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Sequence Number: 08-12-19
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 File Date: 8/8/19

Notice of Rulemaking Hearing

Hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, T.C.A. § 4-5-204. For questions and copies of the notice, contact the person listed below.

Agency/Board/Commission:	Comptroller of the Treasury
Division:	State Board of Equalization
Contact Person:	Betsy Knotts
Address:	425 Fifth Avenue North
Phone:	Nashville, TN 37243
Email:	Betsy.Knotts@cot.tn.gov

Any Individuals with disabilities who wish to participate in these proceedings (to review these filings) and may require aid to facilitate such participation should contact the following at least 10 days prior to the hearing:

ADA Contact:	Lela Shadrick
Address:	Comptroller of the Treasury, 425 Fifth Avenue North, Nashville, TN 37243
Phone:	615-401-7720
Email:	Lela.Shadrick@cot.tn.gov

Hearing Location(s) (for additional locations, copy and paste table)

Address 1:	House Hearing Room V		
Address 2:	425 Fifth Avenue North		
City:	Nashville		
Zip:	37243		
Hearing Date :	10/03/19		
Hearing Time:	9am-12pm	<input checked="" type="checkbox"/> CST/CDT	<input type="checkbox"/> EST/EDT

Additional Hearing Information:

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Revision Type (check all that apply):

- Amendment
- New
- Repeal

Rule(s) (ALL chapters and rules contained in filing must be listed. If needed, copy and paste additional tables to accommodate more than one chapter. Please enter only **ONE** Rule Number/Rule Title per row.)

Chapter Number	Chapter Title
0600-01	Contested Case Procedures
Rule Number	Rule Title
0600-01-.01	Definitions
0600-01-.05	Conduct of Hearings
0600-01-.10	Counterclaims

0600-01-.11	Hearings Before Administrative Judge
0600-01-.17	Fees

Chapter Number	Chapter Title
0600-05	Assessment of Commercial and Industrial Tangible Personal Property
Rule Number	Rule Title
0600-05-.04	Reporting
0600-05-.06	Standard Valuation
0600-05-.11	Reporting Schedule

Chapter Number	Chapter Title
0600-08	Property Tax Exemptions
Rule Number	Rule Title
0600-08-.02	Criteria for Exemption of Land
0600-08-.03	Criteria for Exemption of Medical Clinics

Place substance of rules and other info here. Statutory authority must be given for each rule change. For information on formatting rules go to <https://sos.tn.gov/products/division-publications/rulemaking-guidelines>.

0600-01-.01 Definitions.

Defines “change to contended value” as any party’s claim of value that is different from the county board of equalization’s value, the original assessment value in the case of a direct appeal, and the contended value represented on a party’s initial appeal to the State Board of Equalization. Defines “reasonable cause” as a legally sufficient reason, outside the party’s control and despite reasonable efforts.

Authority: T.C.A. § 67-1-305; T.C.A. § 67-5-1412

0600-01-.05 Conduct of Hearings.

Requires that County Boards of Equalization and administrative law judges sitting for the State Board of Equalization apply appraisal ratios to findings of fair market value, if applicable given the county and tax year that are the subject of the appeal.

Authority: T.C.A. § 67-1-305; T.C.A. § 67-5-1601 *et seq.*; T.C.A. § 4-3-5105

0600-01-.10 Counterclaims.

Requires any Change to Contended Value to be filed in writing (electronic mail is acceptable) at least 30 days prior to the date of the scheduled hearing. Deletes requirement that separate appeal forms be submitted for subsequent tax years added after an appeal is filed.

Authority: T.C.A. § 67-1-305

0600-01-.11 Hearings Before Administrative Judge

Requires that discovery be achieved informally if possible.

Authority: T.C.A. § 67-1-305

0600-01-.17 Fees.

Deletes section regarding fees from rule; content is now contained in T.C.A. § 67-5-1501(d).

Authority: T.C.A. § 67-1-305; T.C.A. § 67-5-1501(d)

0600-05-.04 Reporting.

Clarifies total acquisition cost taxpayer should report – if taxpayer purchased property new, taxpayer should report the cost new; if taxpayer purchased property used, taxpayer should report the cost new if that cost is known, or the actual acquisition cost in the year taxpayer acquired property if the cost new is not known.

