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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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Table of Contents

Chapter XI - Taxation	3
Development/Impact Fee	3
Private Acts of 2004 Chapter 138	3
Hotel/Motel Tax	6
Private Acts of 2013 Chapter 11	6
Litigation Tax	8
Private Acts of 1967 Chapter 23	8
Taxation - Historical Notes	8

Chapter XI - Taxation

Development/Impact Fee

Private Acts of 2004 Chapter 138

SECTION 1. This act shall be known and may be cited as the "Macon County Development/Impact Fee."

SECTION 2. As used in this act, unless a different meaning clearly appears from the context:

- (a) "Board of Zoning Appeals" means the Board established in Macon County pursuant to Tennessee Code Annotated, Section 13-7-106.
- (b) "Building" means any structure built for the support, shelter, or enclosure of persons, chattels, or movable property of any kind; the term includes a mobile home.
- (c) "Building Inspector" means the person designated by resolution of the governing body of Macon County, who shall be responsible for ensuring a building or structure does not exceed the square footage paid for at the time of obtaining a certificate of occupancy/certificate of compliance.
- (d) "Building Permit" means a permit for development issued in Macon County, whether by the county or any city therein.
- (e) "Capital Improvement Program" means a proposed schedule of future projects, listed in order of construction priority, together with cost estimates and the anticipated means of financing each project. All major projects requiring the expenditure of public funds, over and above the annual local government operating expenses, for the purchase, construction, or replacement of the physical assets of the community are included.
- (f) "Certificate of Occupancy/Certificate of Compliance" means a license issued for occupancy of a building or structure issued in Macon County, whether issued by the county or any city therein.
- (g) "Commercial" means the development of any property for commercial use, except as may be exempted by this act.
- (h) "Development" means the construction, building, erection, or improvement to land providing a new building or structure, which provides floor area for residential or commercial use.
- (i) " Dwelling Unit" means a room or rooms, connected together, constituting a separate, independent housekeeping establishment for owner occupancy, rental, or lease, on a daily, weekly, monthly, or long-term basis; physically separated from any other room or rooms or dwelling units which may be in the same structure; and containing independent cooking and sleeping facilities.
- (j) "Floor Area" means the total of the gross horizontal area of all floors, including basements, cellars, or attics, which is heated and/or air conditioned living space, or designed to be finished into heated and/or air conditioned living space at a future date.
- (k) "General Plan" means the land use and transportation plan in effect in Macon County adopted December 2001.
- (l) "Governing Body" means the County Commission of Macon County, Tennessee.
- (m) "Nonresidential" means the development of any property for any use other than residential use, except as may be exempted by this act.
- (n) "Person" means any individual, firm, co-partnership, joint venture, association, corporation, estate, trust, business trust, receiver, syndicate, or other group or combination acting as a unit, in the plural as well as the singular number.
- (o) "Place of Worship" means that portion of a building, owned by a religious institution which has tax-exempt status, which is used for worship services and related functions; provided, however, that a place of worship does not include buildings or portions of buildings which are used for purposes other than for worship and related functions or which are or are intended to be leased, rented, or used by persons who do not have tax-exempt status.
- (p) "Public Building" means a building owned by the state of Tennessee or any agency thereof, a political subdivision of the state of Tennessee, including, but not necessarily limited to, counties, cities, school districts, and special districts, or the federal government or any agency thereof.
- (q) "Public Facility or Facilities" means a physical improvement undertaken by the county or city, including, but not limited to, the following: roads and bridges, parks and recreational facilities, jails

and law enforcement facilities, schools, libraries, government buildings, fire stations, sanitary landfills, water, wastewater and drainage projects, airport facilities, and any other governmental capital improvement benefiting the citizens of the county and/or city as defined in Tennessee Code Annotated, Section 9-21-105(21)(A) and/or (B).

(r) "Residential" means the development of any property for a dwelling unit or units.

(s) "Subdivision Regulations" means the regulations adopted by the Macon County Regional Planning Commission pursuant to state statutory authorization which went into effect in July, 1998, by which the county regulates the subdivision of land.

(t) "Zoning Resolution" means the resolution adopted by the governing body pursuant to the state statutory authorization which went into effect in August, 2002, as amended, by which the county regulates the zoning, use, and development of property.

SECTION 3. It is the intent and purpose of this act to authorize Macon County to impose a development/impact fee on new development in the county, payable at the time of issuance of a building permit, or certificate of occupancy, so as to ensure and require that the persons responsible for new development share in the burdens of growth by paying their fair share for the cost of new and expanded public facilities made necessary by such development.

