



March 31, 2025

Chapter XII - 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 XII - Taxation

Hotel/Motel Tax

Private Acts of 2021 Chapter 30

SECTION 1. As used in this act:

- (1) "Clerk" means the county clerk of Grainger County, Tennessee, or such other officer as the county legislative body may direct;
- (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. This definition does not 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 Grainger 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, campground, motel or any place in which rooms, lodging, 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, and includes governmental entities;
- (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, governmental unit other than the United States or any of its agencies, or any other group or combination acting as a unit; and
- (8) "Transient" means any person who exercises occupancy or is entitled to occupancy for any rooms, lodging, spaces, or accommodations in a hotel for a period of less than thirty (30) continuous days.

SECTION 2. The legislative body of Grainger County is authorized to levy a privilege tax upon the privilege of occupancy in a hotel of each transient, in the amount not to exceed five percent (5%) of the rate charged by the operator. The tax imposed is a privilege tax upon the transient occupying such room or other accommodation and is to be collected and distributed as provided in this act. The rate of the tax may be modified by the county legislative body up to the percentage limitation stated in this section. Such tax is in addition to all other taxes levied or authorized to be levied whether in the form of excise, license, or privilege taxes, and shall be in addition to all other fees and taxes now levied or authorized to be levied; provided, that, pursuant to Tennessee Code Annotated, Section 67-4-1425, Grainger County is prohibited from levying the tax within a municipality that has levied an occupancy tax prior to the effective date of this act.

SECTION 3.

(a) Each operator shall add the occupancy tax to each invoice prepared by the operator for the occupancy of the hotel. The invoice must be given directly or transmitted to the transient, a copy thereof to be retained and filed by the operator as provided in Section 8.

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

SECTION 4. An operator of a hotel shall not 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 5.

(a) Each operator who leases, rents, or charges for rooms or space in hotels within the county shall remit the tax collected by the operator to the clerk not later than the twentieth day of each month for the preceding month. The operator shall collect the tax from the transient at the time of the presentation of the invoice for occupancy, whether prior to, during, or after occupancy, as may be the custom of the

operator. If credit is granted by the operator to the transient, then the obligation to the county entitled to such tax is that of the operator.

(b) For the purpose of compensating the county clerk for collecting the tax, the clerk may retain five percent (5%) of the amount of the tax remitted by the operator.

(c) The clerk shall faithfully account for, make proper reports of, and pay over to the trustee of the county at monthly intervals, all funds paid to, and received by, such clerk for the privilege tax authorized by this act.

SECTION 6.

(a) The clerk shall collect the tax and place the proceeds of the tax in accounts as designated in Section 10 for the purposes stated therein. Each operator shall file with the clerk a monthly tax return under oath with such number of copies thereof as the clerk may reasonably require for the collection of such tax. The report of the operator must include such facts, and information as may be deemed reasonable for the verification of the tax due. The clerk shall develop the form of such report, and the form must be approved by the county legislative body prior to use. The clerk shall audit each operator in the county at least once per year and shall report on the audits on a quarterly basis to the county legislative body.

(b) The county legislative body may 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.

(a) Taxes collected by an operator that 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. The interest and penalties become a part of the tax herein required to be remitted.

(b) Each occurrence of knowing refusal of an operator to collect or remit the tax or knowing refusal of a transient to pay the tax imposed is a separate violation of this act and may result in the imposition of a civil penalty, to be imposed separately for each violation, not to exceed fifty dollars (\$50.00) upon a finding of such knowing refusal by a court of competent jurisdiction. As used in this section, "each occurrence" means each day.

(c) This section does not prevent the clerk or other authorized collector of the tax from pursuing any civil remedy available to the collector by law, including issuing a distress warrant and the seizure of assets, to collect any taxes due or delinquent under this act.

SECTION 8. Each operator liable for the collection and payment to the county of any tax levied pursuant to this act shall keep and preserve for a period of three (3) years all records necessary to determine the amount of such tax. The clerk may inspect the records of each operator at all reasonable times.

