

Tennessee Department of Revenue Keeps Secrets from Citizens and Policymakers

The Tennessee Department of Revenue has ignored repeated requests for information about a corporate tax loophole that benefits large multi-state businesses. In 2004 the General Assembly passed a law that requires companies that deduct payments for the use of intangible assets to report those deductions on their excise (business income) tax returns. Intangible assets are trademarks, logos and other intellectual property.

Multi-state companies avoid Tennessee taxes by assigning ownership of intangible assets to their own subsidiaries in tax haven states like Delaware or Nevada, making sham payments of royalties to the subsidiary and deducting those payments as expenses on their Tennessee income tax. The subsidiary then passes that payment through to the parent company as pure profit.

The law was passed so that policymakers would have solid information on which to base a decision of whether to close the loophole. The Department of Revenue has been collecting information on the use of this loophole, but has never submitted a report to policymakers or the public.

“In this time of enormous shortfalls in state revenue, shortfalls that are predicted to grow more severe in the future, I cannot imagine why the Department of Revenue would show no interest whatsoever in accessing this potential source of tax revenue,” said John G. Stewart, Board Chair of Tennesseans for Fair Taxation.

The attached letter from TFT to Commissioner Farr details TFT’s and policymakers’ attempts to obtain such a report. Today Bill Howell submitted an official open records request for the Department of Revenue to prepare a detailed report on the intangible assets tax shelter. The department will have seven days to respond. There is no conceivable justification for the department to continue to withhold this information.

“Knowledge is power,” says Bill Howell. “Commissioner Farr is hoarding his power by keeping policymakers and the public in the dark. Why is he protecting tax shelters for big out-of-state companies when he should be encouraging homegrown Tennessee businesses by leveling the playing field?”