



TaxNewsFlash

United States

No. 2024-155
April 26, 2024

Tennessee: Franchise tax refund agreement reached

The Tennessee House and Senate on April 25, 2024, adopted the Conference Committee Report on House Bill No. 1893 / Senate Bill No. 2103, which revises the state's franchise tax structure and, more importantly, authorizes refunds for taxpayers that paid franchise tax on the value of their real and tangible personal property owned or used in Tennessee. Read [TaxNewsFlash](#)

The governor is expected to sign the legislation.

Background

The franchise tax was imposed on the greater of apportioned net worth, or the actual value of real and tangible personal property owned or used in Tennessee. Due to pending lawsuits in Tennessee over the constitutionality of the property measure, it was recommended that the property measure be repealed, and refunds be issued to taxpayers.

Conference Committee Report

Effective for tax years ending on or after January 1, 2024, Tenn. Code Ann. section 67-4-2108, which sets forth the alternative franchise tax measure based on real and tangible personal property, is repealed. A new section of law sets forth the process for granting refunds to taxpayers that previously paid on the property measure. Specifically, the Commissioner is required to issue refunds in the amount of franchise tax actually paid minus the tax that would have otherwise been due under the net worth base. "Tax actually paid" includes any credits applied on the return, which will be reinstated but not refunded.

Franchise tax refunds will be paid for taxes reported to the Department on returns filed on or after January 1, 2021, covering tax periods that ended on or after March 31, 2020. In general, refunds will be available for a three-year period. Importantly, claims for refund under the new legislation must be filed between May 15, 2024, and November 30, 2024. Upon acceptance of a refund, taxpayers must agree to waive the right to file a lawsuit alleging that the franchise tax is unconstitutional because it fails the internal consistency test. Further, any lawsuits filed alleging that the franchise tax fails the internal consistency test must be filed on or before November 30, 2024.

Next steps

The Department of Revenue will be issuing further guidance on the procedures for filing refund claims and the timing of when refunds will be processed. Further, the conference committee report requires the Office of the Attorney General to review and approve the Department's process for reviewing refund claims before the Department will be able to review and approve such claims. Because the repeal of the alternative franchise tax measure based on real and tangible personal property was repealed retroactively to January 1, 2024, taxpayers need to take that into account when determining their estimated tax payments for 2024.

For more information, contact a KPMG State and Local Tax professional:

John Harper | jharper@kpmg.com

Taylor Sorrells | tsorrells@kpmg.com

kpmg.com/socialmedia



The information contained in TaxNewsFlash is not intended to be "written advice concerning one or more Federal tax matters" subject to the requirements of section 10.37(a)(2) of Treasury Department Circular 230, as the content of this document is issued for general informational purposes only, is intended to enhance the reader's knowledge on the matters addressed therein, and is not intended to address the circumstances of any particular individual or entity. Although we endeavor to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation.

The KPMG name and logo are trademarks used under license by the independent member firms of the KPMG global organization.

KPMG International Limited is a private English company limited by guarantee and does not provide services to clients. No member firm has any authority to obligate or bind KPMG International or any other member firm vis-à-vis third parties, nor does KPMG International have any such authority to obligate or bind any member firm.

Direct comments, including requests for subscriptions, to [Washington National Tax](https://www.washingtonnationaltax.com). For more information, contact KPMG's Federal Tax Legislative and Regulatory Services Group at +1 202.533.3712, 1801 K Street NW, Washington, DC 20006-1301.

To unsubscribe from TaxNewsFlash, reply to [Washington National Tax](https://www.washingtonnationaltax.com).

[Privacy](#) | [Legal](#)