SECTION 9.

(a) In administering and enforcing the provisions of this act, the clerk has as additional powers the powers and duties with respect to collecting taxes as provided in Tennessee Code Annotated, Title 67, or otherwise provided by law for county clerks.

(b) Upon any claim of illegal assessment and collection, the taxpayer has the remedies provided in Tennessee Code Annotated, Title 67, it being the intent of this act that the provisions of law that apply to the recovery of state taxes illegally assessed and collected also apply to the tax levied pursuant to this act. Tennessee Code Annotated, Section 67-1-707, is 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 the authority of this act must be refunded by the clerk.

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

SECTION 10. The proceeds of the tax authorized by this act must be deposited in the general fund held solely for expenditures therefrom as may be adopted by county legislative body.

SECTION 11. The tax levied pursuant to this act shall only apply in accordance with the provisions of Tennessee Code Annotated, Section 67-4-1425.

SECTION 12. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provision's application, and to that end the provisions of this act are declared to be severable.

SECTION 13. This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the legislative

body of Grainger County. Its approval or nonapproval shall be proclaimed by the presiding officer of the county legislative body and certified to the secretary of state.

SECTION 14. 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 as provided in Section 13.

Passed: May 12, 2021.

Litigation Tax

Private Acts of 1983 Chapter 319

SECTION 1. There is hereby imposed a special privilege tax in the amount of five dollars and twenty-five (\$5.25) on every civil case and fifteen dollars (\$15.00) on every criminal case instituted in any court in Grainger County, except original proceedings in Juvenile Court and cases instituted in any City Court.

SECTION 2. The clerks of the various courts who are required to collect the state litigation tax shall also collect the tax imposed by this act in the same manner as the state litigation tax imposed by Tennessee Code Annotated, Section 67-4102, Item J, is collected and shall be liable for the collection of the tax imposed by this Act.

SECTION 3. The privilege taxes collected pursuant to this Act shall be paid over monthly to the county Trustee and shall be distributed in the following manner:

(A) One dollar (\$1.00) of the tax collected on each case shall be deposited in a special fund known as the "Courthouse Remodeling, Refurbishing, and Maintenance Fund" for the purpose of providing for remodeling, refurbishing and maintaining the Courthouse and grounds. Monies from this fund shall be used only for the purposes described above unless otherwise approved by majority vote of the county commission.

(B) One dollar (\$1.00) of the tax collected on each case shall be deposited into the County Governmental Library Fund and used only for the purpose set out in Chapter 375 of the Private Acts of 1974.

(C) The remainder of the tax collected under the provisions of this Act shall be deposited, by the trustee, in the county general fund to be used for any county purpose authorized by the county commission.

COMPILER'S NOTE: Section 4 amended Private Acts of 1974, Chapter 375 which is printed herein.

SECTION 5. Chapter 202 of the Private Acts of 1982 is hereby repealed in its entirety.

SECTION 6. This Act shall have no effect unless it shall be approved by two-thirds (2/3) majority of the Board of County Commissioners of Grainger County. Its approval or nonapproval by that body shall be certified by the presiding officer to the Secretary of State.

SECTION 7. For the purpose of approving or rejecting the provisions of this Act, it shall become effective upon becoming a law, the public welfare requiring it. For all other purposes, it shall become effective on the first day of the month after its approval as provided in Section 6.

Passed: March 3, 1983.

Private Acts of 1976 Chapter 296

SECTION 1. There is imposed upon each case of any description filed in any of the following courts sitting in Grainger County a tax of one dollar (\$1.00), to be assessed and collected as a part of the costs of the case; circuit court, chancery court, county court, general sessions court, and any municipal court in Grainger County.

SECTION 2. There is imposed a special privilege tax of one dollar (\$1.00) upon and with respect to each and every instrument offered for recordation in the office of the county register of Grainger County, the payment of which shall be a condition precedent to the recordation of the instrument.

