

Memorandum

To: Interested Parties
From: Richard Roberts, Commissioner of Revenue
Date: January 24, 2013
Re: Uniformity and Small Business Relief Act of 2013

Thank you for attending this meeting today. We appreciate your interest in this very important piece of legislation and welcome your input.

The business tax is a significant source of revenue for our counties and cities. For the fiscal year ended June 2012, total business tax collections were just over \$300 million with \$156.7 million going to local governments and \$16.5 million in fees going to county and city clerks.

The Department needs your help to achieve our goal of uniformity in the application of the business tax, creating a level playing field for our in-state businesses, providing tax relief for many small businesses, and protecting the tax itself.

We will be filing a caption bill at the beginning of the legislative session that we plan to amend with the Uniformity and Small Business Relief Act of 2013. This bill, among other things, raises the exemption from \$3,000 to \$10,000, providing tax relief to approximately 50,000 small businesses, which file over 80,000 business tax returns. It will also provide uniformity in application of the tax.

Please take this opportunity to review the language in the bill and provide the Department with your feedback. We would like to have your comments by February 15, 2013. Comments may be sent to Assistant Commissioner Barbara Sampson at Barbara.Sampson@tn.gov. The Department will also schedule additional working meetings as needed.

UNIFORMITY AND SMALL BUSINESS RELIEF ACT OF 2013

The business tax generates approximately \$300 million annually. Fiscal year 2012 collections were apportioned to state (\$126.8M) and local (\$173.2M) government. This tax has been an important source of revenue to local governments for 40 years. This bill provides tax relief for small businesses and uniformity in application.

I. SMALL BUSINESS RELIEF

- Exempts all businesses with sales of less than \$10,000 (estimated to be 80,000 tax returns filed by 50,000 taxpayers).
- Will either:
 - Authorize counties and cities to provide exempt businesses, upon request, a “minimal activity license” from the local clerk for local regulatory purposes (license fee of \$15 per year); or
 - Require counties and cities to issue, and exempt businesses to obtain, a “minimal activity license” from the local clerk for local regulatory purposes (license fee of \$15 per year).

II. UNIFORMITY

- Applies the business tax uniformly to all businesses doing business in Tennessee, regardless of whether they have an office in Tennessee, that 1) perform services in Tennessee; 2) lease tangible personal property in Tennessee; 3) deliver tangible personal property from outside of the state, not including common carrier deliveries; or 4) sell tangible personal property in Tennessee in a wholly in-state transaction, not including drop shipments.
- Responds to court challenges, including:
 - Codifies Business Tax Rule 28 in order to address a court challenge by Comcast, including a specific provision to address cable television services.
 - Distributes the state portion of the municipal business tax to a state fund used exclusively for purposes of the municipality that levied the tax, in response to a court challenge by Atmos.
- Converts existing county business tax into a uniform state tax. Currently, 3 counties do not impose the tax (Clay, Claiborne, & Morgan) and 3 impose it at a reduced rate (Hardin, Lauderdale, & McNairy).

III. ADDITIONAL TAX RELIEF

- This bill authorizes the commissioner to allow combined filing of business tax returns for a single business with multiple locations throughout the state when systems are in place to accept such filings. This change compliments the Commissioner’s authority to change the tax period to coincide with the taxpayer’s fiscal year end.
- Prior to the 2010 amendments, it was unclear whether wholesale gasoline and diesel fuel sellers were subject to a 0.000375 or a 0.00025 rate. Recent corrective legislation set the rate for all gasoline and diesel fuel wholesalers at 0.000375. Those wholesalers who had previously been paying at the 0.00025 rate felt this increase was unfair, so this bill sets the rate at 0.0003125; a compromise between the two previous rates.

