

Performance Entities

Entertaining/Touring Performance Services Are Subject to Business Tax

Performance artists or their business entities (collectively "performance entities") who perform in Tennessee are subject to business tax, and they must pay tax on merchandise sales, as well as ticket sales and commissions.

Most performance entities, when performing at any given location, will receive a commission on ticket sales or a portion of the admission receipts to the event from the ticket promoter. The amounts received are receipts for the sale of services. The performance entities may also sell merchandise, such as souvenirs and t-shirts. There are no exemptions from business tax under the law for either of these types of sales.

Business Tax Is Composed of a State Tax and a City Tax

Business tax is imposed on sales of tangible personal property and most services made in the state. It is composed of two separate taxes:

- 1) a state business tax imposed on any in-state or out-of-state taxpayer making sales within Tennessee, and
- 2) a city business tax imposed on in-state taxpayers making sales within any city in Tennessee that has adopted the business tax.

Performance Entities Are Classified as Class 3 Taxpayers

The rate at which business tax is paid is based upon an entity's classification. An entity's dominant taxable business activity determines the classification. Performance entities are classified as Class 3 taxpayers, because this classification includes the sale of novelty merchandise and souvenirs as well as the sale of services.

Most Performance Entities Make Retail Sales of Merchandise and Wholesale Sales of Services

The performance entity's sales of merchandise are retail sales. The performing entity's sales of services are wholesale sales, because they are sales to the promoters, who in turn sell them to the consumers. If at least 50 percent of a performance entity's taxable receipts are from sales of merchandise, the entity will pay at the retail rate of 3/16 of one percent. If more than 50 percent of the performance entity's taxable receipts are from the ticket sales, the entity will pay at the wholesale rate of 3/80 of one percent.

There are some instances where a promoter may not be involved, and instead, the performance entity contracts directly with the venue and only receives a portion of the ticket sales or entrance fee. Under these circumstances, the services provided are sold directly to the consumer, and they are considered retail sales.

In-State and Out-of-State Performance Entities Have Different Reporting and Licensing Requirements

While all ticket and merchandise sales/commissions are subject to business tax if they total \$10,000 or more per jurisdiction, there are different reporting and licensing requirements for in-state performance entities versus out-of-state performance entities.

An In-State Performance Entity Must Obtain a License from the County and, if Applicable, the City of Its Location

Performance entities with a Tennessee location (e.g., an office or other place of business) must obtain a county business license from the county of that location if the entity's total state taxable receipts are \$10,000 or more. They also must obtain a city business license from the city of that location, if the city has a business tax and the entity's total city taxable receipts are \$10,000 or more. The entity will file tax returns for both the state and the city tax with the Department, reporting all sales in the state subject to the state tax on its state return and all sales in the state subject to the city tax on its city return.

If the performance entity's total state taxable receipts are at least \$3,000 but less than \$10,000, the entity must get a minimal activity license from the county of its location. If the entity's total city taxable receipts, if applicable, are at least \$3,000 but less than \$10,000, the entity must get a minimal

activity license from the city of its location. Performance entities with a minimal activity license are not required to file a tax return. If the performance entity's taxable receipts are less than \$3,000, it does not have to obtain a license or file a return.

An Out-of-State Performance Entity Must Register with the Department of Revenue and Remit the State Tax on Its Sales

Performance entities that perform in Tennessee, but do not set up an established location in the state, must register and file a return with the Department, reporting all sales made in each county that are \$10,000 or more. Out-of-state performance entities are not subject to the city business tax. Additionally, they are not required to obtain any type of business tax license.

For More Information

Visit www.tn.gov/revenue. Click on Revenue Help to search for answers or to submit an information request to one of our agents.

References

Tenn. Code Ann. § 67-4-708; Tenn. Code Ann. § 67-4-709; Tenn. Code Ann. § 67-4-706; Tenn. Code Ann. § 67-4-715; Tenn. Code Ann. § 67-4-717; Tenn. Code Ann. § 67-4-723