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Chapter XI - Taxation

Dear Reader:

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We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with county government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other CTAS website material.

Sincerely,

The University of Tennessee
County Technical Assistance Service
226 Anne Dallas Dudley Boulevard, Suite 400
Nashville, Tennessee 37219
615.532.3555 phone
615.532.3699 fax
www.ctas.tennessee.edu

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Chapter XI - Taxation

Assessor of Property

Additional Duties

Private Acts of 1961 Chapter 292

SECTION 1. That it shall be the duty of the Tax Assessor of McMinn County to be present in person, or to have a deputy present, at his office in the Courthouse during office hours. It shall be the further duty of the Tax Assessor to stamp or cause to be stamped all deeds presented at his office, with a stamp showing that he has copied the names of the vendor and vendee in said deed of conveyance for the purpose of making proper corrections on his roll of assessments. It shall be the duty of the Tax Assessor to correct his tax rolls in all such cases so that the tax rolls of McMinn County will be kept up to date and will show the correct owners of real estate to the end that property may be assessed in the name of the true owners thereof.

SECTION 2. That the County Register of the County of McMinn, State of Tennessee, shall not record any deed conveying real estate in said County unless same bears the stamp of the Tax Assessor of said County, certifying that said Tax Assessor has copied the names of the vendor and vendee in said deed of conveyance for the purpose of making proper corrections on his roll of assessments.

SECTION 3. That the provisions of this Act shall have no effect unless the same shall be approved by a two-thirds vote of the County Council of McMinn County and its approval or nonapproval shall be proclaimed by the presiding officer of said body having jurisdiction to approve or the reverse, and the same shall be certified by him to the Secretary of State.

SECTION 4. That this Act shall take effect from and after its passage, the public welfare requiring it.

Passed: March 13, 1961.

Hazardous Waste Facilities Privilege Tax

Private Acts of 1991 Chapter 131

SECTION 1. The county legislative body of McMinn County, by resolution, may levy a tax on the privilege of operating a commercial hazardous waste transfer or commercial hazardous waste storage facility at a rate not to exceed ten cents (\$.10) per gallon of liquid or five dollars (\$5.00) per cubic yard of solid matter received by any such facility. The tax shall be levied for the use and benefit of the county and allocated to the general fund, and all revenues collected from the tax except deductions for administration and collection provided for herein, shall be allocated for any or all of the following purposes: fire protection, civil defense, ambulance, rescue, emergency pollution control, or other emergency services. The tax rate authorized by this act shall be applied to all liquid and solid matter transferred through or stored at a commercial hazardous waste transfer or storage facility regardless of whether or not the matter is hazardous. A facility shall be deemed a hazardous waste transfer or storage facility if a primary purpose of the facility is the processing, transfer, or storage of hazardous substances as defined in Tennessee Code Annotated, Section 68-27-102, of which more than twenty-five percent (25%) is annually generated off-site. The tax authorized by this act shall be in addition to any other taxes or fees that may be applicable.

SECTION 2. Every commercial hazardous waste transfer or storage facility operator receiving hazardous substances or related matter at such a facility shall become liable for the tax authorized by this act at the time any waste matter is received for processing, transfer, or storage.

SECTION 3. The administration and collection of the tax authorized by this act shall be by the county clerk. The county clerk may promulgate all rules and regulations necessary and reasonable for the administration of the provisions of this part, subject to the approval of the county legislative body. The county clerk shall have the same powers in administering and enforcing the collection of any tax levied pursuant to this act as the county clerk has under the general law with respect to collecting other privilege taxes imposed by the general law.

SECTION 4. For the purpose of ascertaining the amount of tax payable, it shall be the duty of all operators of hazardous waste transfer or storage facilities in the county to transmit to the county clerk on

or before the fifteenth (15th) day of the month next succeeding the month in which the tax accrues (operator becomes liable) a return upon the forms provided by the county clerk. The return shall show the month or period covered, the total volume of liquid and the total volume of solid matter upon which the tax rate will apply, the amount of the tax due and such other information as the county may require. The return shall be accompanied by a remittance covering the amount of tax due as computed by the taxpayer.

