



February 15, 2021

Dear Governor Lee and Members of the 112th Tennessee General Assembly,

We ask for your support this session to eliminate entirely the professional privilege tax. Two years ago, Tennessee took a positive step forward removing this discriminatory tax on 15 professions; however, seven professions still are taxed arbitrarily. They are: Attorneys, Securities Agents, Broker-Dealers, Investment Advisers, Lobbyists, Osteopathic Physicians and Physicians. Last year, we appreciated Governor Lee budgeting for a two-year phase-out of the tax before the pandemic hit. We agreed it was prudent to put this proposal on hold, given the tremendous uncertainty. Now that revenues are again growing, we are requesting strong consideration to eradicate this inequitable tax, once and for all.

Tennessee is a very good state in which to conduct business, but we believe it's an opportune time to: 1) *send a clear, across-the-board message that it's a right and not a "privilege" to run a business in Tennessee*; 2) eliminate a double tax on professionals who already are paying licensing fees; 3) provide relief to many professionals who practice infrequently, primarily offer charity services to low-income individuals or are paying off graduate school debt; 4) end a cumbersome process to pay the tax online; 5) address the constitutionally suspect nature of this discriminatory tax; and 6) improve our business environment by reducing the indirect costs that many of our customers wind up paying.

Professional privilege tax background. Tennessee's professional "privilege" tax, used unfortunately to balance budgets "temporarily" in 1992 and again in 2002, is one of only six such taxes, along with similar taxes in Alabama, Connecticut, Delaware, Montana, and North Carolina; only Connecticut's tax (attorneys only) is higher at \$565. In 2015, Texas eliminated a similar tax on professions. Our groups support elimination because:

- According to T.C.A. § 67-4-501, "engaging in any vocation, occupation or business named in this part is declared to be a 'privilege.'" This is in direct conflict with the more recently passed Right to Earn a Living Act, which declares that "the right of individuals to pursue a chosen business or profession, free from arbitrary or excessive government interference, is a fundamental civil right." *Our groups agree that owning and operating a business should be a right in Tennessee; eliminating this language from our code would be a strong statement in support of free enterprise.*
- Tennessee has more than 100 licensed professions; seven remain singled out for this tax, which is discriminatory. These professionals must pay the tax annually even when they conduct no business.
- Attorneys: There is a misconception that professionals who pay the tax are rich and "can afford it." According to a recent Tennessee Bar Association survey (more than 3,000 respondents), 49% make less than \$80,000 and 25% offer pro bono services. For the record, 22,956 attorneys licensed to practice law in TN must pay the tax; 18,823 are TN attorneys (82% of active attorneys).
- Securities professionals: Securities agents, broker-dealers and investment advisers take great pride in helping Tennesseans save for such big life events as buying a house, having a baby, saving for college, and funding retirement. *Tennessee is the only state still taxing securities professionals*, who often earn less than many assume. In fact, 50% of Tennessee securities agents make less than \$55k a year, and 50% of financial advisers make less than \$65k. While many registered securities professionals reside out of state, it would be constitutionally unsound and fundamentally unfair to distinguish between residents

and non-residents or to target the securities industry. Continuing to tax a few or especially a single industry's professionals would harm TN's reputation as a business-friendly state and a welcoming destination for companies.

- Doctors: It's time to stop targeting physicians, as well as the other remaining professions. Consider:
 - Many Tennessee physicians maintain their state medical license after they retire from private practice or employment so they can deliver charity care; more may choose to do so if they are not subject to the annual tax.
 - A growing shortage of doctors is predicted. More physicians are needed to serve a growing, aging population, especially in primary care and in underserved rural areas.
 - The average physician carries \$200,000 in debt after graduating medical school, according to the Association of American Medical Colleges. Young physicians need relief.

What Tennessee's professionals are saying. We have engaged and/or surveyed our members about the tax over the last year. Here are some excerpts from our members:

- *"I have written on every check since it first started in the 1990s 'unfair tax.' This tax needs to go. I already pay for a license which gives me the "privilege" to practice."*
- *"Increases my costs of doing business, [and] takes away from investment in the business."*
- *"Just one more financial burden with no apparent function other than to get more money from us because they can. It's actually double taxation [since we] still have to pay business tax on top of the professional tax."*
- *"We are a very small firm. Between licenses, continuing education, society dues, peer review fees, etc. this is just another expense that puts a hardship on us."*
- *"TN [is] the most expensive [state in which] to be registered."*
- *"[We] didn't do any business in TN last year and still had to pay the tax."*
- *"Since I stopped actively practicing law in 2008, it has been a financial burden to pay out-of-pocket for my CLEs, the professional privilege tax and the BPR's annual registration. Because I choose to maintain active status (to avoid the possibility of re-taking the bar in the future) I must also pay the privilege tax as if I am a practicing attorney."*

Thank you for your support of fair taxation in Tennessee. We look forward to working with you.

Respectfully,



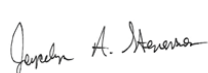
Jim Brown
NFIB TN



Justin Owen
Beacon Impact



Julie Griffin
TN Medical Assoc.



Joycelyn Stevenson
TN Bar Assoc.



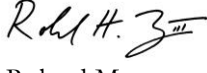
Tori Venable
AFP TN



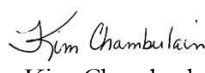
Grover Norquist
ATR



John Richardson
NAIFA TN



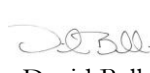
Roland Myers
TLA



Kim Chamberlain
SIFMA



Colin Barrett
TN Bankers



David Bellaire
FSI

Encl: 2016 TACIR Study: https://www.tn.gov/content/dam/tn/tacir/documents/2016_ProPrivilegeTax.pdf

Cc: David Gerregano, Commissioner of Revenue; Butch Eley, Commissioner of Finance & Administration