

Title 67 Taxes And Licenses
Chapter 4 Privilege and Excise Taxes
Part 20 Excise Tax Law of 1999

Tenn. Code Ann. § 67-4-2004 (2013)

LexisNexis Practice Insights

1. Implementing FIN 48: Intercompany Transactions, Economic Presence, and Affiliate Nexus
2. Despite Nonconformity with Internal Revenue Code Provisions, Tennessee's Corporate Excise Tax Begins with Federal Taxable Income
3. Combined Reporting Rules Applicable to the Tennessee Corporate Excise Tax
4. Implementing Financial Accounting Standards Board Interpretation (FIN) 48:U.S. Supreme Court Case Law Evaluating Unitary and Non-Unitary Factors
5. Implementing FIN 48: Evaluating Business and Non-Business Income Tax Positions and the Operational Connection Test
6. Understanding Mead and its Application to Business and Non-Business Income
7. Implementing Financial Accounting Standards Board Interpretation (FIN) 48: U.S. Supreme Court Case Law Evaluating Unitary and Non-Unitary Factors
8. Apportionment Rules Applicable to the Tennessee Corporate Excise Tax

67-4-2004. Parts 20 and 21 definitions.

As used in parts 20 and 21 of this chapter, unless the context otherwise requires:

(1) (A) "Affiliate" means any entity:

(i) In which the taxpayer, directly or indirectly, has more than fifty percent (50%) ownership interest;

(ii) That, directly or indirectly, has more than fifty percent (50%) ownership interest in the taxpayer; or

(iii) In which an entity described in subdivision (1)(A)(ii), directly or indirectly, has more than fifty percent (50%) ownership interest;

(B) For purposes of this subdivision (1), a noncorporate entity is more than fifty percent (50%) owned, if, upon liquidation, more than fifty percent (50%) of the assets of the noncorporate entity, directly or indirectly, accrue to the entity having the ownership

interest;

(C) For purposes of this subdivision (1), an entity described in subdivision (1)(A)(ii) can include a natural person, and for such purposes, indirect ownership by an individual includes ownership by any family member of the individual, which means, with respect to the individual:

(i) An ancestor of the individual;

(ii) The spouse or former spouse of the individual;

(iii) A lineal descendant of the individual, of the individual's spouse or former spouse, or of a parent of the individual;

(iv) The spouse or former spouse of any lineal descendant described in subdivision (1)(C)(iii); or

(v) The estate or trust of a deceased individual who, while living, was as described in any of the subdivisions (1)(C)(i)-(iv);

(2) (A) "Affiliated group" means:

(i) A taxpayer that, standing alone, is subject to the Tennessee franchise tax;

(ii) All other domestic persons in which the taxpayer, directly or indirectly, has more than fifty percent (50%) ownership interest;

(iii) All other domestic persons that, directly or indirectly, have more than fifty percent (50%) ownership interest in the taxpayer; and

(iv) All other domestic persons in which a person described in subdivision (2)(A)(iii), directly or indirectly, has more than fifty percent (50%) ownership interest, regardless of whether such persons do business in Tennessee;

(B) For purposes of this subdivision (2), a noncorporate taxable entity is more than fifty percent (50%) owned, if, upon liquidation more than fifty percent (50%) of the assets of the noncorporate taxable entity, directly or indirectly, accrue to a member or members of the affiliated group;

(3) "Average occupational wage" means the average wage for all industries as reported by the department of labor and workforce development in the most recent annual quarterly census of employment and wages super sector data for the state, aggregate of all ownerships;

