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Hotel - Motel Tax

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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Private Acts of 1980 Chapter 324

SECTION 1. Definitions. For the purpose of this Act:

- (a) Person. "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.
- (b) Hotel. "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.
- (c) Occupancy. "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. "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.
- (e) Consideration. "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) City. "City" means the City of Jackson, Tennessee.
- (g) County. "County" means Madison County, Tennessee.
- (h) Operator. "Operator" means the person operating the hotel whether as owner, lessee or otherwise.
- (i) Economic Development Commission. "Economic Development Commission" means a five (5) person body established as hereinafter provided for in said Chapter.

SECTION 2. Authority to Levy Tax. That the City of Jackson and Madison County shall be authorized to levy a privilege tax upon the privilege of occupancy in any hotel of each transient, in an amount of five (5%) percent to [sic] the rate charged by the operator.

SECTION 3. Tax Added to Room Invoice. 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 City of Jackson and Madison County, Tennessee.

When a person has maintained occupancy for thirty (30) 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 city and county.

SECTION 4. Remittance to Trustee.

- (a) The tax hereby levied shall be remitted by all operators who lease, rent or charge for any rooms or spaces in hotels, as heretofore defined, within the city and county, to the County Trustee or such other officer as may by ordinance or resolution be charged with the duty of collection thereof, said tax to 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 said tax from the transient at the time of the presentation of the invoice for said occupancy whether prior to occupancy or after occupancy as may be the custom of the operator, and if credit is arranged by the operator to the transient, then the obligation to the city and 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 these sections the operator shall be allowed two (2%) percent of the amount of the tax due and accounted for and remitted to the trustee in the form of a deduction in submitting his report and paying the amount due by him, provided the amount due was not delinquent at the time of payment.

SECTION 5. Rules and Regulations. The Trustee or other authorized collector of the tax authorized by this

Act shall be responsible for the collection of said tax and shall place the proceeds of such tax in such accounts as provided in this Act. 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 City Commission and Board of County Commissioners prior to use. The Trustee shall audit each operator in the city and county at least once per year and shall report on the audits made on a quarterly basis to the City Commission and the Board of County Commissioners.

The City Commission of Jackson and the Board of County Commissioners are hereby authorized to adopt ordinances and resolutions to provide reasonable rules and regulations for the implementation of the provisions of this Act, including the form for such reports.

SECTION 6. Offer to Absorb Tax Prohibited. No operator of a hotel should 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. Penalties and Interest for Delinquency. Taxes collected by an operator which are not remitted to the County 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 (12%) percent per annum, and in addition for penalty of one (1%) percent 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 a transient to pay the tax imposed is hereby declared to be unlawful and shall constitute a misdemeanor punishable upon conviction by a fine not in excess of fifty dollars (\$50.00).

SECTION 8. Records. It shall be the duty of every operator liable for the collection and payment to the city and 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 city and county, which records the County Trustee shall have the right to inspect at all reasonable times.

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

Upon any claim of illegal assessment and collection, the taxpayer shall have the remedy provided in Tennessee Code Annotated, Section 67-3033, it being the intent of this Act that the provisions of law which apply to the recovery of state taxes illegally assessed and collected under the authority of this Act; provided further, the County Trustee shall possess those powers and duties as provided in Tennessee Code Annotated, Section 67-2301, for the county clerks.

With respect to the adjustment and settlement with taxpayers, all errors of city and county taxes collected by the County Trustee under authority of this Act shall be refunded by him. Notice of any tax paid under protest shall be given to the County Trustee and the ordinance and resolution authorizing levy of the tax shall designate a City Commissioner and County Officer against whom suit may be brought for recovery.

SECTION 10. That a joint Commission, to be known as the "Community Economic Development Commission", is hereby created and established for and on behalf, and as an agency, of the City of Jackson, Tennessee and Madison County, Tennessee.

That the Commission shall be composed of five (5) persons in number, who shall serve without compensation and shall be elected in the manner and for the terms hereinafter provided. That the initial terms of the members of the Commission shall be for a term of one year, two years, three years, four years and five years, respectively. The Board of County Commissioners of Madison County shall select and appoint the original members for the onethree- and [sic] five-year terms. The City Commission of the City of Jackson shall select the members for the two- and four-year terms. The terms of said initial members being as of July 1, 1980. Upon the expiration of the one year term, his successor shall be elected for a term of five years by the Commissioners of the City of Jackson; upon the expiration of the two year term, his successor shall be elected for a term of five years by the Board of County Commissioners of Madison County; thereafter, the City Commissioners and the County Commissioners, alternating annually, shall elect for a five year term a successor to that member of the Commission whose term shall have expired.

