipts" is further defined to be the price of the beverage listed on any menu, or wine or liquor lists, sold by any establishment selling mixed drinks or setups for mixed drinks. If the cost of entertainment is to be passed to the consumers of such beverage, it shall be in the form of a cover or admission charge separate and apart from the charge made for such beverages, and shall not be included in the price charged for such beverage. If any entertainment costs are included in the listed price of such beverages they shall be included in the gross receipts reported to this Department and be subject to the tax levied by said Chapter 41.
- (2) In addition to the 15% gross receipts tax levied by said Chapter 41 upon mixed drinks or setups for mixed drinks, such drinks or setups shall likewise be subject to any applicable sales tax, both State and Local.

Authority: T.C.A. §§67-101 and 67-4302. *Administrative History:* Original Rule certified June 7, 1974.

1320-4-4-.02 QUARTERLY PAYMENT OF TAX. Any person desiring to exercise the option of paying his tax on a quarterly installment basis under provisions of Section 67-4318, Tennessee Code Annotated, shall make timely payment of the first installment on or before the first day of August and failing to make such timely payment, together with any unpaid gross receipts privilege tax due for a prior period, shall not have the option of paying his tax on a quarterly installment basis, but shall be required to pay the entire amount of the annual tax, plus a penalty of ten percent (10%) of the annual tax, together with interest thereon at the applicable rate provided by law or as certified by the Commissioner of Revenue in accordance with Public Chapter No. 693, Acts of 1974 upon the amount of the tax payable.

Authority: T.C.A. §§67-101 and 67-4302. *Administrative History:* Original Rule certified June 7, 1974. Amendment filed October 1, 1974; effective October 31, 1974.

1320-4-4-.03 PRIVILEGE TAX ON VENDING MACHINES.

- (1) Each vending machine operator who has elected to pay privilege tax under the option afforded in Item 65(c) (1) of Section 67-4203, Tennessee Code Annotated, who first commences business after July 1 of any given year, shall within 30 days following the effective date of business registration with the Department of Revenue, and each 30 days thereafter remove all monies from each and every vending machine and report the aggregate of all such monies to the Commissioner of Revenue, and shall pay

(Rule 1320-4-4-.03, continued)

tax measured by such gross receipts at the rate specified in the appropriate taxing item. This tax shall be paid not later than the 10th day of the following month. On or before August 1 following the effective date of business registration he shall pay the annual tax for the year commencing on the next prior July 1. The measure of the tax shall be ascertained by multiplying such person's gross receipts by the ratio which the period during which he has engaged in business bears to an entire year, but he shall not thereafter make monthly payments.

- (2) Any person required to file monthly reports during the initial tax year who fails to remove all monies from each and every vending machine and report the aggregate of all such monies to the Commissioner of Revenue in the manner prescribed above, shall be arbitrarily assessed on the basis provided under T.C.A. §67-4322.

Authority: T.C.A. §§67-101 and 67-4302. **Administrative History:** Original rule certified June 7, 1974.

1320-4-4-.04 REPEALED.

Authority: T.C.A. §§67-101 and 67-4302. **Administrative History:** Original rule certified June 7, 1974. Repealed by Public Chapter 575; effective July 1, 1986.

1320-4-4-.05 CREDITS FOR PAYMENT OF FRANCHISE AND EXCISE TAX.

- (1) Any corporation having filed its final franchise and excise tax return and paid such taxes for its most recently completed fiscal year prior to filing its annual gross receipts privilege tax return, and no later than August 1 of any tax year, may claim appropriate franchise and excise tax credit against certain gross receipts privilege tax payments covering corresponding tax base periods.
- (2) Any corporation with its fiscal period ending after August 1 of any year, or with due date for franchise and excise taxes falling after such date or which has been granted an extension of time in which to file its final franchise and excise tax return at a date subsequent to August 1, shall not be allowed credit for such taxes against gross receipts privilege taxes until such time as final return and payment has been made for such franchise and excise taxes.
- (3) If final return and tax payment of franchise and excise taxes has not been made on or before August 1 of any year, a corporation paying gross receipts privilege taxes shall pay all such gross receipts privilege taxes due by August 1 without credit whatsoever for any estimated quarterly payments of franchise and excise taxes made prior to such date. In order to receive credit for franchise and excise taxes when final payment is made subsequent to August 1 of any year against gross receipts privilege taxes paid on or before the prior August 1, it will be necessary that the taxpayer file, within the statutory period, an amended gross receipts privilege tax return covering corresponding tax base periods and claim credit for appropriate franchise and excise tax payments. If such amended return discloses an over payment of gross receipts privilege taxes previously paid due to deduction of the franchise and excise tax credit, then such amount shall be refunded to the taxpayer by the Department.

Authority: T.C.A. §§67-101 and 67-4302. **Administrative History:** Original rule filed June 23, 1976; effective July 23, 1976.