SECTION 4. Engaging in the act of new development in Macon County, except as provided in Section 6 herein, is declared to be a privilege upon which Macon County may, by resolution of the governing body of Macon County, levy a development/impact fee at the rate set forth in Section 7.

SECTION 5. The governing body shall, by resolution, adopt administrative guidelines, procedures, regulations, and forms necessary to properly implement, administer, and enforce the provisions of this act.

SECTION 6. This act shall not apply to development of:

(a) Public buildings;

(b) Places of worship;

(c) Barns, outbuildings, or accessory structures used for agricultural or residential purposes;

(d) Replacement structures for previously existing structures destroyed by fire or other disasters; but only if replaced within one (1) year of the loss;

(e) A structure owned by a nonprofit organization that is a qualified 501(c)(3) corporation under the Internal Revenue Code;

(f) A permanent residential structure replacing a single-wide or double-wide mobile home on the same parcel when the mobile home is removed within thirty (30) days of the issuance of the certificate of occupancy for the permanent residential structure, providing that the permanent structure is a residence for the owner and occupant of the mobile home; or

(g) A double-wide mobile home replacing a single-wide mobile home on the same parcel where the single-wide mobile home is removed within thirty (30) days of the issuance of the certificate of occupancy for the double-wide mobile home, providing that the double-wide mobile home is a residence for the owner and occupant of the singlewide mobile home.

SECTION 7.

(a) There is hereby imposed a development/impact fee on new development in the amount of one dollar (\$1.00) per square foot of floor area of new residential development. The amount of this fee may be increased or decreased by resolution of the governing body of Macon County, Tennessee, to be approved by no less than a two-thirds (2/3) vote of the governing body of Macon County, Tennessee.

(b) The authority to levy a development/impact fee on new commercial development is hereby authorized in the amount of twenty-five cents (25¢) per square foot of floor area of new commercial development. However, this fee may not be collected unless a resolution establishing the fee is approved by no less than a two-thirds (2/3) vote of the governing body of Macon County, Tennessee. The amount of this fee may be increased or decreased by resolution of the governing body of Macon County, Tennessee, to be approved by no less than a two-thirds (2/3) vote of the governing body of Macon County, Tennessee.

SECTION 8. The development/impact fee established in this act shall be collected at the time of application for a building permit for development as herein defined or, if a building permit is not required, at the time of application for a certificate of occupancy by the county or city official duly authorized in such jurisdiction to issue building permits or certificates of occupancy. The revenue collected from this fee shall

be collected by the county building official, or other responsible official, and the proceeds deposited with the County Trustee and used exclusively for capital projects, including but not limited to, debt service related to such service or projects, general fund, school fund, special revenue funds, debt service funds, or other capital project funds as designated by resolution of the Board of County Commissioners of Macon County. If the building permit or certificate of occupancy is issued by a city, the city shall, before issuance of the building permit, require evidence by a valid certificate executed by the county building inspector that the full amount of the fee due the county is paid. No building permit for development as herein defined, or certificate of occupancy if no building permit is required, shall be issued in Macon County, unless the fee has been paid in full to the county. The issuance of a building permit by any city official, without a certificate from the county that the fee has been paid, shall render the city liable to the county for the sum or sums, that would have been collected by the county had the city obtained such a certificate from the county indicating that the fee had been paid.

SECTION 9. The authority to impose the development/impact fee on new development in Macon County is in addition to all other authority to impose taxes, fees, assessments, or other revenue-raising or land-development regulatory measures granted either by the private or public acts of the state of Tennessee and the imposition of such a fee, in addition to any other authorized taxes, fees assessments, or charges, shall not be deemed to constitute double taxation.

SECTION 10.

(a) Any person aggrieved by the decision of the county building official or other responsible official concerning any aspect of this act may obtain review of the official's decision in the following manner:

- (1) By payment of the disputed amount to Macon County and by notifying the official that the payment is made under protest; and
- (2) By requesting an appeal of the decision of the official in written form within ten (10) days of the protest and payment.

(b) The Macon County Board of Zoning Appeals shall hear all appeals. Hearings shall be scheduled within thirty (30) days of the request for appeal, or at the next regular meeting of the Board of Zoning Appeals, whichever is later.

(c) The Board of Zoning Appeals shall render a decision on all appeals within thirty (30) days of the hearing date, unless the hearing is continued from time to time with a majority vote of the Board for further information.

(d) The Board of Zoning Appeals shall act as a quasi-judicial body, whose purpose is to determine the intent of this act, its applicability to the appellant, and to rule upon the interpretation of the official. The Board shall not be bound by formal rules of evidence applicable to the various courts of the state.

