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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,

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Chapter XI - Taxation

Assessor of Property

Private Acts of 1949 Chapter 78

SECTION 1. That when any grantee or lessee of real estate in Giles County presents his deed or lease to the County Register for registration and it appears from said instrument or otherwise that the grantee or lessee is chargeable for the payment of the tax thereafter to accrue on said real estate, that said County Register shall be required before accepting said instrument for registration, to ascertain from the grantee or lessee whether he purchased or leased all or a portion of the property of his grantor or lessor; the true consideration given or promised therefor and is the entire tract of the grantor has not been conveyed or leased, what portion has been retained by the grantor or lessor. Said County Register shall also ascertain the nature or character of improvements located on the real estate purchased or leased.

SECTION 2. That the County Register be and he us hereby required to record the information to be ascertained in the foregoing section in a well bound book to be furnished by Giles County. Said Record Book shall be kept in duplicate form and shall show the names of the grantors or lessors; the names of the grantees or lessees, the kind of instrument (whether a deed or lease); the number of acres or town lots; the district where located and under the title "Remarks" show such other information as will enable the County Tax Assessor to keep current records of his office to the end that all real estate shall be assessed for taxation in the name of the true owner or in the name of the person or persons responsible for the payment of the taxes.

SECTION 3. That it shall be the duty of the County Register to deliver to the County Tax Assessor the original slip taken from his Record Book showing the information required by this Act and it shall be the duty of the County Tax Assessor to keep said slip so furnished by same and to note the changes in owners as shown thereby on his records to the end that his records will at all times show the names of the true owners of the real estate or the persons responsible for the payment of the Tax Assessable against said real estate.

SECTION 4. That a fee of twenty-five cents be charged by the County Register and paid by the grantee or lessee for the services of the County Register rendered in procuring the information required by this Act and for keeping the record thereof and delivering same to the County Tax Assessor.

SECTION 5. That this Act shall take effect from and after its passage, the public welfare requiring it.

Passed: January 28, 1949.

Hotel/Motel Tax

Private Acts of 1996 Chapter 133

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

- (1) "Clerk" means the County Clerk of Giles County, Tennessee.
- (2) "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.
- (3) "County" means Giles County, Tennessee.
- (4) "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.
- (5) "Occupancy" means the use or possession, or the right to the use or possession, of any room, lodgings or accommodations in any hotel.
- (6) "Operator" means the person operating the hotel whether as owner, lessee or otherwise.
- (7) "Person" means any individual, firm, partnership, joint venture, association, social club, fraternal

organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit.

(8) "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.

SECTION 2. The legislative body of Giles County is authorized to levy a privilege tax upon the privilege of occupancy in any hotel of each transient in an 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. The proceeds received by the County from the tax shall be designated and used for the maintenance and renovation for all County owned buildings, excluding schools.

As amended by: Private Acts of 2013, Chapter 22.

SECTION 4. Such tax shall be added by each and every operator to each invoice prepared by the operator for the occupancy of the hotel and given directly or transmitted to the transient. Such tax shall be collected by such operator from the transient and remitted to the county clerk as provided in Section 5.

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 or charged 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, lodgings, spaces or accommodations in hotels within the county to the clerk or such other officer as may by resolution be charged with the duty of collection thereof, such tax to be remitted to such officer not later than the twentieth (20th) day of each month for the preceding month. The operator is 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 for remitting the tax levied by this act, the operator shall be allowed two percent (2%) of the amount of the tax due and remitted to the clerk in the form of a deduction in submitting the 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, or other authorized collector of the tax, 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 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 is liable for interest on such delinquent taxes from the due date at the rate of twelve percent (12%) per annum, and is 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 unlawful and shall be punishable by a civil penalty not in excess of fifty dollars (\$50.00).

SECTION 9. It is 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 tax due and payable to the county. The clerk has the right to inspect such records at all reasonable times.

SECTION 10. The clerk in administering and enforcing the provisions of this act has 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 services in administering and enforcing the provisions of this act, the clerk is entitled to retain as a commission five percent (5%) of the taxes collected.

Upon any claim of illegal assessment and collection, the taxpayer has the remedies provided in Tennessee Code Annotated, Title 67. It is 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.

Notice of any tax paid under protest shall be given to the clerk and the resolution authorizing levy of the tax shall designate a county officer against whom suit may be brought for recovery.

SECTION 11. The proceeds of the tax authorized by this act shall be allocated to the General Fund of Giles County to be used for the purposes stated in Section 3 of this act.

As Amended by: Private Act of 2013, Chapter 22

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 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 14. This act shall have no effect unless it is approved by a two thirds (2/3) vote of the county legislative body of Giles County. Its approval or nonapproval shall be proclaimed by the presiding officer of the county legislative body and shall be certified by such presiding officer 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 15, 1996.

Mineral Deposits

Private Acts of 1984 Chapter 91

SECTION 1. Giles County by resolution of its county legislative body is authorized to levy a tax on all phosphate rock, ore, or other phosphate bearing minerals severed from the ground within its jurisdiction. The tax shall be levied for the use and benefit of Giles County only and all revenues collected from the tax, except deductions for administration and collection provided for herein, shall be allocated to Giles County.