UNIFORMITY AND SMALL BUSINESS RELIEF ACT OF 2013

Department of Revenue

Section-by-Section Summary

- Section 1 Titles the bill the “Uniformity and Small Business Relief Act of 2013.”
- Section 2 Allows the commissioner flexibility in implementing the changes provided by this Act. Removes wording that refers to a county levied tax.
- Sections 3 - 4 Converts the existing county business tax to a state tax. Retains the authority of a city to impose the city business tax, and those already imposing such tax need not pass new ordinances to continue collecting the tax. Authorizes cities and counties, but not the state, to continue the existing business tax on flea markets, antique malls, gun shows, and transient vendors. Sales tax obligations are not affected.
- Section 5 Requires persons subject to the business tax to register with either the Department of Revenue or the appropriate county clerk or city official.
- Section 6 Authorizes, but does not require, counties and cities to enter into an agreement under which the Department of Revenue would administer the foreign contractor bond requirement.
- Section 7 - 8 Changes cross-references in the code to make them consistent with other changes in this bill.
- Section 9 Sets a new rate, 0.0003125, applicable to gasoline and diesel fuel wholesalers.
- Sections 10 - 11 Authorizes counties and cities to continue the existing tax on antique malls, flea markets, craft shows, antique shows, auto shows, gun shows (\$1 per day per booth) and on transient vendors (\$50 for each 14 day period). This tax would continue to be collected locally by the county clerk or city official.
- Section 12 Increases the minimum amount of sales required before a business is subject to the tax from \$3,000 to \$10,000.
- Section 13 - 14 Authorizes the commissioner to accept a single, combined return, for the reporting of all business taxes due from a single business, regardless of jurisdiction. Also, changes wording that refers to a county levied tax.
- Section 15 Codifies an existing regulation and adds language to the code to make clear when sales from business activities in the state are subject to the tax and which jurisdiction collects the tax. Sales from an established physical location are sourced to that location even if the business extends its operations into another city or county (without establishing a location there); except for television service providers, which are sourced to the county or city where the customer receives the service. If a business makes sales in the state by conducting activities here but does not establish a location, the business is subject to the uniform state business tax but is exempt from the non-uniform city business tax. Restates the current law under which contracts of more than \$50,000 are sourced to the jurisdiction where the contract is performed and contracts of \$50,000 or less are sourced to the jurisdiction where the contractor has a permanent location.

UNIFORMITY AND SMALL BUSINESS RELIEF ACT OF 2013

Department of Revenue Section-by-Section Summary

- Section 16 Changes wording that refers to a county levied tax.
- Section 17 Allows a taxpayer to use its payment receipt as a temporary license until its license has been issued. Authorizes, but does not require, counties and cities to enter an agreement with the Department of Revenue under which the state will issue and renew the standard business license. **Either authorizes, or requires**, cities and counties to issue a “minimal activity license” to any person who is exempt from business tax because the person’s sales are less than \$10,000 per year. The minimal activity license would require a \$15 annual fee but would relieve the business from filing a business tax return or otherwise registering with the state in order to have a license that the business may need for its business purposes or other local purposes.
- Section 18 Allocates and distributes the state business tax using the same formula that applies to the current county business tax: \$7.00 per return to the county clerk, 5% of balance to county clerk; remainder 57% to the county where the taxpayer is located and 43% to the state’s general fund (after the county clerk’s commission and the Department’s administrative fee). Allocates the state business tax to the state’s general fund if collected from a taxpayer doing business in the state without establishing a location. Allocates and distributes the city business tax as follows: 57% to the city where the taxpayer is located and 43% to a fund administered by the state for company purposes (after the city clerk’s commission and the Department’s administrative fee). Allocates 100% of the tax collected from flea markets, antique malls, guns shows, and transient vendors to the city or county that collected the tax (after the clerk’s commission).
- Section 19 Deletes an obsolete provision in the code.
- Section 20 This Act takes effect July 1, 2013, and applies to tax periods that begin on or after that date.

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AN ACT to amend Tennessee Code Annotated, Title 67,
Chapter 4, Part 7, relative to business tax.

SECTION 1. Sections 2 through 19 of this act shall be known and may be cited as the "Uniformity and Small Business Relief Act of 2013."