(4) "Business earnings" mean earnings arising from transactions and activity in the regular course of the taxpayer's trade or business or earnings from tangible and intangible

property, if the acquisition, use, management or disposition of the property constitutes an integral part of the taxpayer's regular trade or business operations. In essence, earnings that arise from the conduct of the trade or trades or business operations of a taxpayer are "business earnings," and the taxpayer must show by clear and cogent evidence that particular earnings are classifiable as nonbusiness earnings. A taxpayer may have more than one (1) regular trade or business in determining whether income is "business earnings." This subdivision (4) expresses the legislative intent to implement and clarify the distinctions between business and nonbusiness earnings, as found in the Uniform Division of Income for Tax Purposes Act, as generally interpreted by states adopting the act;

(5) (A) "Business of a financial institution" means:

(i) The business that a regulated financial corporation may be authorized to do under state or federal law or the business that its subsidiary is authorized to do by the proper regulatory authorities;

(ii) The business that any person organized under the authority of the United States or organized under the laws of any other taxing jurisdiction or country does or has authority to do that is substantially similar to the business that a corporation may be created to do under title 45, or any business that a corporation or its subsidiary is authorized to do by title 45;

(iii) Otherwise making, acquiring, selling or servicing loans or extensions of credit, including, but not limited to, the following:

(a) Secured or unsecured consumer loans;

(b) Installment loans;

(c) Mortgages or deeds of trust or other secured loans on real or tangible personal property;

(d) Credit card loans;

(e) Secured or unsecured commercial loans of any type;

(f) Letters of credit and acceptance of drafts;

(g) The holding of participation loans in which more than one (1) lender is a creditor to a common borrower;

(h) Loans arising in factoring; and

(i) Any other transactions of a comparable economic effect;

(iv) Leasing or acting as an agent, broker or adviser in connection with leasing real

and personal property that is the economic equivalent of an extension of credit; or

(v) Operating a credit card business;

(B) Notwithstanding subdivision (5)(A), if the business of a financial institution generates less than fifty percent (50%) of a person's gross income, the person shall not be considered to be a financial institution under subdivision (17). For purposes of this subdivision (5)(B), the computation of gross income of a person does not include income from nonrecurring, extraordinary transactions;

(6) "Campus affiliate" means any person within the footprint of a project site, as determined by the commissioner of revenue, that directly or indirectly owns a material interest in a person that qualifies for, or controls, is owned or controlled by, or under common control with a person that qualifies for the credits provided in § 67-4-2109(b)(2)(B)(i) in connection with a required capital investment in excess of one billion dollars (\$1,000,000,000) and the credits provided in § 67-4-2109(m)(3). For such purpose "material interest" means the direct or indirect beneficial ownership, as defined in Rule 13d-3, 17 CFR 240.13d-3, under the Securities Exchange Act of 1934, compiled in 15 U.S.C. § 78a et seq., of voting securities or other voting interests representing at least ten percent (10%) of the outstanding voting power or equity securities or other equity interests representing at least ten percent (10%) of the outstanding equity securities, or equity interests; and "control," including "controlling", "controlled by", and "under common control with," means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of an entity, whether through the ownership of voting securities, by contract or otherwise, and shall be construed as "control" is used in the rules promulgated under the Securities Act of 1933, compiled in 15 U.S.C. § 77a et seq.;

(7) "Captive real estate investment trust" or "captive REIT" means an entity with an election in effect under § 856(c)(1) of the Internal Revenue Code, codified in 26 U.S.C. § 856(c)(1), in which any other entity or individual, directly or indirectly, has at least eighty percent (80%) ownership interest by value determined in accordance with generally accepted accounting principles and whose shares are not traded on a national stock exchange;

(8) "Captive REIT affiliated group" means a captive REIT and any entity in which the captive REIT, directly or indirectly, has more than fifty percent (50%) ownership interest; provided, however, that a "captive REIT affiliated group" does not include a group in which the captive REIT is owned, directly or indirectly, by a bank, a bank holding company, or a public REIT;

(9) "Certified green energy production facility" means:

(A) A facility certified by the department of environment and conservation as producing electricity for use and consumption off the premises using clean energy technology. For the purposes of this subdivision (9)(A), clean energy technology means technology used to generate energy from geothermal, hydrogen, solar, and wind sources;