Administration and collection of this tax shall be by the county clerk of Giles County who shall have the power to promulgate all rules and regulations necessary and reasonable for the administration of the provisions of this act.

SECTION 2. The rate of the tax shall be set by the county legislative body, but shall not exceed fifteen cents (\$.15) per ton of phosphate rock, ore, or other phosphate bearing material severed from the ground in the county. Every interested owner shall be liable for this tax to the extent of his interest in such products. The owner shall become liable at the time the phosphate rock, ore, or other phosphate bearing material is severed from the earth.

The tax is levied upon the entire production in the county regardless of the place of sale or the fact that delivery may be made outside the county. The tax shall accrue at the time the phosphate rock, ore, or other phosphate bearing material is severed from the earth and in its natural or unprocessed state. The tax levied shall be a lien upon all phosphate rock, ore, or other phosphate bearing material severed in the county and upon all property from which it is severed, including but not limited to mineral rights of the producer, and such lien shall be entitled to preference over all judgments, encumbrances or liens whatsoever created.

SECTION 3. The tax levied by this act shall be due and payable monthly on the first day of the month next succeeding the month in which the phosphate rock, ore, or other phosphate bearing material is severed from the soil, whether before processing or after processing or after processing as the case may be. For the purpose of ascertaining the amount of tax payable it shall be the duty of all operators in Giles

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, a return upon forms provided by him. The return shall show the month or period covered, the total number of tons of phosphate rock, ore, or other phosphate bearing material severed from each production unit operated, owned or controlled by the taxpayer during the period covered, the amount of the tax and such other information as the county clerk may require. The return shall be accompanied by a remittance covering the amount of tax due as computed by the taxpayer.

SECTION 4. The tax levied by this act shall become delinquent on the sixteenth (16th) day of the month next succeeding the month in which such tax accrues. When any operator shall fail to make any return and pay the full amount of the tax levied on or before such date there shall be imposed, in addition to other penalties provided herein, a specific penalty in the amount of ten percent (10%) of the tax due. Whenever a penalty is imposed there shall also be added to the amount of tax and penalty due interest thereon at the rate of six percent (6%) per annum from the date due until paid. A further penalty of fifty percent (50%) of the amount due may be added if the nonpayment of the tax is due to an intent to evade payment. If the nonpayment of the tax is due to an intent to evade payment, the person liable for such payment may be restrained and enjoined from severing phosphate rock, ore, or other phosphate bearing material from a production unit from which such rock, ore, or material has been severed and sold upon which the tax is due. Restraint proceedings shall be instituted in the name of the county by the District Attorney General for Giles County upon the request of the county clerk.

All such penalties and interest imposed by this act shall be payable to an collectible by the county clerk in the same manner as if they were a part of the tax imposed and shall be retained by the office of the county clerk to help defray the expenses of administration and collection.

Any person required by this act to make a return, pay a tax, keep records, or furnish information deemed necessary by the county clerk for the computation, assessment, or collection of the tax imposed by this act who fails to make the return, pay the tax, keep the records, or furnish the information at the time required by law or regulation is, in addition to other penalties provided by law, guilty of a misdemeanor and upon conviction is punishable by a fine of not more than one thousand dollars (\$1,000), or by imprisonment for not more than one (1) year or both.

Any person who willfully or fraudulently makes and signs a return which he does not believe to be true and correct as to every material fact is guilty of a felony and subject to the penalties prescribed for perjury under the laws of this state. For the purposes of this section the word "person" also includes an officer or employee of a corporation or member or employee of a partnership who is under duty to perform the act in respect to which the violation occurs.

SECTION 5. When any person shall fail to file any form, statement, report or return required to be filed with the county clerk, after being given written notice of same, the clerk is authorized to determine the tax liability of such person from whatever source of information may be available to him. An assessment made by the county clerk pursuant to this authority shall be binding as if made upon the sworn statement, report or return of the person liable for the payment of such tax; and any person against whom such an assessment is lawfully made shall thereafter be estopped to dispute the accuracy thereof except upon filing a true and accurate return together with such supporting evidence as the county clerk may require indicating precisely the amount of the alleged inaccuracy.

SECTION 6. All revenues collected from the severance of phosphate rock, ore, or other phosphate bearing material in Giles County less an amount of three percent (3%) of the tax and all of the penalties and interest collected, which shall be retained by the office of the county clerk and credited to its current service revenue to cover the expenses of administration and collection, shall be remitted by the county clerk to Giles County. These revenues shall become a part of the general funds of Giles County, subject to appropriation by the county legislative body.

Any adjustment of taxes, penalties or interest with Giles County which is deemed necessary in order to correct any error may be made on a subsequent disbursement to that county.

SECTION 7. This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the county legislative body of Giles County before September 1, 1985. Its approval or nonapproval shall be proclaimed by the presiding officer of the Giles County legislative body and certified by him to the Secretary of State.

