

Compromise Potential Ending for Intangible Expenses

Notice #13-06

Excise Tax

June 2013

**Highlights**

- *Intangible expenses paid to an affiliate are subject to review and potential disallowance*
- *For years ending on or before June 30, 2012, you can still request a compromise*
- *For a compromise, you should contact the Department by September 30, 2013*
- *Important Notice #12-16 addresses tax periods ending on or after July 1, 2012*

PURPOSE

This notice is intended to encourage taxpayers taking intangible expense deductions in years ending on or before June 30, 2012 to request a compromise and settlement prior to September 30, 2013.

DISCUSSION

In November 2011, the Department announced that taxpayers who have had intangible expenses disallowed on their merits, or are concerned about potential disallowance on the merits, may be able to compromise and settle their liability or potential liability. Any such compromise is subject to the approval of the Tennessee Attorney General and the Comptroller of the Treasury. However, the Department is continuing to evaluate any request to compromise and settle this issue for any open tax year ending on or before June 30, 2012.

Under the terms of the compromise proposed in 2011, many taxpayers have agreed and paid, and the Department has agreed and accepted, all tax and interest due as a result of the disallowance of a specific percentage of the intangible expense deduction. The tax due has been computed by making the required intangible expense addback and then deducting the agreed percentage of the total intangible expenses.

The Department will continue to evaluate any request to compromise, on terms as outlined above, through September 30, 2013. After such date, the Department will review such deductions taken, in years ending on or before June 30, 2012, on a case-by-case basis. However, the Department will not continue to recommend compromises on the same terms if contacted by the taxpayer after September 30, 2013.

Effective for tax periods ending on or after July 1, 2012, Tenn. Code Ann. § 67-4-2006 allows specific types of intangible expenses to be deducted from the excise tax base. The statute also allows for the deduction of intangible expenses paid, accrued, or incurred in connection with a transaction with one or more affiliates, if the Commissioner of Revenue determines upon application by the taxpayer, that the intangible expense, or portion thereof, did not have as its principal purpose the avoidance of the Tennessee excise tax. For additional guidance on the allowable expenses and the application process, please refer to [Important Notice #12-16](#), [Form IE-N](#), and [Form IE-A](#).

For specific details concerning the proposed compromise and settlement, please contact the Audit Division at (615) 741-8499. To potentially be included in this compromise, taxpayers should contact the Department before September 30, 2013.

**References:**

T.C.A. § 67-4-2006
T.C.A. § 67-4-2014
T.C.A. § 67-1-102

The information provided here is current as of the date of publication but may change as a result of new statutes, regulations, or court decisions. While this notice is intended to be comprehensive, events and situations unanticipated by this notice may occur. In such cases you should contact the department or your tax professional for further guidance.