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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,

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Hotel/Motel Tax

Private Acts of 1986 Chapter 192

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

(a) "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" 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 courts, tourist camp, tourist cabin, motel or any place in which rooms, lodging or accommodations are furnished to transients for a consideration.

(c) "Occupancy" means the use or possession or the right to use or possession of any room, lodging, or accommodations in a hotel for a period of less than thirty (30) continuous days.

(d) "Transient" means any person who exercises occupancy or is entitled to occupancy of any rooms, lodgings, or accommodations in a hotel room for a period of less than thirty (30) 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 service 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 or received from any person.

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

(g) "Tax collection official" means the County Clerk of the County.

(h) "Tourism" means the planning and conducting of programs of information and publicity designed to attract to the county tourists, visitors and other interested persons from outside the area and also encouraging and coordinating the efforts of other public and private organizations or groups of citizens to publicize the facilities and attractions of the area for the same purposes. It also means the acquisition, construction, and remodeling of facilities useful in the attraction and promoting of tourist, conventions, and recreational business.

SECTION 2. The legislative body of Lincoln County is authorized to levy a privilege tax upon the privilege of occupancy in any hotel by a transient in an amount not to exceed five percent (5%) of the consideration charged by the operator. The rate of the tax shall be set annually at or before the July term by the county legislative body. The tax is a privilege upon the transient occupying the room and is so collected and distributed as hereinafter provided.

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, such invoice to be given directly or transmitted to the transient a copy thereof filed by month and retained as provided by Section 7 hereof.

SECTION 4. (a) The tax hereby levied shall be remitted by all operators who lease, rent, or charge for any rooms to the County Clerk not later than the 20th of each month next following collection from the transient. The operator is required to 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. 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 and 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 County Clerk 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. 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 be added to the rent, or that, if added, any part will be refunded.

SECTION 6. Taxes collected by an operator which are not remitted to the County Clerk on or before the due dates are delinquent taxes from the due date at a rate of eight percent (8%) 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. 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. Any fine levied herein shall be applicable to each individual transaction involving lodging services paid by a customer to the operator in those cases when the operator fails or refuses to pay the tax payable.

SECTION 7. It is the duty of every operator liable for the collection and payment of any tax imposed by this Act to keep and preserve for a period to three (3) years all records necessary to determine the amount of such tax, which records the tax collection official shall have the right to inspect at all reasonable times.

SECTION 8. In administering and enforcing the provisions of this Act, the tax official shall have as additional power the powers and duties with respect to collection of taxes provided in Title 67 of the Tennessee Code Annotated or otherwise provided by law. Upon any claim of illegal assessment and collection, the taxpayer shall have the remedy provided in the Tennessee Code Annotated Section 67-1-912, it being the intent of this act that the provisions of law which apply to the recovery of taxes illegally assessed shall apply to the tax collected under the authority of this Act; provided, the tax collection official possess those powers and duties as provided in Tennessee Code Annotated, Section 67-1-707, with respect to adjustment and settlement with taxpayers of all the errors of taxes collected by him under the authority of this Act and to direct the refunding of same. Notice of any tax paid under protest shall be given the tax collection official, and suit for recovery shall be brought against the tax collection official.

SECTION 9. The proceeds from this tax levied herein shall be retained by the county government and placed in the county general fund.

SECTION 10. The tax collected by the County Clerk shall be remitted by him to the county trustee for distribution in accordance with the terms of this Act and the laws of the State of Tennessee.

SECTION 11. The tax herein levied 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 12. If any provision of this Act or the application thereof to any person or circumstance 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 13. This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the county legislative body of Lincoln County. Its approval or non-approval shall be proclaimed by the presiding officer of the county legislative body and certified by him 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 on the first day of the month following its approval as provided in Section 13.

PASSED: May 15, 1984.

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