SECTION 8. 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 7.

Passed: April 22, 1985.

Ordinary Purpose Tax

Private Acts of 1955 Chapter 216

SECTION 1. That the Quarterly County Court of Giles County, Tennessee, be and the same is, hereby authorized and empowered to levy for county ordinary purposes a tax not exceeding 50¢ on the \$100.00 on all property assessed for taxation in said County.

SECTION 2. That this Act shall not become effective unless and until the same has been ratified and approved by the Quarterly County Court of Giles County, Tennessee, by a two-thirds majority of the justices present and voting at any meeting at which this Act may be submitted for ratification and approval.

SECTION 3. That this Act insofar as the General Assembly of Tennessee is concerned, take effect from and after its passage, the public welfare requiring it.

Passed: March 1, 1955.

Taxation - Historical Notes

Assesor 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 Giles County Assesor. Also referenced below are acts which repeal prior law without providing new substantive provisions.

1. Private Acts of 1917, Chapter 388, was intended to apply to Giles County but did not because of an error in the population figures in both the caption and body of the Bill. These figures were later corrected by an amendment in Private Acts of 1917, Chapter 583. The compensation for the Assesor was set at \$1,800 annually, as full salary, to be appropriated by the Quarterly County Court at its April term, the clerk of the court being required to issue a certificate reciting the same.
2. Private Acts of 1917, Chapter 583,, amends Private Acts of 1917, Chapter 388, so as to correct an error in the population figures recited in order to make that act applicable to Giles County. The former figures of 32,325 and 32,335, were changed to 32,625 as a minimum and 32,635 as a maximum.
3. Private Acts of 1921, Chapter 557, set the total compensation of the Tax Assesor at \$2,400 annually to be paid in monthly installments from the regular funds of the county. He was also authorized to appoint a Deputy Assesor to assist him at a wage of \$600 yearly which would also be paid by the county. The Assesor shall go upon the premises to be assessed and make a personal inspection as to fertility of the farms, waste lands, tillable lands, pasture lands, and timber lands, and note the number of acres in each and in the entire farmland.
4. Private Acts of 1957, Chapter 63, amended Private Acts of 1921, Chapter 557, Section 1, Item 3 above, by raising the salary of the Tax Assesor from \$2,400 to \$3,000 annually and Section 3 of the same Act by elevating the Deputy's wages from \$600 to \$1,800 annually, all property ratified and approved by the Quarterly County Court.
5. Private Acts of 1961, Chapter 63, amends Private Acts of 1921, Chapter 557, Section 2, as it was amended by Acts of 1957, Chapter 64, by increasing the annual salary of the Deputy Tax Assesor from \$1,800 to \$2,400.
6. Private Acts of 1965, Chapter 45, amends Section 1, of the Act in Item 5, above, by further increasing the salary of the Deputy Tax Assesor to \$3,000 form \$2,400 again being properly ratified by the Quarterly County Court.
7. Private Acts of 1973, Chapter 21, specifically repealed Private Acts of 1917, Chapters 388 and 583, Private Acts of 1921, Chapter 557, as the same was amended by Private Acts of 1957, Chapter 63, and also, Private Acts of 1961, Chapter 63, (which would presumably carry with it the 1965 Act in Item 6 which amended the repealed Act).

Motor Vehicle Tax

The following is a listing of acts pertaining to motor vehicle taxation in Giles County which are no longer effective or failed to receive local ratification.

1. Private Acts of 1973, Chapter 122 was intended to levy a motor vehicle tax of \$10.00 upon motor

vehicles that operated within the limits of the county, excluding farm tractors, self-propelled farm machines not usually used for operation upon public highways or roads, motorcycles, motor-driven vehicles owned by any governmental agency or governmental instrumentality. This act was rejected by the voters of Giles County by a vote of 447 For to 1545 Against in 1973.

Taxation

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

1. Private Acts of 1861, Chapter 1, authorized the Giles County Court to levy and collect a tax for the manufacture of firearms, gunpowder, and other munitions which would be applied to all taxable property.
2. Private Acts of 1931, Chapter 223, created a position of Delinquent Poll Tax Collector for all counties between 22,193 and 30,000 population, 1930 Federal Census, or subsequent. He would be appointed by the county judge, or chairman for two years, would get the usual fee plus seventy cents, take an oath to perform the duties of the office and made a bond in the amount of \$1,000. The County Trustee would furnish him with a list of those who were delinquent in paying their poll tax.
3. Private Acts of 1931, Chapter 518, amended Private Acts of 1931, Chapter 223, Section 2 by defining when the poll tax would be delinquent and amended Section 3 by making it the duty of the collector who knows of any male citizen, liable to pay but not assessed, to add him to the delinquent rolls and proceed against him as he does against other delinquents.
4. Private Acts of 1931, Chapter 757, repeals Chapter 223, as amended, specifically, and expressly restores all private acts on this subject which may have been repealed or superseded by it.

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