SECTION 2. Tennessee Code Annotated, Section 67-4-703(a), is amended by deleting the first two sentences and by substituting instead the following language:

The commissioner is authorized to collect and administer the taxes levied by this part.

and is further amended by deleting from subsection (c) the language "July 1, 2009, through October 1, 2010," and by substituting instead the language "July 1, 2013, through December 31, 2014,".

SECTION 3. Tennessee Code Annotated, Title 67, Chapter 4, Part 7, is amended by deleting Section 67-4-704 in its entirety and by substituting instead the following:

67-4-704. Except as otherwise provided in § 67-4-710, the making of sales by engaging in any vocation, occupation, business, or business activity enumerated, described, or referred to in § 67-4-708(1)-(5) is declared to be a privilege upon which a state tax is levied at the rates fixed and provided in § 67-4-709.

SECTION 4. Tennessee Code Annotated, Title 67, Chapter 4, Part 7, is amended by deleting Section 67-4-705 in its entirety and by substituting instead the following:

67-4-705.

(a) The making of sales by engaging in any vocation, occupation, business, or business activity enumerated, described, or referred to in § 67-4-708(1)-(4) is declared to be a privilege upon which each incorporated municipality in which the vocation, occupation, business, or business activity is

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carried on, by ordinance of its governing body, may levy a privilege tax at the rates fixed and provided in § 67-4-709. The tax imposed by this subsection shall be collected by the commissioner in the same manner as the tax imposed by § 67-4-704.

(b) Notwithstanding subsection (a) or any other provision to the contrary, every incorporated municipality levying such tax as of the effective date of this act, shall be deemed to have made an effective election to continue the imposition of such tax at the same rate that was in effect on such date and shall not be required to pass any additional ordinance. Any incorporated municipality that elects after the effective date of this act, to levy the tax authorized by this section, or elects to change the rate of tax imposed by the municipality, must levy such tax at the rates fixed and provided in § 67-4-709. Every municipality that levies the tax described in subsection (a) is authorized to repeal such tax by ordinance of its governing body.

(c) The making of sales by engaging in any vocation, occupation, business, or business activity enumerated, described, or referred to in § 67-4-710 is declared to be a privilege upon which each county or incorporated municipality, or both, in which the business, business activity, vocation, or occupation is carried on, by ordinance of its governing body, may levy a privilege tax at the rates fixed and provided in § 67-4-710.

SECTION 5. Tennessee Code Annotated, Section 67-4-706, is amended by deleting subsection (a) in its entirety and by substituting instead the following:

(a) For purposes of filing the returns required by § 67-4-715 and paying the taxes levied by §§ 67-4-704 and 67-4-705, every person taxable under §§ 67-4-704 and 67-4-705 shall, prior to engaging in business as defined in § 67-4-702, register with the commissioner or the county clerk, in the case of businesses

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located within the county, and with the commissioner or the appropriate city official, in the case of businesses located within the incorporated municipality. Any person that is subject to the tax levied by § 67-4-704 but has no established physical location, outlet, or other place of business in the state shall register with the commissioner for purposes of this section.

and is further amended by deleting from subsection (c) the language "taxable under §§ 67-4-705 and 67-4-709(5)" and by substituting instead the language "described in § 67-4-708(5) and taxable under § 67-4-709(5)".

SECTION 6. Tennessee Code Annotated, Section 67-4-707, is amended by designating the current language as subsection (a) and by adding the following language as subsection (b):

(b) Notwithstanding subsection (a), any county or municipality may, but shall not be required to, enter an agreement with the commissioner pursuant to which the bond or escrow account required by subsection (a) will be filed with the commissioner rather than the county or municipality.