Authority: T.C.A. § 67-1-305

0600-05-.06 Standard Valuation.

Changes reference to acquisition cost from “total acquisition cost to the taxpayer” to “total acquisition cost.”

Authority: T.C.A. § 67-1-305

0600-05-.11 Reporting Schedule.

Updates tangible personal property schedule form.

Authority: T.C.A. § 67-1-305

0600-08-.02

Removes outdated language. Consistent with statute, requires showing of active and persistent use of property which is kept and minimally improved for individual reflection. Defines parsonage to match State Board practice.

0600-08-.03

Defines primary medical care.

I certify that the information included in this filing is an accurate and complete representation of the intent and scope of rulemaking proposed by the agency.

Date: August 8, 2019

Signature: [Handwritten Signature]

Name of Officer: Elizabeth Knotts

Title of Officer: Executive Secretary, SDOE



Subscribed and sworn to before me on: 8 August 2019

Notary Public Signature: [Handwritten Signature]

My commission expires on: 31 January 2022

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Filed with the Department of State on: 8/8/19

[Handwritten Signature]

Tre Hargett
Secretary of State

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0600-01-.01 DEFINITIONS.

As used in these rules, unless the context otherwise requires:

- (1) "Administrative judge" means an individual employed or appointed under authority of Tenn. Code Ann. section 67-5-1505 or otherwise to conduct contested cases with or on behalf of the Board or Commission;
- (2) "Agent" means a person who is authorized under the provisions of Tenn. Code Ann. Section 67-5-1514 to represent taxpayers and assessors of property in a contested case before the State Board of Equalization;
- (3) "Assessing authority" means the assessor of property where the assessment at issue is of locally assessed property and the Office of State Assessed Properties of the Comptroller of the Treasury where the assessment at issue involves centrally assessed public utility property;
- (4) "Board" means the State Board of Equalization created by Tenn. Code Ann. section 4-3-5101;
- (5) "Commission" means the Assessment Appeals Commission created by the Board pursuant to Tenn. Code Ann. section 67-5-1502;
- (6) "Change to Contended Value" means any party's claim of value that is different from the county board of equalization's value, the original assessment value in the case of a direct appeal, and the contended value represented on a party's initial appeal to the State Board of Equalization.
- (7) "Contested case" is defined as in Tenn. Code Ann. section 4-5-102(3);
- (8) "County board" means a city, county or metropolitan board of equalization established under Tenn. Code Ann. section 67-1-401 et seq;
- (9) "Executive Secretary" means the Executive Secretary of the Board appointed under Tenn. Code Ann. section 4-3-5104.
- (10) "Party" means a person permitted to participate in a contested case;
- (11) "Person" means any individual, firm, company, association, corporation, or other artificial or governmental entity.
- (12) "Real estate appraiser" means a person who is subject to the State Licensing and Certified Real Estate Appraisers Law, codified at T.C.A. § 62-39-101, et seq.
- (13) "Reasonable Cause" as used in Tenn. Code Ann. section 67-5-1412 means a legally sufficient reason, outside the party's control and despite reasonable efforts.
- (14) "Valuation analysis" means an estimate of value for ad valorem tax purposes which is prepared in conjunction with a contested case before the Board, Commission, or administrative judge.

Authority: T.C.A. §§ 4-5-217, 67-1-305, 67-5-1514, and 67-5-1412. Administrative History: Original rule certified June 7, 1974. Repeal filed and effective July 1, 1984. New rule filed June 30, 2000; effective September 12, 2000. Amendments filed July 5, 2017; effective October 3, 2017.

0600-01-.05 CONDUCT OF HEARINGS.

- (1) The Board, Commission, or administrative judge shall not require an assessing authority or an agent to be compliant with the Uniform Standards of Professional Appraisal Practice ("USPAP") or the State Licensing and Certified Real Estate Appraisers Law when the assessing authority or the agent prepares a valuation analysis.
- (2) Any individual appearing as a real estate appraiser before the Board, Commission, or administrative judge shall comply with all provisions of the State Licensing and Certified Real Estate Appraisers Law. An assessing authority or an agent is not required to be a licensed real estate appraiser to testify as to valuation before the Board, Commission, or administrative judge.
- (3) The administrative judge or county board of equalization must apply the appraisal ratio appropriate to the tax year(s) in question at the hearing, if any, to any finding of fair market value or appraised value.

