



July 22, 2024

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

Assessor of Property

Registration of Deeds

Private Acts of 1959 Chapter 266

SECTION 1. That the County Register of the County of Marion, 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, and ascertained the consideration in said deed of conveyance for the purpose of making proper corrections on his roll of assessments.

SECTION 2. That it shall be the duty of the Tax Assessor of Marion 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 to cause to be stamped all deeds presented at his office, with a stamp showing that he has copied the name of the vendor and vendee and ascertained the consideration 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 Marion 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. Failure of the Tax Assessor of Marion County to comply with the provisions of this Act shall constitute misconduct in office.

SECTION 3. That it shall be the duty of the Tax Assessor of Marion County to collect a fee of One Dollar and Fifty Cents (\$1.50) for his services in placing a stamp upon each deed. Said fee shall be collected by the County Tax Assessor at the time the deed is stamped and shall be paid as a prerequisite to registration. The Tax Assessor shall pay over all said funds collected by him at the end of each month to the County Trustee for deposit in the general county funds of Marion County, accompanied by a written report listing the persons from whom each such fee was collected. The Tax Assessor shall keep a receipt book with numbered duplicate copies of each receipt and shall give a receipt to each person paying such a fee and keep a duplicate thereof in his office, which duplicate shall be a public record.

SECTION 4. That the County Tax Assessor may appoint a Deputy, and that the said Deputy may be compensated at a rate not to exceed \$150.00 per month. The Deputy's monthly compensation shall consist of the fees collected as provided in Section 3 hereof and any other remuneration that may be allowed by law. At the end of each calendar month, the County Judge will issue a warrant to the Deputy, based upon the ending month's fees. If the total amount of fees collected plus any other lawful compensation due the Deputy exceeds \$150.00, the excess is to remain in the County General Fund.

SECTION 5. That the provisions of this Act are hereby declared to be severable. If any of its sections, provisions, exceptions, sentences, clauses, phrases or parts be held unconstitutional or void, the remainder of this Act shall continue in full force and effect, it being the legislative intent, now hereby declared, that this Act would have been adopted even if such unconstitutional or void matter had not been included therein.

SECTION 6. That this Act shall take effect from and after its passage, the public welfare requiring it.

SECTION 7. That this Act shall have no effect unless the same shall be approved by two-thirds vote of the Quarterly County Court of the county or counties to which said Act applies, on or before the next regular meeting of said [sic] Quarterly County Court, occurring more than thirty days after the approval of this Act by the Governor of Tennessee. The action of the Quarterly County Court hereon shall be proclaimed by the presiding officer thereof and shall be certified by him to the Secretary of State.

Passed: March 20, 1959.

Hotel/Motel Tax

Private Acts of 1987 Chapter 109

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

- (a) "Person" means any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, receiver, trustee, syndicate,

or any other group or combination acting as a unit.

(b) "Hotel" means any structure, or any portion of any structure, 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.

(c) "Occupancy" means the use or possession, or the right to the use or possession, of any room, lodgings or accommodations in any hotel.

(d) "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 ninety (90) continuous days.

(e) "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.

(f) "Operator" means the person operating the hotel whether as owner, lessee or otherwise.

SECTION 2. The legislative body of Marion County (hereinafter "legislative body") is authorized to levy a privilege tax upon the privilege of occupancy in any hotel of each transient in an amount not to exceed 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 by this act.

SECTION 3. Such tax shall be added by each and every operator to each invoice prepared by the operator for the occupancy of his hotel and to be given directly or transmitted to the transient and shall be collected by such operator from the transient and remitted to the town. When a person has maintained occupancy for ninety (90) continuous days, he 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 4. The tax hereby levied shall be remitted by all operators who lease, rent or charge for any rooms within the county to the trustee or such other officer as may by resolution of the legislative body be charged with the duty of collection thereof; such tax shall be remitted to such officer not later than the 20th 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 whether prior to occupancy or after 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.

SECTION 5. The trustee or other authorized collector of the tax authorized by this act shall be responsible for the collection of such tax. A monthly tax return under oath shall be filed with the trustee by the operator with such number of copies thereof as the trustee 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 trustee and approved by the legislative body prior to use. The trustee shall audit each operator in the county at least once per year and shall report on the audits made on a quarterly basis to the legislative body. The legislative body is hereby authorized to adopt resolutions to provide reasonable rules and regulations for the implementation of the provisions of this act.

SECTION 6. 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 7. Taxes collected by an operator which are not remitted to the trustee 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 in addition for penalty 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 8. It shall be the duty of every operator liable for the collection and payment to the town 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 trustee shall have the right to inspect at all reasonable times.

SECTION 9. The trustee 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 trustee shall be entitled to retain as a commission one percent (1%) of the taxes collected.

Upon any claim of illegal assessment and collection, the taxpayer shall have the remedy provided in Tennessee Code Annotated, Title 67, 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 trustee shall also possess those powers and duties as provided in Tennessee Code Annotated, Section 67-1-707 (a) and (b), for the county clerks with respect to the adjustment and settlement with taxpayers all errors of taxes collected by him under authority of this act and to direct the refunding of same. Notice of any tax paid under protest shall be given to the trustee and the resolution authorizing levy of the tax shall designate an officer against whom suit may be brought for recovery.