SECTION 7. Tennessee Code Annotated, Section 67-4-708(1), is amended by deleting from subdivision (B) the language "gasoline and diesel fuel sold at wholesale;" and by adding the following language as a new subdivision (E):

(E) Gasoline and diesel fuel sold at wholesale;

SECTION 8. Tennessee Code Annotated, Section 67-4-709, is amended by deleting the following language:

For the exercise of the privileges described or enumerated in § 67-4-708, persons shall pay a tax, according to the dominant business activity of the persons as follows:

and by substituting instead the following language:

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For the exercise of the privileges described, enumerated, or referred to in § 67-4-708, every person shall pay the taxes imposed by §§ 67-4-704 and 67-4-705 according to the dominant business activity of the person as follows:

SECTION 9. Tennessee Code Annotated, Section 67-4-709(1), is amended by adding the following language as a new subdivision (E):

(E) Five one hundred sixtieths of one percent (5/160 of 1%) of all sales by a wholesaler classified under § 67-4-708(1)(E);

SECTION 10. Tennessee Code Annotated, Section 67-4-710(a), is amended by deleting the following language:

For the exercise of the privileges described or enumerated in this section, persons shall pay a fee directly to the county clerk, in the case of activities carried on within the county, and to the city official designated as the collector of tax by city charter or ordinance, in the case of activities carried on within the municipality:

and by substituting instead the following language:

Any county, by resolution of its county legislative body, or any incorporated municipality, by ordinance of its governing body, is authorized to impose a fee on the exercise of the privileges described or enumerated in this section. Notwithstanding any provision to the contrary, every county and incorporated municipality imposing the fee provided by this section as of the effective date of this act, shall be deemed to have made an effective election to continue the imposition of such fee and shall not be required to pass any additional resolution or ordinance. Persons exercising such privileges shall pay the applicable fee directly to the county clerk, in the case of activities carried on within the county, and to the city official designated as the collector of tax by city charter or ordinance, in the case of activities carried on within the municipality:

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SECTION 11. Tennessee Code Annotated, Section 67-4-710, is amended by deleting subsection (b) in its entirety.

SECTION 12. Tennessee Code Annotated, Section 67-4-712, is amended by deleting subsection (d) in its entirety and by substituting instead the following:

(d)

(1) Any person having sales of less than ten thousand dollars (\$10,000) within a county shall be exempt from the tax and licensing provisions in §§67-4-704 and 67-4-723(a) with respect to the sales sourced to that county as provided in § 67-4-717(b).

(2) Any person having sales of less than ten thousand dollars (\$10,000) within an incorporated municipality shall be exempt from the tax and licensing provisions in §§67-4-705 and 67-4-723(a) with respect to the sales sourced to that municipality as provided in § 67-4-717(c).

(3) Any person subject to the tax imposed by this chapter due to the operation of § 67-4-717(a) and having sales of less than ten thousand dollars (\$10,000) within a county shall be exempt from the taxing provision in § 67-4-704 with respect to the sales occurring in that county.

SECTION 13. Tennessee Code Annotated, Section 67-4-713(a)(2)(A), is amended by deleting the language "levied the tax under this part" and by substituting instead the language "receives the allocation of tax under § 67-4-724".

SECTION 14. Tennessee Code Annotated, Section 67-4-715, is amended by deleting from subsection (b) the language "taxes levied by the county" and by substituting instead the language "taxes levied by the state", and is further amended by deleting subsection (g) in its entirety and by substituting instead the following as a new subsection (g):

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(g) Notwithstanding any provision of this section to the contrary, the commissioner is authorized to change the tax period established by this part to correspond to the taxpayer's fiscal year and change the due date of the associated tax return to a date that is not less than two (2) calendar months following the end of such tax period. The commissioner is further authorized to allow the submission of a single, combined return, which shall include all of the information required by the commissioner to determine the amount of tax, if any, that is properly due in each jurisdiction. Such changes are authorized to occur no sooner than ninety (90) days after the commissioner has certified that a system is in place for the electronic submission of such returns. Such certification shall be accomplished by the commissioner prominently posting a notice on the department's web site.