(B) A facility certified by the department of environment and conservation as an alternative motor vehicle fueling station that utilizes natural gas in compressed or liquid form for the purpose of fueling motor vehicles and that is projected to displace more than six thousand gallons (6,000 gals.) of petroleum annually; or

(C) A facility which utilizes natural gas in a combined heat and power configuration (CHP) for production of heat and electricity for consumption onsite;

(10) "Commercial domicile" means the principal place from which the trade or business of a business entity is directed or managed;

(11) "Commissioner" means the commissioner of revenue;

(12) "Compensation" means wages, salaries, commissions and any other form of remuneration paid to employees for personal services;

(13) "Department" means the department of revenue;

(14) (A) "Doing business in Tennessee" or "doing business within this state" means any activity purposefully engaged in within Tennessee, by a person with the object of gain, benefit, or advantage, consistent with the intent of the general assembly to subject such persons to the Tennessee franchise/excise tax to the extent permitted by the United States Constitution and the Constitution of Tennessee;

(B) A financial institution shall be presumed, subject to rebuttal, to be doing business in this state, if the sum of its assets and the absolute value of its deposits attributable to sources within this state is five million dollars (\$5,000,000) or more. For purposes of this part, tangible assets shall be attributable to this state, if they are located in this state. Intangible assets shall be attributable to this state if the income earned on those assets is attributable to this state pursuant to this part. Deposits shall be attributed to this state, if they are deposits made by this state or any of its agencies, instrumentalities or subdivisions or by any resident of this state, regardless of whether the deposits are accepted or maintained at locations in this state. Additionally, a financial institution shall be deemed to be doing business in this state, if the institution:

(i) Maintains an office in this state;

(ii) Has an employee, representative or independent contractor conducting business in this state;

(iii) Regularly sells products or services of any kind or nature to customers in this state that receive the product or service in this state;

(iv) Regularly solicits business from potential customers in this state;

(v) Regularly performs services outside this state that are consumed in this state;

(vi) Regularly engages in transactions with customers in this state that involve intangible property, including loans, and result in receipts flowing to the taxpayer from within this state;

(vii) Owns or leases property located in this state; or

(viii) Regularly solicits and receives deposits from customers in this state;

(C) Notwithstanding any other law to the contrary, a financial institution is not considered to be conducting the business of a financial institution in this state, if the only activity of the financial institution in this state is the ownership of an interest in one (1) or more of the following types of property, including those activities within this state that are reasonably required to evaluate and complete the acquisition or disposition of the property, the servicing of the property or the income from it, the collection of income from the property, or the acquisition or liquidation of collateral relating to the property:

(i) An interest in a real estate mortgage investment conduit, a real estate investment trust, or a regulated investment company as those terms are defined by the Internal Revenue Code of 1986;

(ii) An interest in a loan-backed security representing ownership or participation in a pool of promissory notes or certificates of interest that provide for payments in relation to payments or reasonable projections of payments on the notes or certificates;

(iii) An interest in a loan, lease, note or other assets attributed to this state and in which the payment obligations were solicited and entered into by a person that is independent and not acting on behalf of the owner;

(iv) An interest in the right to service or collect income from a loan or other asset from which interest on the loan or other asset is attributed to this state and in which the payment obligations were solicited and entered into by a person that is independent and not acting on behalf of the owner;

(v) An interest in demand deposit clearing accounts, federal funds, certificates of deposit and other similar wholesale banking instruments issued by other financial institutions;

(vi) An interest in a security; or

(vii) An interest of a financial institution in any intangible, tangible, real or personal property acquired in satisfaction, whether in whole or in part, of any asset embodying a payment obligation that is in default, whether secured or unsecured, if the ownership of the interest would be exempt otherwise as provided in subdivisions (14)(C)(i)-(v);

(D) For the purposes of subdivisions (14)(C)(iii) and (iv), an "independent person who is not acting on behalf of the owner" means:

