



# County Technical Assistance Service

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## Tangible Personal Property

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We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with county government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other e-Li material.

Sincerely,

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## Tangible Personal Property

**Reference Number:** CTAS-1472

Tangible personal property is classified according to its use and assessed as a percentage of its value as follows:

1. Public Utility—55 percent
2. Industrial and Commercial—30 percent
3. All Other Tangible Personal Property—5 percent

Tangible personal property not in use is classified according to its immediate most suitable economic use, which is determined after considering the following factors: immediate past use, if any; nature of the property; classification of the real property upon which it is located; normal use of the property; ownership; and any other factors relevant to a determination of the immediate most suitable economic use of the property.<sup>1</sup>

All property is subject to taxation.<sup>2</sup> However, the legislature has determined that non-business tangible personal property is assumed to have no value, and a tax is not imposed on this property.<sup>3</sup> The no-value presumption for non-business personal property has been upheld, based on the fact that the tax produces little revenue in relation to its administration costs, as well as the long-standing rule that the legislature may choose the method of valuation as well as whether the tax itself has any practical value.<sup>4</sup>

Most industrial and commercial tangible personal property is valued and assessed by the county taxing authorities in the counties where the owners of such property do business.<sup>5</sup> Pursuant to T.C.A. § 67-5-901, *et seq.*, industrial and commercial taxpayers must annually file a schedule on which they list the tangible personal property they use in their businesses. Section 67-5-903(f) contains a schedule of allowable rates of depreciation for commercial and industrial tangible personal property.<sup>6</sup> The constitutionality of § 67-5-903(f) has been upheld.<sup>7</sup> Pursuant to T.C.A. § 67-5-1509(a), the State Board of Equalization must, by order or rule, direct that commercial and industrial tangible personal property assessments be equalized using the appraisal ratios adopted by the state board for each county. However, such equalization is available only to taxpayers who have filed the reporting schedule required by law. The constitutionality of T.C.A. § 67-5-1509(a) has also been upheld.<sup>8</sup>

Public utility and common carrier property is centrally assessed annually by the Comptroller of the Treasury.<sup>9</sup> Pursuant to T.C.A. § 67-5-1302(b)(1), the assessments of public utility property shall be adjusted, where necessary, to equalize the values of public utility property to the prevailing level of value of property in each jurisdiction. The constitutionality of § 67-5-1302(b)(1) has been upheld.<sup>10</sup> “The authority to adjust the appraised values of public utility property to achieve equalization with industrial and commercial property is found in § 67-5-1509(b). This statute provides: (b) Equalization may be made by the board or commission, as the case may be, by reducing or increasing the appraised values of properties within any taxing jurisdiction, or any part thereof, in such manner as is determined by the state board of equalization will enable the board or commission to justly and equitably equalize assessments in accordance with law.”<sup>11</sup> Since 1997, the Board of Equalization has ordered a 15 percent reduction in the assessed value of centrally assessed tangible personal property in order to bring it to the same level of assessment as locally assessed tangible personal property.<sup>12</sup>

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<sup>1</sup>T.C.A. § 67-5-901(a).

<sup>2</sup>Tenn. Const., art. II, § 28.

<sup>3</sup>T.C.A. § 67-5-901(a)(3)(A).

<sup>4</sup>*Sherwood v. Clary*, 734 S.W.2d 318, 320-21 (Tenn. 1987); *citing*, *Lehnhausen v. Lake Shore Auto Parts*, 410 U.S. 356 (1973). For prior law, see Op. Tenn. Atty. Gen. 86-80 (April 3, 1986); Op. Tenn. Atty. Gen. 84-273 (September 27, 1984).

<sup>5</sup>T.C.A. §§ 67-5-102, 67-5-103.

<sup>6</sup>*In re All Assessments*, 58 S.W.3d 95, 96 (Tenn. 2000).

<sup>7</sup>*In re All Assessments*, 67 S.W.3d 805, 816-820 (Tenn.Ct.App. 2001), *perm. appeal denied*, (Tenn. 2002).

<sup>8</sup>*Williamson County v. Tennessee State Board of Equalization*, 86 S.W.3d 216 (Tenn.Ct.App. 2002).

<sup>9</sup>T.C.A. § 67-5-1301.

<sup>10</sup>*In re All Assessments*, 67 S.W.3d 805, 820-821 (Tenn.Ct.App. 2001), *perm. appeal denied*, (Tenn. 2002).

<sup>11</sup>*In re All Assessments*, 58 S.W.3d 95, 101 (Tenn. 2000). See also *Louisville & N.R.R. v. Public Serv. Comm'n*, 249 F.Supp. 894 (M.D. Tenn. 1966), *aff'd*, 389 F.2d 247 (6th Cir. 1968) ("L & N I"); *Louisville & N.R.R. v. Public Serv. Comm'n*, 493 F.Supp. 162 (M.D. Tenn. 1978), *aff'd*, 631 F.2d 426 (6th Cir. 1980), *cert. denied*, 450 U.S. 959, 101 S.Ct. 1418 (1981) ("L & N II").

<sup>12</sup>*ANR Pipeline Co. v. Tennessee Board of Equalization*, 2002 WL 31840689, \*1 (Tenn.Ct.App. 2002) *perm. app. denied* (Tenn. 2003).

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