SECTION 5. The tax levied pursuant to this act shall become delinquent on the sixteenth (16th) day of the month next succeeding the month in which the tax accrues. When any operator shall fail to make any return and pay the full amount of the tax due on or before such date, the operator shall be subject to the penalties provided in Tennessee Code Annotated, Section 67-1- 804, and interest as allowed by general law for delinquent state taxes. All such penalties and interest shall be payable to and collectible by the county clerk from the operator in the same manner as if they were a part of the tax imposed.

SECTION 6. (a) All revenues collected from a tax levied pursuant to this act, and all of the penalties and interest collected, shall be remitted by the county clerk monthly, as soon as practical following the end of each month, to the county trustee, less a commission of five percent (5%) of this amount (as authorized by Tennessee Code Annotated, Section 8-21-701(55)), which shall be retained by the county clerk as a fee of this office.

(b) Any adjustment of taxes, penalties, or interest that is necessary to correct any error in collection or disbursement may be made at a subsequent collection or disbursement.

SECTION 7. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 8. This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the county legislative body of McMinn County. Its approval or nonapproval shall be proclaimed by the presiding officer of the county legislative body of McMinn County and certified by the presiding officer of the county legislative body to the Secretary of State.

SECTION 9. For the purpose of approving or rejecting the provisions of this act, it shall be effective upon becoming a law, the public welfare requiring it. For all other purposes, it shall become effective upon being approved as provided in Section 8.

Passed: May 30, 1991.

Hotel/Motel Tax

Private Acts of 1989 Chapter 5

SECTION 1. As used in this act unless the context otherwise requires:

- (1) "Person" means any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, receiver, trustee, business trust, syndicate, or any other group or combination acting as a unit.
- (2) "Hotel" means any structure or space, or any portion thereof which is occupied or intended or designed for occupancy by transients for dwelling, lodging or sleeping purposes, and includes any hotel, inn, tourist camp, tourist court, tourist cabin, motel or any place in which rooms, lodgings or accommodations are furnished to transients for a consideration.
- (3) "Occupancy" means the use or possession, or the right to the use or possession, of any room, lodgings or accommodations in any hotel.
- (4) "Transient" means any person who exercises occupancy or is entitled to occupancy for any rooms, lodgings or accommodations in a hotel for a period of less than thirty (30) continuous days.
- (5) "Consideration" means the consideration charged, whether or not received, for the occupancy in a hotel valued in money whether to be received in money, goods, labor or otherwise, including all receipts, cash, credits, property and services of any kind or nature without any deduction therefrom whatsoever. Nothing in this definition shall be construed to imply that consideration is charged when the space provided to the person is complimentary from the operator and no consideration is charged to or received from any person.
- (6) "County" means McMinn County, Tennessee.
- (7) "Operator" means the person operating the hotel whether as owner, lessee or otherwise,

including any governmental entity operating a hotel, whether as owner or otherwise.

(8) "Clerk" means the County Clerk of McMinn County, Tennessee, or such other officer as may be charged by resolution of the County Legislative Body with collection of the tax.

(9) Words importing the masculine gender include the feminine and neuter, except when the contrary intention is manifest.

SECTION 2. The Legislative Body of McMinn County is authorized to levy a privilege tax upon the privilege of occupancy in any hotel of each transient in the amount of five percent (5%) of the consideration charged by the operator. Such tax is a privilege tax upon the transient occupying such room and is to be collected as provided in this act.

SECTION 3. One third (1/3) of the proceeds received by the county from the tax shall be designated and used for tourist development and the remaining two thirds (2/3) shall be designated and used for the economic development of McMinn County. Such tax proceeds shall be used as additional funding for tourism development and economic development and shall not be used to reduce funding sources already provided for these purposes.

SECTION 4. Such tax shall be added by each and every operator to each invoice prepared by the operator for the occupancy of his hotel, such invoice to be given directly or transmitted to the transient and such tax shall be collected by such operator from the transient and remitted to McMinn County.

When a person has maintained occupancy for thirty (30) continuous days, that person shall receive from the operator a refund or credit for the tax previously collected from or charged to him, and the operator shall receive credit for the amount of such tax if previously paid or reported to the county.