Authority: T.C.A. §§ 4-3-5105, 4-5-217, 67-1-305, 67-5-1514, and 67-5-1601 *et seq.* Administrative History: Original rule certified June 7, 1974. Repeal filed and effective July 1, 1984. New rule filed June 30, 2000; effective September 12, 2000. Amendments filed July 5, 2017; effective October 3, 2017.

0600-01-.10 COUNTERCLAIMS.

- (1) A Change to Contended Value in a contested case must be filed in writing with the State Board of Equalization and any other party to the proceeding no later than thirty (30) days prior to the date of the scheduled hearing. Filing by electronic mail is acceptable. This rule does not preclude any party at the hearing of the appeal from introducing relevant evidence of a higher or lower value for the property in question than that determined by the county board of equalization, or the assessor in the case of a direct appeal. Failure to file notice of Change to Contended Value as required in this section limits the relief a party may request to upholding the county board of equalization value, the original assessment value, or the contended value included on the initial appeal filing, as determined by the administrative law judge.
- (2) An original real property appeal timely filed at the Board may be amended to include an assessment year or years subsequent to the year for which the original appeal was filed, until the next reappraisal. There is a presumption of reasonable cause when an original real property appeal has not been heard by the time the appellant is due to file an appeal for any subsequent assessment year. The administrative judge, the Commission, or the Board may carry forward the original tax year adjudication of value into subsequent tax years within the same reappraisal cycle, but only if there has been no material change to the property, market conditions, or other circumstances or factors substantially impacting value.
 - (a) An original real property appeal filed late may be amended to include an assessment year or years subsequent to the year for which the appeal was filed, until the next reappraisal, if
 1. The late appeal was nonetheless eligible for a reasonable cause determination under T.C.A. § 67-5-1412; and
 2. The written order disposing of the original appeal was entered later than ten (10) days before the deadline for appealing the subsequent year assessment to the county or state boards of equalization.
 - (b) All other requests to amend shall lie within the discretion of the administrative judge.

~~(c) — The appellant permitted to amend shall file a separate appeal form for the subsequent year or years if directed by the executive secretary or administrative judge, and the appellant shall be responsible for additional hearing or processing costs related to the subsequent year assessments.~~

Authority: T.C.A. §§ 67-1-305, 67-5-1412, and 67-5-1501(d). Administrative History: Original rule certified June 7, 1974. Repeal filed and effective July 1, 1984. New rule filed June 30, 2000; effective September 12, 2000. Amendment filed May 30, 2013; effective August 28, 2013. Amendments filed February 21, 2018; effective May 22, 2018.

0600-01-.11 HEARINGS BEFORE ADMINISTRATIVE JUDGE.

- (1) In the hearing of an appeal before an administrative judge concerning the classification and/or assessment of a property, the party seeking to change the current classification and/or assessment shall have the burden of proof.
- (2) In the hearing of an appeal from an initial determination on an application for property tax exemption, the party seeking to change the initial determination shall have the burden of proof. In a show cause hearing for revocation of an exemption, the person claiming exemption shall bear the burden of showing by a preponderance of evidence why the exemption should not be revoked. Upon request of a party or order of the administrative judge, the Board designee who made the initial determination under appeal will attend the hearing. The designee may testify and, at the discretion of the administrative judge, examine witnesses or otherwise participate in the hearing. The designee may be permitted to anticipate by telephone or other electronic means when hearings are conducted at locations other than Nashville.
- (3) A record of the hearing of any appeal before an administrative judge will be made by digital recording. Any party may, at its own expense, procure a court reporter to record the oral proceedings or a written transcript of the digital recording.
- (4) ~~Any party to a contested case proceeding has the right to reasonable discovery under T.C.A. section 4-5-311. The parties shall attempt to achieve discovery informally. If such attempts fail, then the administrative judge shall direct discovery, including but not limited to discovery sought and conducted under the Tennessee Rules of Civil Procedure.~~

Authority: T.C.A. §§ 67-1-305 and 67-5-1501(d). Administrative History: Original rule certified June 7, 1974. Repeal filed and effective July 1, 1984. New rule filed June 30, 2000; effective September 12, 2000. Amendment filed February 1, 2011; to have been effective May 2, 2011. On April 29, 2011, the Government Operations Committee stayed the rule for 15 days; new effective date May 17, 2011. Amendments filed February 21, 2018; effective May 22, 2018.