(i) At the time of the acquisition of the assets, the owner of the asset does not directly or indirectly own fifteen percent (15%) or more of the outstanding stock or, in the case of a partnership or limited liability company, fifteen percent (15%) or more of the capital or profits interest, of the entity from which the owner originally acquired the asset. In determining indirect ownership, an owner is deemed to own all of the stock, capital interest or profits interest owned by another person if the owner directly owns fifteen percent (15%) or more of the stock, capital interest or profits interest in that other person. Also, the owner is deemed to own all stock, capital interest and profits interest directly owned by any intermediary parties in the transaction, to the extent a fifteen percent (15%) or more chain of ownership of stock, capital interest or profits interest exists between the owner and any intermediary party;

(ii) The entity from which the owner acquired the asset regularly sells, assigns or transfers interest in such assets to three (3) or more persons during the full twelve-month period immediately preceding the month of acquisition; and

(iii) The entity from which the owner acquired the asset does not sell, assign or transfer ninety percent (90%) or more of its exempt assets to the owner during the full twelve-month period immediately preceding the month of acquisition;

(E) A person shall not be considered to be "doing business in Tennessee" or "doing business within this state" for purposes of this part or part 21 of this chapter solely because of any one (1) of the following activities:

(i) The presence of employees and/or product samples and/or other promotional materials at one (1) or more trade shows, exhibits, conventions, or similar events in this state for a total of not more than twenty (20) days per calendar year; provided, that the activities of the entity's employees while in Tennessee are limited to maintaining or facilitating the trade show or convention; the purchasing of goods on behalf of their employer; the solicitation of sales; and the gathering of samples, promotional material or other information offered at the event;

(ii) Activities by publishers of magazines and books who contract with Tennessee printers for the printing of their magazines or books, when such activities in Tennessee are limited solely to activities having to do with the printing, storage, labeling and/or delivery to the United States mail or common carrier of such magazines or books; or the maintenance of raw materials with respect to such activities; or the maintenance of employees solely in connection with the production and quality control of such printing, storage, labeling and/or delivery; provided, that the publisher and printer are not affiliated with one another. Persons are affiliated with one another, if, either directly or indirectly, one controls the other, or if the persons are directly or indirectly controlled by a common parent;

(iii) Physical presence in this state of an out-of-state person's equipment, tooling,

inventory, and employees on a temporary basis, when:

(a) The activity in which such items and employees are engaged is not the pursuit, creation or maintenance, by the out-of-state person or any person that is affiliated with it, of a market in this state;

(b) The equipment and tooling are not used, worked on or held in this state by a person that is affiliated with the out-of-state person;

(c) The out-of-state person's employees have no control over the use or work done in this state by the in-state person; and

(d) The extent and value of such items, the number of such employees, and the number of days the employees work in this state, in light of all the facts and circumstances, are qualitatively and quantitatively de minimis. Persons are affiliated with one another, if, either directly or indirectly, one controls the other, or if the persons are directly or indirectly controlled by a common parent; or

(iv) The temporary presence in this state of employees solely for the purpose of purchasing goods from vendors in this state for use in the employer's business out-of-state; provided, that the total number of days the employer has one (1) or more employees present in this state does not exceed thirty (30) per calendar year; and provided, further, that the employer does not furnish, directly or indirectly, any office in this state for their use;

(15) "Domestic person" means any person with more than twenty percent (20%) of the average of its property, payroll and receipts factors, as each factor is calculated for a separate entity under § 67-4-2111, in the United States;

(16) "Final return status" means the status of any person or taxpayer that has commenced the process of effecting a surrender of charter, withdrawal of qualification to do business in this state, merger, consolidation, liquidation, complete sale, transfer or distribution of assets, conversion, dissolution, or any similar event that results in, or is intended to result in, the taxpayer ceasing to exist, or no longer being subject to the tax imposed by this part, or no longer having any substantial remaining business or financial activity;