SECTION 5. (a) The tax levied shall be remitted by all operators who lease, rent or charge for any rooms or spaces in hotels within the county to the Clerk, such tax to be remitted to such officer not later than the twentieth day of each month for the preceding month. The operator is hereby required to collect the tax from the transient at the time of the presentation of the invoice for such occupancy as may be the custom of the operator, and if credit is granted by the operator to the transient, then the obligation to the county entitled to such tax shall be that of the operator.

(b) For the purpose of compensating the operator in accounting for remitting the tax levied by this act the operator shall be allowed two percent (2%) of the amount of the tax due and accounted for and remitted to the Clerk in the form of a deduction in submitting his report and paying the amount due by such operator, provided the amount due was not delinquent at the time of payment.

SECTION 6. The Clerk shall be responsible for the collection of such tax and shall place the proceeds of such tax in accounts for the purposes stated herein. A monthly tax return shall be filed under oath with the Clerk by the operator with such number of copies thereof as the Clerk may reasonably require for the collection of such tax. The report of the operator shall include such facts and information as may be deemed reasonable for the verification of the tax due. The form of such report shall be developed by the Clerk and approved by the County Legislative Body prior to use. The Clerk shall audit each operator in the county at least once a year and shall report on the audits made on a quarterly basis to the County Legislative Body. The County Legislative Body is hereby authorized to adopt resolutions to provide reasonable rules and regulations for the implementation of the provisions of this act, including the form for such reports.

SECTION 7. No operator of a hotel shall advertise or state in any manner, whether directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the operator or that it will not be added to the rent, or that if added, any part will be refunded.

SECTION 8. Taxes collected by an operator which are not remitted to the clerk on or before the due dates are delinquent. An operator shall be liable for interest on such delinquent taxes from the due date at the rate of twelve percent (12%) per annum, and shall be liable for an additional penalty of one percent (1%) for each month or fraction thereof such taxes are delinquent. Such interest and penalty shall become a part of the tax herein required to be remitted. Each occurrence of willful refusal of an operator to collect or remit the tax or willful refusal of a transient to pay the tax imposed is hereby declared to be unlawful and shall be punishable by a civil penalty not in excess of fifty dollars (\$50.00).

SECTION 9. It shall be the duty of every operator liable for the collection and payment to the county of any tax imposed by this act to keep and preserve for a period of three (3) years all records as may be necessary to determine the amount of such tax as he may have been liable for the collection of and payment to the county, which records the clerk shall have the right to inspect at all reasonable times.

SECTION 10. The Clerk in administering and enforcing the provisions of this act shall have as additional powers, those powers and duties with respect to collecting taxes as provided in Title 67 of Tennessee Code Annotated or otherwise provided by law for the County Clerks. For his services in administering and

enforcing the provisions of this act, the Clerk shall be entitled to retain as a commission five percent (5%) of the taxes collected.

Upon any claim of illegal assessment and collection, the taxpayer shall have the remedies provided in Title 67 of Tennessee Code Annotated, it being the intent of this act that the provisions of law which apply to the recovery of state taxes illegally assessed and collected shall also apply to the tax levied under the authority of this act. The provisions of Tennessee Code Annotated, Section 67-1-707, shall be applicable to adjustments and refunds of such tax.

With respect to the adjustment and settlement with taxpayers, all errors of county taxes collected by the Clerk under authority of this act shall be refunded by the Clerk.

SECTION 11. The proceeds of the tax authorized by this act shall be allocated to and placed in the general fund of McMinn County to be used for the purpose stated in Section 3 of this act.

SECTION 12. The tax levied pursuant to the provisions of this act shall only apply in accordance with the provisions of Tennessee Code Annotated, Section 67-4-1425.

SECTION 13. If any provisions of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 14. This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the County Legislative Body of McMinn County. Its approval or nonapproval shall be proclaimed by the presiding officer of the County Legislative Body and shall be certified by the presiding officer of the County Legislative Body to the Secretary of State.

SECTION 15. For the purpose of approving or rejecting the provisions of this act, it shall be effective upon becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect upon being approved as provided in Section 14.

Passed: February 22, 1989.