~~0600-01-.17 FEES.~~

- ~~(1) — Persons initiating a contested case before the Board shall pay a fee to defray the expense of processing case documents and a fee to defray the costs of hearing, as provided in this rule. No fee shall be due from a person who qualifies as an indigent person for purposes of civil actions in the courts of Tennessee and who establishes indigence by filing a uniform affidavit in the form stated in Rule 29 of the Rules of the Supreme Court of Tennessee. No fee shall be due from an appellant who has attained the age of sixty-five (65) years at the time of filing the appeal, where the subject property of the appeal is owned by the appellant and used as the appellant's primary residence and has a value not in excess of \$150,000.~~
- ~~(2) — The initial processing fee shall be seven dollars (\$7) per parcel.~~

- ~~(3) — The fee for hearing costs shall be proportionate to the value of the property as recorded by the assessor or as determined by the Board, or in the case of exempt properties for which no assessor value has been established, the value as estimated by staff based on available information. The fee shall be thirty dollars (\$30) for property valued at less than \$100,000, forty-two dollars (\$42) for property valued from \$100,000 to less than \$250,000, sixty dollars (\$60) for property valued from \$250,000 to less than \$400,000, and one hundred twenty dollars (\$120) for property valued at \$400,000 or more. Where appeals for multiple tax years involving the same property have been consolidated for hearing, only one fee is due for the consolidated hearing.~~
- ~~(4) — The fee for processing, and one-half the fee for hearing shall be due upon the filing of the appeal, except that an attorney or registered agent for a taxpayer may file a statement agreeing to be surety for fees ultimately due, and fees due from a city, county or county assessor may be accumulated and billed or deducted periodically from funds otherwise payable by the Board to the city or county. The remaining half of hearing fees shall not be due if the initial decision and order is allowed to become final, or if the original appellant withdraws an appeal from an initial decision and order before a hearing on the appeal is heard. If an appeal from an initial decision and order is filed by a party other than the original appellant, the remaining one-half of hearing fees shall be assessable against the party appealing the initial decision and order. No proceedings shall be conducted until any fee due is remitted or agent's surety given and the appeal may be dismissed if the fees are not paid or surety given within a reasonable time. Fees must be remitted by check or money order, no cash accepted.~~
- ~~(5) — Hearing fees are refundable: a) if a matter is withdrawn or concluded by entry of an agreed order of the Board prior to a scheduled hearing; b) if the appellant obtains relief equal to half or more of the relief claimed, provided that if relief awarded equals less than half claimed, hearing fees will be one-half (1/2) of the amount paid by the appellant for hearing costs. An additional processing fee of ten dollars (\$10) per parcel shall be due for settlements.~~
- ~~(6) — Fees assessed against a county or county assessor may be deducted from funds otherwise due the county pursuant to grants administered by the Board, unless the county or county assessor elects to remit the assessed fees directly.~~
- ~~(7) — For purposes of calculating fees, a public utility property appealed to the Board as a single property pursuant to Tenn. Code Ann. § 67-5-1327, shall be considered one property or parcel of property.~~

Authority: T.C.A. §§ 67-1-305 and 67-5-1501(d). Administrative History: Original rule filed April 30, 2004; effective July 14, 2004. Amendments file February 1, 2011; to have been effective May 2, 2011. On April 29, 2011, the Government Operations Committee stayed the rule for 15 days; new effective date May 17, 2011. Amendment filed August 24, 2015; effective November 22, 2015. Amendments filed July 5, 2017; effective October 3, 2017.

0600-5-.04 REPORTING.