SECTION 15. Tennessee Code Annotated, Title 67, Chapter 4, Part 7, is amended by adding the following as a new section designated as Section 67-4-717:

67-4-717

(a) Any person engaged in this state in any vocation, occupation, business, or business activity enumerated, described, or referred to in § 67-4-708(1)-(4) without establishing a physical location, outlet, or other place of business in the state shall be subject to the tax levied by § 67-4-704 and shall be exempt from the tax levied by § 67-4-705. For purposes of this section, the term "engaged in this state" shall be limited to the following activities:

- (1) Performing any service in this state;
- (2) Leasing tangible personal property that is located in this state;
- (3) Delivering tangible personal property to a buyer in this state, when delivered by the seller in the seller's own vehicle; and

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(4) Purchasing and subsequently selling tangible personal property in this state in a wholly in-state transaction, where the purchase and subsequent sale are accomplished through the presence in this state of the seller's employees, agents, or independent contractors acting on behalf of the seller.

(b)

(1) For purposes of distributing the state business tax as provided in § 67-4-724(a), receipts from sales made by a person subject to the tax levied by § 67-4-704 shall be sourced to the county in which the person's established physical location, outlet, or other place of business is located. Receipts from sales made by persons operating from an established physical location, outlet, or other place of business in one county who extend their operations into other counties without establishing a physical location, outlet, or other place of business therein shall be sourced to the county in which the person's established physical location, outlet, or other place of business is located. If the person has no established physical location, outlet, or other place of business in the state, then such receipts shall be sourced to the state and the taxes shall be earmarked and allocated to the state's general fund in accordance with § 67-4-724(a)(5).

(2) Notwithstanding subdivision (b)(1), receipts from sales made by television service providers shall be sourced to the county where the television service is received by the customer, regardless of whether the provider has a physical location, outlet, or other place of business in that county.

(3) Notwithstanding subdivision (b)(1), compensation of more than fifty thousand dollars (\$50,000) from contracts performed in one

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county by a person described in § 67-4-708(4)(A) shall be sourced to that county as provided in § 67-4-709(4)(A)(i) and the tax on such compensation shall be distributed to that county pursuant to § 67-4-724(a). Compensation of fifty thousand dollars (\$50,000) or less from contracts performed in one county by a person described in § 67-4-708(4)(A) shall be sourced to the county of such person's domicile or location. If such person does not have a domicile or location in the state, such compensation shall be earmarked and allocated to the state's general fund in accordance with § 67-4-724(a)(5).

(c)

(1) For purposes of levying the tax set forth in § 67-4-705, receipts from sales made by a person subject to the tax levied by § 67-4-705 shall be sourced to the incorporated municipality in which the person's established physical location, outlet, or other place of business is located and shall be subject to the tax, if any, that is levied by such incorporated municipality. Receipts from sales made by persons operating from an established physical location, outlet, or other place of business in one incorporated municipality who extend their operations outside the boundaries of the incorporated municipality that levied the tax without establishing a physical location, outlet, or other place of business outside such incorporated municipality shall be sourced to the incorporated municipality in which the person's established physical location, outlet, or other place of business is located and shall be subject to the tax, if any, that is levied by such incorporated municipality. If the person has no established physical location, outlet, or other place of

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business in the state, then such receipts shall not be subject to tax under § 67-4-705.

(2) Notwithstanding subdivision (c)(1), receipts from sales made by television service providers shall be sourced to the incorporated municipality where the television service is received by the customer, regardless of whether the provider has a physical location, outlet, or other place of business in that incorporated municipality.

(3) Notwithstanding subdivision (c)(1), compensation of more than fifty thousand dollars (\$50,000) from contracts performed in one incorporated municipality by a person described in § 67-4-708(4)(A) shall be sourced to that incorporated municipality as provided in § 67-4-709(4)(A)(i) and such compensation shall be subject to the tax, if any, that is levied by such incorporated municipality. Compensation of fifty thousand dollars (\$50,000) or less from contracts performed in one incorporated municipality by a person described in § 67-4-708(4)(A) shall be sourced to the incorporated municipality of such person's domicile or location; provided, if such person does not have a domicile or location in the state, such compensation shall not be subject to tax under § 67-4-705.