(17) "Financial institution" means a holding company, any regulated financial corporation, a subsidiary of a holding company or a regulated financial corporation, an investment entity that is indirectly more than fifty percent (50%) owned by a holding company or a regulated financial corporation, or any other person that is carrying on the business of a financial institution. However, "financial institution" does not include insurance companies subject to tax under §§ 56-4-201 -- 56-4-208, 56-4-209 [repealed], 56-4-210 -- 56-4-214;

(18) "Financial institution affiliated group" means any affiliated group in which more than fifty percent (50%) of the group's aggregate gross income, excluding dividends and receipts

resulting from transactions between members, is derived from conducting the business of a financial institution as defined in subdivision (5)(A). For purposes of this subdivision (18), the computation of gross income of a member does not include income from nonrecurring, extraordinary transactions;

(19) "General partnership" means a partnership in which all partners, as defined by state law, are fully liable for the debts of, or the claims against, the partnership. For purposes of this subdivision (19), partners may be "fully liable" even though one (1) or more persons or individuals dealing with the partnership have by contract agreed to limit their claims against one (1) or more partners or against the partnership as a whole;

(20) "Gross receipts," "total gross receipts," "receipts," and "total receipts" mean, within the context of the statute in which used, all receipts from whatever sources derived before any deductions, but not including actual sales returns and allowances;

(21) "Holding company" means any corporation defined as a "bank holding company" under 12 U.S.C. § 1841(a) of the Bank Holding Company Act of 1956, compiled in 12 U.S.C. § 1841 et seq., or any corporation defined as a "savings and loan holding company," "multiple savings and loan holding company," or "diversified savings and loan holding company," under 12 U.S.C. § 1467a(a)(1);

(22) "Hospital" has the definition provided at § 68-11-201; provided, that, as used in this part, a "hospital" must be licensed as a hospital by the board of licensing health care facilities pursuant to title 68, chapter 11, part 2; and provided, further, that "hospital" does not include a nursing home, ambulatory surgical treatment center or other health care facility enumerated and defined in title 68, chapter 11, unless operated as a part of and in connection with a "hospital";

(23) "Hospital company" means a corporation or other entity subject to the taxes imposed under this part and part 21 of this chapter and that qualified before January 1, 1999, with the department as a hospital company as defined under prior law;

(24) (A) "Intangible expense" means an expense related to, or in connection with, the acquisition, use, maintenance, management, ownership, sale, exchange, license, or any other disposition of intangible property, to the extent such amounts are allowed or allowable as deductions or costs in determining federal taxable income on a separate entity basis.

(B) "Intangible expense" also means interest expenses directly or indirectly allowed as deductions or costs in determining federal taxable income on a separate entity basis to the extent such interest expenses are directly or indirectly for, related to, or in connection with the direct or indirect acquisition, use, maintenance, management, ownership, sale, exchange, license, or any other disposition of intangible property;

(25) "Intangible income" means income related to, or in connection with, the acquisition, use, maintenance or management, ownership, sale, exchange, license, or any other disposition of intangible property, to the extent such amounts are included or includable in

determining federal taxable income;

(26) "Intangible property" means patents, patent applications, trade names, trademarks, service marks, franchise rights, copyrights, licenses, research, formulas, designs, patterns, processes, formats, and similar types of intangible assets;

(27) "Integrated customer" means a customer located within the footprint of a project site, as determined by the commissioner of economic and community development and the commissioner of revenue, that purchases materials from a manufacturer that is qualified for the credits provided in § 67-4-2109(b)(2)(B)(i) in connection with a required capital investment in excess of one billion dollars (\$1,000,000,000) and the credits provided in § 67-4-2109(m)(3). The materials must be an integral part of the customer's manufacturing process and the customer must be approved for this designation by the commissioner of economic and community development and the commissioner of revenue;

