



County Technical Assistance Service
INSTITUTE *for* PUBLIC SERVICE

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Chapter XII - Taxation

Dear Reader:

The following document was created from the CTAS website (ctas.tennessee.edu). This website is maintained by CTAS staff and seeks to represent the most current information regarding issues relative to Tennessee county government.

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 XII - Taxation 3
Hotel/Motel Tax 3
Private Acts of 1972 Chapter 232 3
Litigation Tax 4
Private Acts of 1973 Chapter 28 4
Taxation - Historical Notes 5

Chapter XII - Taxation

Hotel/Motel Tax

Private Acts of 1972 Chapter 232

SECTION 1. Definitions. For the purposes 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 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 court, 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 90 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) County. "County" means any county within this state having a population of not less than 24,200 nor more than 24,300, according to the Federal Census of 1970, or any subsequent Federal Census.

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

As amended by: Private Acts of 1982, Chapter 276
Private Acts of 1983, Chapter 78

SECTION 2. Authority to levy tax. The county is authorized to levy a privilege tax upon the privilege of occupancy in any hotel of each transient in an amount of five per cent (5%) of the consideration charged by the operator. Said tax so levied is a privilege tax upon the transient occupying said room and is to be collected as thereafter provided.

As amended by: Private Acts of 1982, Chapter 276
Private Acts of 1983, Chapter 78

SECTION 3. Tax Added to Room Invoice. Said 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 County.

When a person has maintained occupancy for ninety (90) continuous days, he shall receive from the operator 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. Remittance to Clerk. The tax hereby levied shall be remitted by all operators who lease, rent or charge for any rooms within the County which has adopted the provisions of this Act to the County Court Clerk or such other officer as may by 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 of 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. Rules and Regulations. The County Court which has adopted the provisions of this Act is hereby authorized and empowered by Resolution to provide reasonable rules and regulations for the implementation of the provisions of this Act. Without limitation upon the provisions of such Resolution, it may provide for the making of a monthly tax return by the operator under oath with such number of copies thereof as may be reasonably required by the collection of said tax and including such facts and

information as may be reasonably required by the collection of said tax and including such facts and information as may be deemed reasonable for the verification of the tax due and may provide for and require access to the pertinent records of all operators at reasonable time.

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 Court Clerk 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 six percent (6%) per annum, and in addition for penalty of one-half of one percent ($\frac{1}{2}$ of 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. 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 constitute a misdemeanor punishable upon conviction by a fine not in excess of \$50.00.

SECTION 8. Records. 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 may have been liable for the collection of and payment to the County, which records the County Court Clerk shall have the right to inspect at all reasonable times.

SECTION 9. Administration. The County Court 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 of Tennessee Code Annotated or otherwise provide by law.

For his services in administering and enforcing the provisions of this Act, the County Court Clerk shall be entitled to retain as a commission two and one-half percent (2½%) of the taxes so collected.

Upon any claim of illegal assessment and collection, the taxpayer shall have the remedy provided in T.C.A. 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 be conformed to apply to the recovery of taxes illegally assessed and collected under the authority of this Act; Provided further, the County Court Clerk shall possess those powers and duties as provided in Section 67-2301, Tennessee Code Annotated, with respect to the adjustment and settlement with taxpayers, all errors of County 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 County Court Clerk and the Resolution authorizing levy of the tax shall designate a County officer against whom suit may be brought for recovery.

SECTION 10. Application and Allocation of Revenue. The County Court Clerk or such other officer as may by Resolution be charged with the duty of collection of the tax hereby imposed shall remit the proceeds thereof to the County Trustee to become a part of the general fund to said county.

SECTION 11. 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 12. This Act shall have no effect unless it is approved by a two-thirds ($\frac{2}{3}$) vote of the Quarterly County Court of any County to which it may apply, not more than sixty (60) days subsequent to its approval by the Chief Executive of this State or after its otherwise effective date. Its approval or non-approval shall be proclaimed by the presiding officer of the Quarterly County Court and shall be certified by him to the Secretary of State.

SECTION 13. This Act shall be effective upon becoming a law, the public welfare requiring it, but the provisions thereof shall not become operative until ratified as provided in Section 12.