SECTION 16. Tennessee Code Annotated, Section 67-4-719, is amended by deleting the language "levied by a county" from the first sentence of the section and by substituting instead the language "levied by the state".

SECTION 17. Tennessee Code Annotated, Title 67, Chapter 4, Part 7, is amended by deleting Section 67-4-723 in its entirety and by substituting instead the following:

67-4-723.

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(a)

(1) Upon receipt of the prescribed application and payment of fifteen dollars (\$15.00), together with any other information reasonably required, it shall be the duty of the county clerk, in the case of taxpayers located within the county, and the appropriate city official, in the case of taxpayers located within the incorporated municipality, to issue a license to the taxpayer.

(2) In addition to the initial license issued under subdivision (a)(1), the issuing official shall renew the license upon notification from the department that the taxpayer has filed the return required under § 67-4-715 and remitted the amount shown to be due on the return. A receipt from the department or appropriate local official documenting payment of the tax imposed by this part shall be deemed and accepted as a temporary license until the taxpayer receives its license under this section. There shall be no fee charged for the renewal of a license issued under this subsection.

(3) No person shall conduct business in this state without first acquiring the license required by this subsection.

(4) Notwithstanding subdivisions (a)(1) and (2), any county or municipality may, but shall not be required to, enter an agreement with the commissioner pursuant to which the department will issue or renew, or both, the license required by this subsection on behalf of the county or municipality.

(b)

[(1) Notwithstanding any provision to the contrary, any incorporated municipality that imposes the tax authorized by § 67-4-

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705(a) or any county, or both, are authorized to issue a minimal activity license, upon request, to any person that is exempt from taxation and licensing pursuant to § 67-4-712(d). Such license may be issued or renewed annually upon receipt of the prescribed application and payment of fifteen dollars (\$15.00), together with any information reasonably required to document that such person is engaged in business within such county or incorporated municipality but has total sales of less than ten thousand dollars (\$10,000) per year. No county or incorporated municipality shall be required to issue minimal activity licenses under this subsection. Any county or incorporated municipality that issues minimal activity licenses pursuant to this subsection shall provide the Department, if requested, with the identity of each licensee and any other information reasonably required by the Department to verify the licensee's compliance with this part.]

OR

[(1) Notwithstanding any provision to the contrary, any incorporated municipality that imposes the tax authorized by § 67-4-705(a) and every county shall issue a minimal activity license to any person that is exempt from taxation and licensing pursuant to § 67-4-712(d). Such license shall be issued and renewed annually upon receipt of the prescribed application and payment of fifteen dollars (\$15.00), together with any information reasonably required to document that such person is engaged in business within such county or incorporated municipality but has sales of less than ten thousand dollars (\$10,000) per year within such county or

incorporated municipality. No person shall conduct business in such county or incorporated municipality without first acquiring the license required by this subsection. Every county or incorporated municipality that issues minimal activity licenses pursuant to this subsection shall provide the Department, if requested, with the identity of each licensee and any other information reasonably required by the Department to verify the licensee's compliance with this part.]

(2) For purposes of this subsection, the renewal of a minimal activity license shall correspond to the dates set forth in § 67-4-715(a) based on the applicant's dominant business activity in accordance with § 67-4-708.

(3) Notwithstanding subdivision (b)(1), any county or municipality may, but shall not be required to, enter an agreement with the commissioner pursuant to which the department will issue or renew, or both, the license required by this subsection on behalf of the county or municipality.

(c) It shall be the duty of each taxpayer that receives a license under this section to exhibit such license.

(d) Notwithstanding § 8-21-701, no additional fee shall be charged to any person for the filing of the application or issuance of the license provided for in this section.

(e) Licenses already in effect as of the effective date of this act continue to be valid until their original renewal date.

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SECTION 18. Tennessee Code Annotated, Title 67, Chapter 4, Part 7, is amended by deleting Section 67-4-724 in its entirety and by substituting instead the following:

67-4-724.