(e) Hearings before the Board shall proceed as follows:

- (1) The county building official shall explain his or her ruling and the reasons for the ruling.
- (2) The appellant shall explain his or her reasons for appealing the ruling.
- (3) The Board may request further information from any county official, including, but not limited to the County Executive, County Commissioners, Committee members, the County Attorney, or the County planning staff. The Board shall not have the power of subpoena.

(f) The Board shall deliberate and render a decision by a majority vote. Decisions shall be reduced to writing, and copies shall be sent to all parties and shall become a part of the minutes of the Board. Decisions of the Board of Zoning Appeals shall be final, except that either the building official or the person aggrieved may seek review of the Board's action by certiorari and supersedeas to the Chancery Court of Macon County, Tennessee, provided, that an application to the court is made within sixty (60) days of the written decision of the Board.

SECTION 11. All fees collected under the provisions of this act shall be used for the purpose of providing public facilities, the need for which is reasonably related to new development.

SECTION 12. The provisions of this act shall in no manner repeal, modify, or interfere with the authority granted by any other public or private law applicable to Macon County. This act shall be deemed to create an additional and alternative instrument for Macon County to impose and collect fees for the purpose of providing public facilities made necessary by new development in the county and/or any of its cities.

SECTION 13. If any provision of this act or the application thereof to any person or circumstances 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 two-thirds (2/3) vote of the county legislative body of Macon County. Its approval or nonapproval shall be proclaimed by the presiding officer of the county legislative body and certified by such 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, it shall become effective upon being approved as provided in Section 14.

Passed: July 19, 2004.

Hotel/Motel Tax

Private Acts of 2013 Chapter 11

SECTION 1. For the purposes of this act:

- (a) "Clerk" means the county clerk of Macon County, Tennessee;
- (b) "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 there from 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;
- (c) "County" means Macon County, Tennessee;
- (d) "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, campground, tourist camp, tourist court, tourist cabin, motel or any place in which rooms, lodgings or accommodations are furnished to transients for a consideration;
- (e) "Occupancy" means the use or possession, or the right to the use or possession, of any room, lodgings or accommodations in any hotel;
- (f) "Operator" means the person operating the hotel whether as owner, lessee or otherwise, and shall include governmental entities;
- (g) "Person" means any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicates, governmental unit other than the United States or any of its agencies; or any other group or combination acting as a unit; and
- (h) "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 Macon 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 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; provided, the rate shall not exceed five percent (5%). Such tax shall be 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.

SECTION 3. The proceeds received by the county from the tax shall be allocated to and placed in the county general fund, and shall be designated and used for such purposes as specified by resolution of the county legislative body.

SECTION 4.

- (a) Such tax shall be added by each and every operator to each invoice prepared by the operator for the occupancy of the 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 County Clerk.
- (b) 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

or her, 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 county clerk or such other officer as may by resolution be charged with the duty of collection of the 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 the 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 or her 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 the tax and shall place the proceeds of such tax in accounts for the purposes stated in this act. 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 per 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.

(a) Taxes collected by an operator which are not remitted to the county clerk on or before the due dates shall be 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 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.

(b) 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 an offense and shall constitute a misdemeanor punishable upon conviction of a fine not in excess of fifty dollars (\$50.00).

(c) Nothing in this section shall be construed to prevent the county clerk or other authorized collector of the tax from pursuing any civil remedy available to the collector by law, including issuing distress warrants and the seizure of assets, to collect any taxes due or delinquent under this act.

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 or she may have been liable for the collection of and payment to the county, which records the county clerk shall have the right to inspect at all reasonable times.

SECTION 10. The county 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, Tennessee Code Annotated, or otherwise provided by law for the county clerks. For his or her services in administering and enforcing the provisions of this act, the county clerk shall be entitled to retain as a commission five percent (5%) of the taxes so collected. Upon any claim of illegal assessment and collection, the taxpayer shall have the remedies provided in Title 67, 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; provided further, the county clerk shall possess those powers and duties as provided in Tennessee Code Annotated § 67-1-707 for the county clerks. With respect to the adjustment and settlement with taxpayers, all errors of county taxes collected by the county clerk under the authority of this act shall be refunded by the county clerk. Notice of any tax paid under protest shall be given to the county clerk and the resolution authorizing levy of the tax shall designate a county officer against whom suit may be brought for recovery.

SECTION 11. If any provision of this act or the application thereof to any person or circumstances 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 12. This act shall have no effect unless it is approved by two-thirds (2/3) vote of the county legislative body of Macon County. Its approval or no approval shall be proclaimed by the presiding officer of the county legislative body and certified by the presiding officer of the county legislative body to the secretary of state.

SECTION 13. 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 take effect on the first day of the second month following approval as provided in Section 12, the public welfare requiring it.

Passed: October 21, 2013.