(28) "Integrated supplier" means a supplier located within the footprint of a project site, as determined by the commissioner of economic and community development and the commissioner of revenue, that provides, from a facility located in the footprint of the project site, goods or services, or both, on the project site primarily for a manufacturer that is qualified for the credits provided in § 67-4-2109(b)(2)(B)(i) in connection with a required capital investment in excess of one billion dollars (\$1,000,000,000);

(29) "Internal Revenue Code" means title 26 of the United States Code as effective during the year in which net earnings are determined under this part;

(30) "Investment entity" means any person that receives more than fifty percent (50%) of its gross income from investment securities and from the business of a financial institution;

(31) "Investment securities" means, for purposes of this section, any note, United States treasury securities, obligations of United States government agencies and corporations, obligations of state and political subdivisions, corporate debt securities, participations in securities backed by mortgages held by the United States or state government agencies, loan-backed securities, bonds, debentures, evidence of indebtedness, and other similar debt investments;

(32) "Key tenant" means any tenant, located within a qualified medical trade center, that leases and occupies a significant portion of the facility and is determined, in the sole discretion of the commissioner of economic and community development and the commissioner of revenue, to be essential to the initial establishment and viability of the trade center;

(33) "Nonbusiness earnings" means all earnings other than business earnings;

(34) "Not-for-profit" means any person described in § 401, § 408, § 408A, § 409, § 501, § 526, § 527, § 528, § 529 or § 530 of the Internal Revenue Code, codified in 26 U.S.C. §

401, § 408, § 408A, § 409, § 501, § 526, § 527, § 528, § 529 or § 530;

(35) "Obligated member" means a member or partner of an obligated member entity that is fully liable for the debts, obligations and liabilities of the entity, as provided in § 67-4-2008(b)-(d), and that has filed appropriate documentation to that effect with the secretary of state;

(36) "Obligated member entity" means a limited liability company, limited partnership or limited liability partnership, all of whose members or partners are fully liable for the debts, obligations and liabilities of the entity, as provided in § 67-4-2008(b)-(d), and that have filed appropriate documentation to that effect with the secretary of state;

(37) "Pass-through entity" means an S corporation, an entity treated as a partnership for federal income tax purposes, an entity treated as a trust for federal income tax purposes or a business entity that has a single owner and that is disregarded as an entity separate from its owner for federal income tax purposes, but not for purposes of this part and part 21 of this chapter;

(38) "Person" or "taxpayer" means every corporation, subchapter S corporation, limited liability company, professional limited liability company, registered limited liability partnership, professional registered limited liability partnership, limited partnership, cooperative, joint-stock association, business trust, regulated investment company, REIT, state-chartered or national bank, or state-chartered or federally chartered savings and loan association;

(39) "Publicly traded real estate investment trust" or "public REIT" means an entity that has an election in effect under § 856(c)(1) of the Internal Revenue Code that files with the securities and exchange commission and whose shares are traded on a securities exchange that is either registered as a national securities exchange with the securities and exchange commission under § 6 of the Securities Exchange Act of 1934, codified in 15 U.S.C. § 78f, or is a national securities exchange of a foreign country and regulated in a substantially similar manner by a foreign financial regulatory authority;

(40) "Qualified commercial financing entity" means a person that qualified for the credit in § 67-6-224 that primarily finances wholesale and retail transactions related to the purchase or lease of industrial equipment, machinery, vehicles, or goods manufactured by its affiliates and is certified for that designation by the commissioner of revenue and the commissioner of economic and community development. Notwithstanding § 47-14-103, a qualified commercial financing entity shall be allowed to charge a rate of interest not to exceed twenty-four percent (24%) per annum;

(41) "Qualified medical trade center" means any facility, located in a county with a metropolitan form of government, that is substantially composed of permanent and temporary show rooms for medical product suppliers as well as educational space and conference facilities for medical trade shows; provided, that such facility is constructed, expanded, or remodeled through an investment of more than two hundred fifty million

dollars (\$250,000,000) and contains more than one million square feet (1,000,000 sq. ft.) of space upon completion;