(a) The tax levied by the state under § 67-4-704, including any associated interest and penalties, shall be distributed as follows:

(1) An amount equal to seven dollars (\$7.00) per return shall be paid to the county clerk with respect to each tax return filed under § 67-4-715 by a taxpayer located within the county. Of that amount, two dollars (\$2.00) shall be earmarked for computer hardware purchases or replacement, but may be used for other usual and necessary computer-related expenses at the discretion of the county clerk. The amount shall be preserved for these purposes and shall not revert to the general fund at the end of a budget year if unexpended.

(2) After the distribution provided in subdivision (a)(1), an amount equal to five percent (5%) of the remaining proceeds of the tax shall be paid to the county clerk in the case of returns filed under § 67-4-715 by taxpayers located within the county.

(3) After the distributions provided in subdivisions (a)(1) and (2), forty-three percent (43%) of the remaining proceeds of the tax shall be earmarked and allocated specifically and exclusively to the state's general fund.

(4) After the distributions provided in subdivisions (a)(1)-(3), an administration fee of one and one hundred twenty-five thousandths percent (1.125%) of the remaining proceeds of the tax shall be allocated to the department to cover the expenses of administration and collection.

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(5) After the distributions provided in subdivisions (a)(1)-(4), the remaining proceeds of the tax collected under § 67-4-704 shall be distributed to the county in which the taxpayer has established a physical location, outlet, or other place of business from which the sales are made.

(6) Notwithstanding subdivisions (a)(1)-(5), one hundred percent (100%) of the tax, interest, and penalty collected from a taxpayer without an established physical location, outlet, or other place of business in any county shall be earmarked and allocated specifically and exclusively to the state's general fund. In addition, one hundred percent (100%) of the amount of any tax, interest, and penalty assessed by the commissioner pursuant to § 67-4-704 as a result of an audit of the taxpayer's books and records shall be earmarked and allocated specifically and exclusively to the state's general fund.

(b) The tax levied by an incorporated municipality under § 67-4-705, including any associated interest and penalties, shall be distributed as follows:

(1) An amount equal to seven dollars (\$7.00) per return shall be paid to the appropriate city official with respect to each tax return filed under § 67-4-715 by a taxpayer located within the municipality.

(2) After the distribution provided in subdivision (b)(1), an amount equal to five percent (5%) of the remaining proceeds of the tax shall be paid to the appropriate city official in the case of returns filed under § 67-4-715 by taxpayers located within the municipality.

(3) After the distributions provided in subdivisions (b)(1) and (2), forty-three percent (43%) of the remaining proceeds of the tax shall be earmarked and allocated specifically to a fund held by the state to be used for purposes of the municipality that levied the tax. The fund shall

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be preserved for these purposes and shall not revert to the general fund at the end of a budget year if unexpended.

(4) After the distributions provided in subdivisions (b)(1)-(3), an administration fee of one and one hundred twenty-five thousandths percent (1.125%) of the remaining proceeds of the tax shall be allocated to the department to cover the expenses of administration and collection.

(5) After the distributions provided in subdivisions (b)(1)-(4), the remaining proceeds of the tax collected by the commissioner under § 67-4-705 shall be distributed to the municipality that levied the tax.

(c) The fee levied by a county or incorporated municipality under § 67-4-710, including any associated interest and penalties, shall be retained by the county or incorporated municipality that levied the fee. Notwithstanding the preceding sentence, an amount equal to five percent (5%) of the proceeds of the fee shall be paid to the county clerk, in the case of fees collected under § 67-4-710 by a county, and to the appropriate city official, in the case of fees collected under § 67-4-710 by a municipality.

SECTION 19. Tennessee Code Annotated, Title 67, Chapter 4, Part 7, is amended by deleting Section 67-4-725 in its entirety.

SECTION 20. This Act shall take effect on July 1, 2013, and shall apply to tax periods that begin on or after such date, the public welfare requiring it.