- (1) The tangible personal property schedule adopted in Rule 0600-05-.11 below shall be furnished annually by the assessor to every potential commercial and industrial personal property taxpayer on or before February 1. A substantially equivalent form may be used, provided that such form is approved by the Division of Property Assessments.
- (2) The taxpayer shall annually be required to complete, sign, and file the tangible personal property schedule with the assessor on or before March 1. Failure to file the schedule will subject the taxpayer to a penalty as provided by state law.
- (3) In accordance with T.C.A., Title 67, the following types of tangible personal property are not to be reported or assessed:
 - (a) Growing crops;
 - (b) The direct product of the soil in the hands of the producer or his immediate vendee;
 - (c) Finished goods in the hands of the manufacturer;
 - (d) Inventories of merchandise held for sale or exchange;
 - (e) Property in transit through the state to a final destination outside the state;
 - (f) Property imported from outside the United States, held in a foreign trade zone or subzone, and then exported to a location outside Tennessee.
- (4) The taxpayer must report the total acquisition cost new of property **for the year the property was new (typically the year made). For property purchased as used, if the cost new or year the property was new is not known and cannot reasonably be determined, the actual acquisition cost to the owner may be reported for the year acquired by that owner. For property previously reported as construction – in – process tangible personal property (CIP), the total acquisition cost of all property** must be reported as acquired in the year the property was placed in service rather than the year of purchase, if those years differ. The total acquisition cost reported should include the full invoiced cost without deduction for the value of certain inducements such as agreements and warranties when these inducements are regularly provided without additional charge.
- (5) A capitalized expenditure made with respect to property after the initial acquisition must be reported in the year the expenditure is booked as a fixed asset. The costs of the capitalized expenditure should be reported as they are shown on the taxpayer's financial accounting fixed asset records. Any expensed furniture, computer equipment, or other expensed items with a life of one year or longer should also be reported in the appropriate groups as assets. Expenses, costs or amounts paid or incurred for incidental repairs and maintenance of property should not be reported.

Authority: T.C.A. §§ 67-1-305 and 67-5-902. **Administrative History:** Original rule filed August 29, 1988; effective October 13, 1988. Amendments filed February 21, 2017; effective May 22, 2017.

0600-5-.06 STANDARD VALUATION.

- (1) In the absence of evidence to the contrary, the fair market value of commercial and industrial tangible personal property, except raw materials, supplies, and scrap property, shall be presumed

to be either the total acquisition cost to the taxpayer less straight line depreciation or the residual value, whichever is greater. The grouping of personal property and the depreciation allowed for each group shall be consistent with the schedule prescribed in Rule 0600-05-.11 below, and shall be based on a reasonable economic life for that group of items.

- (1) The fair market value of raw materials and supplies shall be presumed to be their total acquisition cost as determined by the "first-in-first-out" (FIFO) method of accounting, in the absence of evidence to the contrary.
- (2) The residual value of personal property shall be presumed to be twenty percent (20%) of total acquisition cost, in the absence of evidence to the contrary.
- (3) The scrap value of personal property shall be presumed to be two percent (2%) of total acquisition cost, in the absence of evidence to the contrary.
- (4) In making forced assessments on non-reporting accounts, the following factors shall be considered:
 - (a) previous data on file for that account;
 - (b) data from comparable accounts;
 - (c) data collected during any field visits.
- (6) Any tangible personal property which the taxpayer claims or will claim as CIP for federal income tax purposes based on the status of the property on the assessment date for property taxes may be reported by the taxpayer as CIP for property tax purposes. The value of CIP shall be presumed to be fifteen percent (15%) of all direct and indirect costs incurred and claimed by the taxpayer for federal income tax purposes as of the assessment date. The value of qualified pollution control equipment, whether or not reportable as CIP, shall be governed by *T.C.A. § 67-5-604*.

Authority: *T.C.A. §§ 4-3-5103, 67-1-305, 67-5-902 and 67-5-903. Administrative History: Original rule filed August 29, 1988; effective October 13, 1988. Amendment filed May 31, 1991; effective July 15, 1991. Amendment filed August 17, 1994; effective October 31, 1994. Amendments filed February 21, 2017; effective May 22, 2017.*

0600-05-.11 REPORTING SCHEDULE.

