

**RULES
OF
TENNESSEE STATE BOARD OF EQUALIZATION**

**CHAPTER 0600-14
ASSESSMENT OF COMMERCIAL AND INDUSTRIAL LEASEHOLD INTERESTS**

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0600-14-.01 APPLICABILITY.

Unless otherwise provided herein these rules shall govern the procedure for valuation of any industrial and commercial Leasehold Interest held by a non-governmental entity in real property owned by the United States government, the State of Tennessee, any county, or any incorporated town, city or taxing district, or any agency or political subdivision thereof.

Authority: T.C.A. §§ 67-1-305, 67-5-502(d), and 67-5-605. **Administrative History:** Original rules filed April 1, 2020; effective June 30, 2020.

0600-14-.02 DEFINITIONS.

As used in these rules and in interpretation of T.C.A. § 67-5-502 and T.C.A. § 67-5-605, unless context requires otherwise:

- (1) "Taxable Interest" means an interest in real property subject to assessment and taxation.
- (2) "Leasehold Interest" means an interest in real property under the terms of a lease or agreement for a specified period of time.
- (3) "Leasehold Owner" means the owner of the current Leasehold Interest, typically the lessee.
- (4) "Real Property Interest" means an interest in real property arising from the combination of a physical relationship to the property that confers a degree of physical control over the property and the intent to exercise such control to the exclusion of others. Neither the right to use nor the right to enter and leave property is sufficient to create a Real Property Interest.
- (5) "Actual Rent" means rent or other compensation paid under a lease or similar agreement.
- (6) "Imputed Rent" means those costs paid by the lessee that are typically borne by the lessor or owner of the property, including the cost of capital improvements, real property maintenance, and the cost of insurance. The term of the lease or other agreement, including optional renewal terms, shall be used for purposes of amortizing the cost of real-property, capital, or other improvements borne by the Leasehold Owner.
- (7) "Fair Market Rent" means the fair market annual rental value for a Leasehold Interest based upon rents paid to lease comparable properties.

Authority: T.C.A. §§ 67-1-305, 67-5-502(d), and 67-5-605. **Administrative History:** Original rules filed April 1, 2020; effective June 30, 2020.

0600-14-.03 ASSESSABLE LEASEHOLD INTERESTS.

In order for a Leasehold Interest to create a Taxable Interest:

- (1) The fee interest in the real property must be exempt from property taxes;
- (2) The property must be used primarily for the private benefit of the lessee with any public purpose being only incidentally served;
- (3) The lease must convey a Real Property Interest in the subject property to the lessee;
- (4) The property must not otherwise be the subject of a lawful agreement between a lessee and a local government, or instrumentality thereof, for payments in lieu of taxes entered into or amended on or after April 30, 2019; and
- (5) The Leasehold Interest must have a taxable value.

Authority: T.C.A. §§ 67-1-305, 67-5-502(d), and 67-5-605. **Administrative History:** Original rules filed April 1, 2020; effective June 30, 2020.

0600-14-.04 VALUING COMMERCIAL AND INDUSTRIAL LEASEHOLD INTERESTS.

The value of the excess, if any, of the Fair Market Rent over the Actual Rent and Imputed Rent must first be determined. If the Fair Market Rent for a subject property is equal to or less than the combination of the Actual Rent and the Imputed Rent, then the Leasehold Interest has no taxable value. If the Fair Market Rent for a subject property exceeds the combination of the Actual Rent and the Imputed Rent, then the excess, calculated on an annual basis, is discounted over the remaining term in years, including optional renewal terms, to its present value as of the appraisal date, which represents the taxable value of the Leasehold Interest.

Authority: T.C.A. §§ 67-1-305, 67-5-502(d), and 67-5-605. **Administrative History:** Original rules filed April 1, 2020; effective June 30, 2020.