Passed: February 21, 1972.

Litigation Tax

Private Acts of 1973 Chapter 28

SECTION 1. For the purpose of assisting in the payment of the construction of the building to be known as the County Justice Center and the operation of the offices and programs operated therefrom, which will include many of the law enforcement and justice activities for the County of Loudon and for its Cities located within its limits, including a jail and detention facilities, communications center, records center,

General Sessions Courtroom, clerk's office, and other similar activities, that on or after the effective date of this Act, a litigation tax not to exceed ten dollars (\$10.00) in all civil cases and criminal cases, shall be taxed as a part of the costs in all cases, filed in all Courts of Loudon County, Tennessee.

Said tax shall be collected by the Clerk of each Court and shall be paid to the Trustee of Loudon County, Tennessee, who will place the same in a separate fund, which is to be designated as the "County Justice Center" fund. Expenditures from said fund for the purposes herein authorized and empowered shall be made by checks or warrants signed by the County Judge as further provided by the laws of fiscal procedure, budgeting and purchasing under which said County operates, and that said funds shall be appropriated and expended as authorized by the Quarterly Court of Loudon County.

As amended by: Private Acts of 1981, Chapter 92

SECTION 2. If any provisions or clause of this Act or application thereof to any person or circumstance be held invalid, such invalidity shall not effect other provisions or applications of the Act which can be given effect notwithstanding the invalid provision or application, and this end, the provisions of this Act are declared to be severable.

SECTION 3. This act shall have no effect unless it is approved by a two-thirds ($\frac{2}{3}$) vote of the Quarterly County Court of Loudon County at any regular or special session. Its approval or nonapproval shall be proclaimed by the presiding officer of the County Judge and certified by him to the Secretary of State.

SECTION 4. 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 3.

Passed: March 27, 1973

Taxation - Historical Notes

Assessor of Property

The following act was superseded, repealed or failed to win local ratification, but is listed here as a reference to laws which once affected the Loudon County Assessor.

1. Private Acts of 1911, Chapter 411, set the salary of the Loudon County Tax Assessor at \$600 per annum.

Taxation

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

1. Private Acts of 1919, Chapter 87, authorized a special tax levy in Loudon County of \$.50 per \$100 assessed valuation for public road purposes.
2. Private Acts of 1919, Chapter 249, authorized a special tax levy (\$.10 per \$100 assessed valuation) for the purpose of maintaining one or more high schools "for the colored persons residing in said counties."
3. Private Acts of 1919, Chapter 269, authorized the court of Loudon County to levy and collect a special tax of .25¢ on each \$100 of taxable property in said county for the purpose of grading, building and maintaining certain public roads in Loudon County.
4. Private Acts of 1919, Chapter 500, authorized the creation of a joint road fund between Loudon and Monroe counties and authorized the construction of certain roads and the appointment of commissioners.
5. Private Acts of 1919, Chapter 594, the Loudon County Court to levy and collect a special tax for the purposes of erecting public school houses, or building streets and sidewalks to school houses already erected. This levy, of \$1.00 per \$100 assessed valuation, was to apply to every unincorporated city or town in Loudon County.
6. Private Acts of 1919, Chapter 766, authorized the Loudon County Court to levy a special road tax of .20¢ per \$100 assessed property valuation in Loudon, Blount and Roane counties for improving and maintaining roads which connected those counties.
7. Private Acts of 1921, Chapter 701, set the salary of the Loudon County Tax Assessor at \$1,000 per year.
8. Private Acts of 1929, Chapter 256, set the salary of the Loudon County Tax Assessor at \$1,500 per annum, subject to the approval of the voters. Private Acts of 1929, Chapter 766, amended this to remove the requirement for voter approval.

9. Private Acts of 1953, Chapter 420, set the salary of the Loudon County Tax Assessor at \$250 per month.
10. Private Acts of 1957, Chapter 48, set the Loudon County Tax Assessor's salary at \$4,200 per year.
11. Private Acts of 1982, Chapter 276, amended section 1 (b) and 2 of the Private Acts of 1972, Chapter 232, to include campgrounds in the hotel-motel tax provisions. This amendment was entirely repealed by Private Acts of 1983, Chapter 78.

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