SECTION 3. The litigation taxes provided for herein shall be collected by the clerks of the respective courts in which cases are filed, and the registration tax herein provided for shall be collected by the county register. Each of the officials shall be accountable for and shall pay over such revenue to the county trustee quarterly, not later than the tenth (10th) day of the month following the quarter in which collections are made.

SECTION 4. It is hereby expressly provided that the term "case" shall include ex parte as well as

adversary or contested proceedings.

SECTION 5. The trustee shall deposit the taxes herein collected in a special fund hereby created, to be known as the "Courthouse Remodeling, Refurbishing, and Maintenance Fund", for the purpose of providing for the remodeling, refurbishing, and maintenance of the Grainger County courthouse and the grounds thereof. Decisions on remodeling, refurbishing, and maintenance, and the dispersal of monies from the fund shall be made by a committee composed of the County Judge, as Chairman, and two (2) members of the quarterly county court, to be selected by the County Judge and approved by the court. Monies from the fund shall be used only for courthouse remodeling, refurbishing, or maintenance, unless otherwise approved by the committee.

SECTION 6. The taxes imposed herein shall be permanent and shall provide a permanent fund for maintenance remodeling, and refurbishing of the Grainger County courthouse, and may be used for any alteration, addition, or other project involving the courthouse which is approved by the quarterly county court.

SECTION 7. This act is hereby declared to be severable, and if any portion thereof be held to be unconstitutional, such unconstitutionality shall not affect the validity of the remaining portions, it being the intent that the latter would have been enacted in the absence of the invalid portions.

SECTION 8. This act shall have no effect unless it is approved by a two-thirds ($\frac{2}{3}$) vote of the Quarterly County Court of Grainger County. Its approval or non-approval shall be proclaimed by the presiding officer of the court and certified by him 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: March 11, 1976.

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 Grainger County Assessor. Also referenced below is an act which repealed prior law without providing new substantive provisions.

1. Acts of 1845-46, Chapter 116, placed a tax on Grainger County for the purpose of building a courthouse. The tax was to be collected by the tax collector or sheriff of the county and given to the commissioners appointed to superintend the building of the courthouse.
2. Private Acts of 1921, Chapter 101, set the compensation of the Grainger County Tax Assessor to \$750 per annum. This act was amended by Private Acts of 1933, Chapter 543.
3. Private Acts of 1925, Chapter 478, set the compensation of the Grainger County Tax Assessor to \$1,000 per annum.
4. Private Acts of 1931, Chapter 336, amended the above act to provide for the payment of the assessor's salary in two payments instead of in one.
5. Private Acts of 1935, Chapter 77, provided for a tax assessor in each civil district to assume the duties once provided by the county tax assessor for Grainger County.
6. Private Acts of 1937, Chapter 140, repealed Private Acts of 1935, Chapter 77.
7. Private Acts of 1949, Chapter 366, increased the compensation paid to the Grainger County Tax Assessor to \$1,500 per annum.
8. Private Acts of 1953, Chapter 448, increased the compensation paid to the Grainger County Tax Assessor to \$2,400.

Taxation

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

1. Acts of 1796 (1st Sess.), Chapter 28, set the tax rate and enumerated the things to be taxed for the new county of Grainger.
2. Acts of 1799, Chapter 29, set the tax rate again and regulated the methods of collection and accounting.
3. Acts of 1801, Chapter 60, authorized the Grainger County Court to levy an additional tax of the purpose of building a new courthouse.

4. Private Acts of 1931, Chapter 612, authorized Grainger County to levy and collect a tax on all the personal and real property and all ad valorem when an appropriate order was made by the county quarterly court which authorized such levy for county purposes in a sum not to exceed .30¢ on the \$100 of taxable property in Grainger County.
 5. Private Acts of 1976, Chapter 2, would have imposed a \$1.00 litigation tax to be used for courthouse refurbishing and maintenance. This act was not ratified and never became effective.
 6. Private Acts of 1982, Chapter 202, imposed a \$1.00 litigation tax, with the proceeds to be used to refurbish and maintain the Grainger County Courthouse. This act was repealed by Private Acts of 1983, Chapter 19.
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