SECTION 10. The trustee is hereby charged with the duty of collection of the tax herein authorized and shall place the proceeds of such tax in the general fund or such other fund as the legislative body may specify by resolution.

SECTION 11. The provisions of this act are hereby declared to be severable. If any of its sections, provisions, exceptions, or parts be held unconstitutional or void, the remainder of this act shall continue to be in full force and effect, it is the legislative intent now hereby declared, that this act would have been adopted even if such unconstitutional or void matter had not been included herein.

SECTION 12. This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the legislative body of Marion County, not more than ninety (90) days subsequent to its approval by the Governor. Its approval or nonapproval shall be proclaimed by the presiding officer of the legislative body and shall be certified by him to the Secretary of State.

SECTION 13. 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 12.

Passed: May 6, 1987.

Litigation Tax

Private Acts of 1961 Chapter 239

SECTION 1. A litigation tax of two dollars (\$2.00) shall be taxed as part of the costs in all civil and criminal actions in the General Sessions Court of Marion County, Tennessee and a litigation tax of three dollars (\$3.00) shall be taxed as part of the costs in all civil and criminal cases in the Circuit Court and Chancery Court of Marion County, Tennessee.

As amended by: Private Acts of 1963, Chapter 178
Private Acts of 1967-68, Chapter 342

SECTION 2. That the said Clerk of the said Courts will collect the said litigation tax and pay same into a separate fund, which is to be designated as the "Marion County Capital Improvement Fund", to be used exclusively for the purpose of improving the courthouse and constructing a new jail.

SECTION 3. That all expenditures made from the said Fund are to be made by the County Judge upon the authorization of the Quarterly County Court for the purpose specified herein.

SECTION 4. That the County Court is hereby authorized to issue notes and bonds for the purposes specified herein and pledge the income hereof for the exclusive payment of the bonds or notes.

SECTION 5. That this Act shall have no effect unless the same shall have been approved by a two-thirds (2/3) vote of the County Court of Marion County, Tennessee, on or before the next regular meeting of such County Court occurring more than thirty (30) days after its approval by the Chief Executive of the State. Its approval or non-approval shall be proclaimed by the presiding officer of the body having jurisdiction to approve or the reverse, and shall be certified by him to the Secretary of State.

SECTION 6. That this Act shall take effect from and after its passage, the public welfare requiring it.

Passed: March 9, 1961.

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

1. Private Acts of 1965, Chapter 178, required the issuance of a building permit by the County Tax Assessor of Marion County to any person or persons undertaking the erection, construction, reconstruction, or alteration of any building in the county. This Act was superseded by Private Acts of 1967-68, Chapter 344.
2. Private Acts of 1967-68, Chapter 344, required any one wishing to erect, construct, reconstruct, or alternate any building or structure in Marion County, to gain a building permit from the County Tax Assessor of Marion County. This Act was repealed by Private Acts of 1994, Chapter 130.

Taxation

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

1. Acts of 1823, Chapter 259, authorized the County Court to levy a tax of not less than \$150 nor more than \$600 per annum for the purpose of completing payment for public buildings in Marion County.
2. Private Acts of 1825, Chapter 197, required the County Court to levy and collect a tax on all taxable property, for the purpose of paying Wallis Estill, Jr. for building the Marion County Courthouse.
3. Acts of 1826 Extra Session, Chapter 17, made it the duty of the Sheriff of Franklin County to collect from the people residing in the territory recently annexed to Franklin County from Marion County all the taxes due to Marion County, up to January 1, 1826.
4. Public Acts of 1865-66, Chapter 74, gave David M. Ketchum, the tax collector of Marion County, until June 1, 1866, to collect and pay over the state and county taxes due for the year 1865.
5. Acts of 1909, Chapter 379, allowed the County Court to levy and collect a tax for pike roads.
6. Acts of 1920 (Ex. Sess.), Chapter 17, fixed the minimum rate of taxation which could be levied in Marion County for general county purposes. This was repealed by Private Acts of 1925, Chapter 27.
7. Private Acts of 1923, Chapter 174, set the tax rates for Marion County for general county purposes as well as school, road, and bridge purposes.
8. Private Acts of 1925, Chapter 238 set the salary of the County Tax Assessor at \$1,500 per year.
9. Private Acts of 1929, Chapter 355, authorized Marion County to levy a tax for high school purposes.
10. Private Acts of 1929, Chapter 359, authorized Marion County to levy a tax for general county purposes of not more than \$.35 per \$100 assessed valuation.
11. Private Act of 1939, Chapter 35, fixed the salary of the Tax Assessor at \$100 per month.
12. Private Acts of 1941, Chapter 172, fixed the salary of the Tax Assessor at \$150 per month.
13. Private Acts of 1949, Chapter 367, set the salary of the Tax Assessor at \$225 per month.
14. Private Acts of 1953, Chapter 384, set the salary of the Tax Assessor at \$275 per month.
15. Private Acts of 1957, Chapter 362, attempted to amend Private Acts of 1953, Chapter 384, to reimburse the Tax Assessor for assessing expenses, but this Act was never presented to the Marion County Quarterly Court and did not become effective.
16. Private Acts of 1959, Chapter 93 amended Private Acts of 1953, Chapter 384, to provide that the Marion County Tax Assessor was to be reimbursed for all expenses incurred in assessing property, up to \$50 per month.

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