Law Library Litigation Tax

Private Acts of 1971 Chapter 150

SECTION 1. There shall be created a Committee to be known as the McMinn County Law Library Committee. The Committee shall be composed of the Circuit Court Clerk, the Clerk and Master, the County Manager, the County Attorney, two (2) members as elected by the McMinn County Bar Association, and one (1) member as appointed by the Chairman of the McMinn County Council. The Chairman of the Committee shall be elected annually by the Committee. The Circuit Court Clerk, the Clerk and Master, the County Manager, the County Attorney shall serve during their tenure of office or until a successor is elected or appointed and those members elected by the McMinn County Bar Association and the member appointed by the McMinn County Council shall serve for a period of two (2) years. In the event of a vacancy on the Committee such vacancy shall be filled for the balance of the term by the body making the original appointment. The Committee shall serve without compensation during the members tenure of office.

SECTION 2. The purpose of said Committee shall be to establish, acquire, maintain, and operate a County Law Library in McMinn County. The Committee shall have the full power and authority to acquire by purchase, gift, rent, lease, loan, or otherwise, law books, codes, treatises or other works of law, government, medicine, literature, or otherwise that they deem necessary or beneficial to the courts, state, county and municipal officials, members of the Bar, and the public, for research or use in preparation for trial or decisions of any matters that come or may come before the courts of the county or state, for the use of said public officials or the public, on questions of law or government, also to acquire in like manner furniture, fixtures, bookcases, supplies and all things necessary to establish, maintain, and operate said County Law Library, together with the right to employ and discharge librarians, clerks and other assistants, to fix salaries of said employees, and within their discretion to make all reasonable rules governing the use of said Law Library. The county shall at the earliest opportunity furnish quarters for said Law Library in the courthouse without cost to said Committee and all books, furniture and other equipment so purchased or acquired shall become the property of the said county.

SECTION 3. For the purpose of financing said Law Library, there shall be taxed as cost on each civil, criminal, quasi-civil, quasi-criminal, or any other action at law or suit in equity of any nature, hereinafter filed in, arising in, or brought by appeal, certiorari or otherwise to the circuit, criminal or chancery court and to any domestic relation suit brought in the court of general sessions of said county, the sum of one

dollar twenty-five cents (\$1.25), and on each case of any nature hereinafter arising in the courts of general sessions, domestic relations excepted, or other inferior courts of said county except municipal and juvenile courts, there shall be taxed the sum of twenty-five cents (\$00.25). The costs taxed in pursuance of this section shall be designated McMinn County Law Library Tax and shall be collected by the clerks of such courts, excepting those costs paid by the county of the state of Tennessee upon the return of nulla bonas which are hereby expressly exempt for the purpose of this act, and after payment of State Litigation Tax accrued thereon the amount necessary for the payment of said McMinn County Law Library Tax shall be next applied thereto, before applying any of the amount collected as costs to any other fund or item of costs. On or before the last day of each month, the clerks of the respective courts shall pay the County Trustee, as provided by law, all amounts collected as McMinn County Law Library Tax in the preceding calendar month. The sums paid to the County Trustee shall be designated McMinn County Law Library Fund and used only for the purposes set out in this act. On approval of a majority of said Committee, the County Director of Finance and the County Manager shall draw warrants on the County Trustee for expenditures of the Committee, indicating on such warrant the fund against which they shall be drawn, and the County Trustee is hereby authorized and directed upon all warrants signed by said County Director of Finance and County Manager, to make payment out of said fund upon the warrants so issued and presented in compliance with the provisions of this act. In all cases said Committee is limited to the expenditures of anticipated revenues for the fiscal year.

SECTION 4. The Committee shall have the power and authority to make charges for the use, damage or destruction of books or other property and that any income from said charges shall be paid by the Committee into the office of the County Trustee in a like manner and at all times as monies collected hereunder shall be paid by the clerks of the various courts to said County Trustee.

SECTION 5. The Committee shall keep written minutes of their meetings, at which meetings a majority of all members of said Committee then serving shall constitute a quorum for the transaction of business, and said Committee shall keep a record of monies received and disbursed, purchases, losses or destruction of books or other property, and a property inventory, with reasonable accuracy. That an annual report of all of the above shall be made to the McMinn County Council of said county at its April Session each year.