(42) "Qualified medical trade center relocation expenses" means those expenses that both the commissioner of revenue and the commissioner of economic and community development determine, in their sole discretion, are necessary to the creation of a permanent show room within a qualified medical trade center in conjunction with the initial establishment of such facility;

(43) "Qualified new or expanded warehouse or distribution facility" means a new or expanded facility for the storage or distribution of finished tangible personal property; provided, that the facility also meets all the qualifications necessary to allow the taxpayer to make purchases of material handling and racking systems exempt from sales and use tax under the definition of "industrial machinery" in § 67-6-102;

(44) "Real estate investment trust (REIT)" means an entity that has an election in effect under § 856(c)(1) of the Internal Revenue Code;

(45) "Regulated financial corporation" means an institution, the deposits, shares, or accounts of which are insured under the Federal Deposit Insurance Act, compiled in 12 U.S.C. § 1811 et seq., or any institution that is a member of a federal home loan bank, any other bank or thrift institution incorporated or organized under the laws of any taxing jurisdiction, or any foreign country that is engaged in the business of receiving deposits, any corporation organized under 12 U.S.C. §§ 611-631, Edge Act corporations, and any agency of a foreign depository as defined in 12 U.S.C. § 3101;

(46) "Sales" means all gross receipts of the taxpayer not allocated under this part;

(47) "Securities" means United States treasury securities, obligations of United States government agencies and corporations, obligations of state and political subdivisions, corporate stock and other securities, participations in securities backed by mortgages held by the United States or state government agencies, loan-backed securities and similar investments;

(48) "State" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States and any foreign country or political subdivision thereof;

(49) "Taxing jurisdiction" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico or a territory or possession of the United States;

(50) "Tennessee historic property preservation or rehabilitation entity" means an entity that satisfies all of the following requirements:

(A) The Tennessee historic property preservation or rehabilitation entity must be a corporation or limited liability company organized under the laws of Tennessee, that is

directly or indirectly controlled by a not-for-profit entity, as defined in this part. Such not-for-profit entity must directly or indirectly hold not less than fifty-one percent (51%) of the Tennessee historic property preservation or rehabilitation entity's ownership interest and voting control;

(B) The Tennessee historic property preservation or rehabilitation entity must be organized for the purpose of preserving or rehabilitating an historic property listed on the National Register of Historic Places;

(C) The not-for-profit entity must receive approval of its historic certification application--Part 3 by the United States department of the interior national park service; and

(D) The historic property must be used in the performance of the exempt activity or function of the controlling not-for-profit entity; and

(51) "Unitary business" or "unitary group" means business activities or operations of financial institutions that are of mutual benefit, dependent upon, or contributory to one another, individually or as a group, in transacting the business of a financial institution. "Unitary business" may be applied within a single legal entity or between multiple entities. "Unitary business" or "unitary group" includes those entities that are engaged in a unitary business transacted wholly in, or in and out of the state of Tennessee, even if some of the entities would not be subject to tax in this state, if considered apart from their unitary group.

HISTORY: Acts 1999, ch. 406, § 3; 2000, ch. 982, §§ 1-7, 45; 2003, ch. 355, §§ 37, 39-41; 2003, ch. 418, §§ 10, 12-14; 2004, ch. 924, § 1; 2004, ch. 932, § 1; 2005, ch. 499, §§ 2, 29, 75, 86; 2006, ch. 1019, §§ 6, 11, 30, 31; 2007, ch. 602, § 7; 2008, ch. 1106, §§ 35, 45; 2009, ch. 530, §§ 26, 34, 105; 2010, ch. 1134, §§ 5, 6, 20, 24, 38; 2012, ch. 842, § 1; 2013, ch. 321, § 1; 2013, ch. 423, § 5.