The following schedule or a facsimile shall be used by owners of commercial and industrial tangible personal property to report ownership of such property to the assessor pursuant to *T.C.A. § 67-5-903*. A substantially equivalent form may be used with prior approval of the director of the state Division of Property Assessments.

Authority: *T.C.A. §§ 4-3-5103, 67-1-305, 67-5-902, and 67-5-903. Administrative History: Original rule filed August 29, 1988; effective October 13, 1988. Amendment filed May 31, 1991; effective July 15, 1991. Amendment filed August 17, 1994; effective October 31, 1994. Amendments filed February 21, 2017; effective May 22, 2017.*

0600-08-.02 CRITERIA FOR EXEMPTION OF LAND.

- (1) The purpose of this rule is to establish criteria for determining eligibility of land for religious, charitable, educational or scientific exemption from property taxes.
- (2) Land must be in actual use for exempt purposes of the exempt institution before it may qualify for exemption. Land will be presumed to be in use if
 - (a) it is land underlying exempt structures or paving;
 - (b) if the total land area claimed for exemption, including that which is underlying exempt structures, is five acres or less; or
 - (c) if the land exceeds the foregoing measures but is nevertheless necessary to meet government health, planning, or other requirements for configuration or minimum area prior to granting of any variance. In the absence of locally adopted zoning standards, resort may be had to requirements imposed for similar structures in nearby communities that impose zoning requirements or to zoning requirements recommended by a model generally accepted or used in this state. For purpose of this presumption the minimum area thus determined will be multiplied by a factor of 1.5.
- (3) The presumption in this rule is rebuttable. The assessor or taxing jurisdiction may rebut the presumption by proving that vacant land otherwise within the presumption is not being used for exempt purposes or is being offered for sale as a tract separate from the remaining land in use. The applicant for exemption may rebut the presumption by proving that vacant land which would be denied exemption under the presumption, is in fact being regularly used for exempt purposes qualifying for exemption in accordance with law.
- ~~(4) This rule shall not operate to disqualify property previously approved for exemption if it has not been subjected to a nonexempt use since its approval.~~
- (4) Land held solely for future construction or other future uses does not qualify for exemption. Land that is held solely or primarily for its preservation, conservation, protection, or its scientific or ecological significance will not be eligible for exemption under T.C.A. section 67-5-212 unless and to the extent there is a clear showing of active research or other active exempt use taking place on the subject property.
- (5) Land held solely or primarily for solitary or individual reflection, prayer, or meditation will not be eligible for exemption under T.C.A. section 67-5-212 unless and to the extent there is a clear showing of active and persistent use by the organization, an organization's members, congregants, or other persons authorized to use the property.
- (6) As used in Tenn. Code Ann. 67-5-212, parsonage means a residence a religious institution owns where a full-time regular minister resides.

Authority: T.C.A. §§ 67-1-305 and 67-5-212 (b). Administrative History: Original rule filed April 30, 2004; effective July 14, 2004.

0600-08-.03 CRITERIA FOR EXEMPTION OF MEDICAL CLINICS.

- (1) As used in this rule "clinic" means a facility other than a hospital or other licensed health care facility that provides primary medical care.
- (2) As used in this rule "primary medical care" means health care services that cover a range of disease prevention and general wellness services, including diagnosis and treatment of common conditions, patient counseling, and the management of a patient's overall care.
- (3) A clinic owned by a charitable institution will be approved for exemption if it meets the following criteria:
 - (a) The clinic is located in a medically underserved area or serves a medically underserved population as designated by the U.S. Department of Health and Human Services or the State of Tennessee;
 - (b) The clinic provides services without regard to ability to pay and, if it submits claims to any third party payer, it does not decline TennCare, Medicare, or the uninsured;

- (c) The clinic either does not charge for services to any patient, or if it charges for services, charges are based on a sliding-fee scale that is based on patients' family size and income, and
- (d) No physician or other employee of the clinic is compensated in amounts in excess of what is reasonable for services performed for the clinic and comparable to other qualified and experienced providers.

Authority: T.C.A. §§ 67-1-305 67-5-212 and 67-5-212 (b). Administrative History: Original rule filed April 30, 2004; effective July 14, 2004. Amendment filed June 25, 2008; effective September 8, 2008.