SECTION 6. All laws, or parts of law in conflict with the provisions of this Act are repealed.

SECTION 7. This Act shall have no effect unless the same shall have been approved by two-thirds (2/3) vote of the McMinn County Council within six months from and after its approval by the Chief Executive of this state. Its approval or non-approval shall be proclaimed by the presiding officer of the McMinn County Council and shall be certified by him to the Secretary of State.

SECTION 8. For the purpose of approving or rejecting the provisions of this Act, as provided in Section 7, it shall be effective on becoming a law, the public welfare requiring it. For all other purposes, it shall become effective upon being approved as provided in Section 7.

Passed: May 12, 1971.

Taxation - Historical Notes

Assessor of Property

The following acts were superseded, repealed or failed to win local ratification, but they are listed here as a reference to laws which once affected the McMinn County Assessor.

1. Private Acts of 1911, Chapter 458, set the maximum compensation of the McMinn County Tax Assessor at \$1,000 per annum. This was amended by Private Acts of 1923, Chapter 193, to raise the salary to \$2,000. Private Acts of 1929, Chapter 329, increased the salary to \$3,000, and Private Acts of 1947, Chapter 623, increased the salary to \$3,600.
2. Private Acts of 1933, Chapter 251, raised the salary of the McMinn County Assessor to \$2,400 annually.
3. Private Acts of 1953, Chapter 69, provided that the Assessor should be paid \$5,000 per annum in equal monthly installments. Private Acts of 1963, Chapter 171, amended the original act to raise that salary to \$7,500, beginning September, 1964.

Taxation

The following is a listing of acts pertaining to taxation in McMinn County which are no longer effective. Also referenced below are acts which repeal prior law without providing new substantive provisions.

1. Acts of 1907, Chapter 121, authorized McMinn County to levy an additional tax of not more than \$.50 per \$100 assessed valuation for the purpose of improving the county roads.
2. Private Acts of 1911, Chapter 82, also authorized an additional tax levy of \$.50 for road purposes.

The constitutionality of this act was upheld in Southern Railway v. Rowland, 152 Tenn. 243, 276 SW 638 (1925).

3. Private Acts of 1919, Chapter 9, created the office of Delinquent Poll Tax Collector for McMinn County. Private Acts of 1921, Chapter 94, amended Section 26 of this act to provide when the poll tax would be due. This office was abolished by Private Acts of 1923, Chapter 96.
4. Private Acts of 1919, Chapter 252, authorized an additional tax levy for building schools in the county. This act was amended by Private Acts of 1921, Chapter 45, which provided that the tax would be levied and collected annually.
5. Private Acts of 1921, Chapter 48, authorized the County Trustee to collect county road taxes.
6. Private Acts of 1925, Chapter 39, authorized McMinn County Quarterly Court to levy an additional tax of not more than \$.50 for the purpose of building a new high school. This act was amended by Private Acts of 1925, Chapter 436.
7. Private Acts of 1925, Chapter 717, also authorized an additional tax levy for constructing a high school, but this act was much less comprehensive than Chapter 39 and the tax levy provided for was lower.
8. Private Acts of 1931, Chapter 223, was the next act creating the office of delinquent poll tax collector for McMinn County, and this act was amended to place on this officer the additional duty of assessing any eligible male citizen who had not been assessed previously. Private Acts of 1931, Chapter 518, amended section two (2) of this act. This position was abolished when the original 1931 act was repealed by Private Acts of 1931, Chapter 757.
9. Private Acts of 1931, Chapter 612, authorized McMinn County to levy a tax for county purposes not to exceed thirty cents per hundred (\$100.00) dollars of taxable property.
10. Private Acts of 1943, Chapter 255, validated the road tax levies of McMinn County which had been less than the minimum set by state statute.
11. Private Acts of 1953, Chapter 15, validated the tax levies of 1950-51, 1951-52, and 1952- 53 of McMinn County.
12. Private Acts of 1955, Chapter 158, also validated the 1953-54 tax levy of McMinn County.

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