A Commissioner whose term has expired shall continue to serve until his successor shall have been elected. In the event of the death or resignation of a Commissioner prior to the expiration of his term, his successor shall be elected for the unexpired term in the same manner as the deceased or retired Commissioner was elected. Any Commissioner shall be eligible for reelection.

The Commissioner of Parks and Recreation of the City of Jackson and the County Executive of Madison County shall be ex-officio members of said Commission. The Commission shall elect a Chairman and a Secretary from among its members, and shall keep complete and permanent records and minutes reflecting all business and transactions of the business. The Commission shall be vested with full and complete power, authority and responsibility for the operation, management, conduct and control of the business and affairs of the Commission herein created. Such authority and responsibility shall include the purpose of promoting community economic development, conventions, industrial advertising, tourism and recreational activity.

As relates to budgeting and fiscal matters and expenditures, the Commission shall be subject to the same provisions of law as other boards and commissions established by the City of Jackson and Madison County and said Commission shall be responsible for preparing and submitting a programmed budget for all funds to be expended, pursuant to the provisions of Section 11 of this Act for approval by the Commissioners of the City of Jackson and the Board of Commissioners of Madison County. The Community Economic Development Commission shall be responsible for the expenditure of all funds derived from the tax authorized by this Act and allocated to the Community Economic Development Commission.

Without limiting the foregoing, the Commission is authorized and empowered to utilize any and all funds allocated to the Commission to make economic development grants to other governmental entities and public corporations, including, but not limited to, any industrial development corporation created by the City, the County, or both the City and the County, in order to accomplish its purpose of promoting community economic development, conventions, industrial advertising, tourism, and recreational activity. In furtherance of the foregoing, the Commission is authorized to enter into binding grant agreements for a term not in excess of twenty (20) years pursuant to which the Commission agrees to grant all, a portion, or a percentage of the funds allocated to the Commission upon such terms as the Commission deems appropriate, which grant agreement may be enforced by the beneficiary thereof and by any third-party beneficiary identified in such grant agreement.

As amended by: Private Acts of 2020, Chapter 54.

SECTION 11. Application and allocation of revenue. The proceeds of the tax authorized by this Act shall be appropriated by the County Trustee as follows:

A. Beginning the 1st day of the second calendar month next following the date when a single tourism attraction project (within the meaning of Tenn. Code Ann. § 7-53-101(15)(E)), located within the County, as designated by the Community Economic Development Commission created and established elsewhere in this Act, is determined by the Community Economic Development Commission to be substantially completed and eligible for issuance by the local governmental authority of an unconditional occupancy permit, and continuing thereafter for a period of twenty (20) years, there shall be allocated to the Community Economic Development Commission one hundred percent (100%) of all net taxes collected by the County Trustee from such tourism attraction project, to be used by said Commission in accordance with the purposes set forth in Section 10 of this Act.

B. If no tourism attraction project, as defined in subsection A, is under construction in the County by December 31, 2023, as determined by the Community Economic Development Commission, then the tax allocation to the Community Economic Development Commission, as defined in subsection A, shall be null and void.

C. The remaining proceeds of the taxes, including all proceeds received or allocable to periods prior to and subsequent to the twenty-year period set forth in subsection A or the December 31, 2023, date set forth in subsection B, whichever is applicable, shall be allocated and paid by the County Trustee as follows:

- (1) Forty percent (40%) of the proceeds shall be allocated to and placed in the general fund of the City of Jackson;
- (2) Forty percent (40%) of the proceeds shall be allocated to and placed in the general fund of Madison County; and
- (3) Twenty percent (20%) of the proceeds shall be allocated and placed in a fund to be administered by the Community Economic Development Commission created and established elsewhere in this Act, to be used by said Commission in accordance with the purposes as set forth in Section 10 of this Act.

As amended by: Private Acts of 1985, Chapter 34

Private Acts of 2005, Chapter 65

Private Acts of 2020, Chapter 54

SECTION 12. Severability Clause. 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 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 herein.

SECTION 13. That this Act shall have no effect unless it is approved by a two-thirds (2/3) vote of the City Commissioners of the City of Jackson and by a two-thirds (2/3) vote of the Board of County Commissioners of Madison County, both of said approvals to be within six (6) months of the approval of this Act by the Governor of Tennessee. The action of the City Commission and the Board of County Commissioners hereon that [sic] be proclaimed by the respective presiding officers of such governing bodies, and shall be certified by them to the Secretary of State.

SECTION 14. That this Act, for the purpose of action hereon by the City Commissioners and the Board of County Commissioners, as above provided, shall take effect from and after its passage, and for all other purposes shall take effect after its approval by said City Commissioners and Board of County Commissioners as above provided, the public welfare requiring it.

Passed: April 17, 1980.

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