Litigation Tax

Private Acts of 1967 Chapter 23

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, the Circuit Court and the Chancery Court of Macon County, Tennessee.

SECTION 2. Clerks of the said Courts will collect the litigation tax and pay the same into a separate fund, which is to be designated as the "Court House and Jail Maintenance Repair Fund," to be used exclusively for the purpose of maintenance and repair of the Court House and Jail.

SECTION 3. All expenditures made from the said Fund are to be made by the County Judge, upon the authorization of the Quarterly County Court.

SECTION 4. 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 Macon County, on or before the next regular meeting of such County Court occurring more than thirty (30) days after its approval by the Governor. Its approval or non-approval shall be proclaimed by the presiding officer of the Court and shall be certified by him to the Secretary of State.

SECTION 5. This Act shall take effect upon becoming a law, the public welfare requiring it.

Passed: March 13, 1967.

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 assessor in Macon County.

1. Private Acts of 1911, Chapter 411, amended the public law relating to County Tax Assessors by fixing the salary of that official in several counties in the State. In Macon County the Tax Assessor would be paid \$800 per year.
2. Private Acts of 1927, Chapter 538, also amended Public Acts of 1907, Chapter 602, which concerned the salaries of the Tax Assessors in several Tennessee counties, by increasing the annual pay of the Macon County Tax Assessor from \$800 to \$1,200 per year.

Board of Equalization

The private acts below are no longer effective in Macon County, having been specifically repealed.

1. Private Acts of 1937, Chapter 193, abolished the then existing Board of Equalization in Macon County and created a new five member Board of Equalization, one from each of the five Equalization Zones which were composed of whole civil districts. The Act appointed Fred Pipkin, J. W. Stone, Frank Lovelady, Willie H. Cothron, and M. W. Hargis to the initial Board who would serve until their successors were elected by the people in the general August Election in 1938. Subsequent terms would be for four years. The duties and the compensation of the members of this Board would be the same as those prescribed by the general law of Tennessee on this subject.
2. Private Acts of 1941, Chapter 195, expressly repealed Private Acts of 1937, Chapter 193, above, in its entirety, thus restoring Macon County to operation of this Board by the general law of the State.

Taxation

The following is a listing of acts pertaining to taxation in Macon County which are no longer effective.

1. Acts of 1870-71, Chapter 50, allowed any county or city to levy taxes for county or municipal purposes on the following conditions, (1) that all taxable property shall be taxed according to its value upon principles established for State taxation, and (2) that the credit of no county, or city, shall be given or loaned to any person, firm, or corporation, unless a majority of the Quarterly County Court shall first authorize the submission of the question to a referendum vote of the people where it must be approved by a three-fourths vote. Several counties, Macon among them, exempted them themselves from the three-fourths vote requirement for the next ten years, being satisfied with only a majority.
2. Private Acts of 1917, Chapter 751, amended Section 4, of Public Acts of 1915, House Bill 1195, a revenue act, by setting a privilege tax in Macon County on a horse and a vehicle at \$5.00, on a vehicle with more than one horse at \$5.00, on a patent medicine and nostrum's vehicles and on foot at \$10, the Act being applicable only to Macon County.
3. Private Acts of 1917, Chapter 773, recited in the preamble that a privilege tax on peddlers which was enacted in Public Acts of 1915, Chapter 101, is of doubtful language and the County Court Clerk of Macon County did, pursuant thereto, collect certain amounts of money from the individuals named in the preamble, and the Supreme Court of Tennessee has declared the tax to be uncollectible from these people, and the County Court Clerk has turned the money over to the Comptroller of the State. This act directs the Comptroller to return the money to those who paid it.
4. Private Acts of 1931, Chapter 468, applied to Macon and Rhea Counties. The Quarterly County Court of these counties was empowered, authorized, and vested with the right, power, and authority to levy an annual special tax to defray the current expenses of the county for boarding inmates in Eastern State Hospital, Home for the Feeble Minded, and Tennessee Industrial School, lunacy inquests, transportation of the mentally handicapped, and juveniles, upkeep of paupers, and cost of pauper's coffins, Circuit Court expenses and the cost of jury service.
5. Private Acts of 1975, Chapter 2, was a privilege tax for using public roads and highways in all counties of the state having a population of not less than 12,050 nor more than 13,000 according to the U.S. Federal Census of 1970. Macon County would have fallen under these provisions except that the Public Acts of 1975, Chapter 23, amended the Private Acts of 1975, Chapter 2, by narrowing the population requirements so that it didn't apply to Macon County.
6. Private Acts of 2002, Chapter 172, levied a privilege tax on new land development in Macon County known and cited as Macon County Adequate Facilities Tax. This act did not receive local approval by the county legislative body.

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