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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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Chapter XI - Taxation

Hotel/Motel Tax

Private Acts of 1995 Chapter 15

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

- (1) "Clerk" means the County Clerk of Lewis County, Tennessee.
- (2) "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.
- (3) "County" means Lewis County, Tennessee.
- (4) "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.
- (5) "Occupancy" means the use or possession, or the right to the use or possession, of any room, lodgings or accommodations in any hotel.
- (6) "Operator" means the person operating the hotel whether as owner, lessee or otherwise, and shall include governmental entities..
- (7) "Person" means any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, governmental unit other than the United States or any of its agencies, or any other group or combination acting as a unit.
- (8) "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 Lewis County is authorized to levy a privilege tax upon the privilege of occupancy in any hotel of each transient in the amount of seven percent (7%) 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 in this act.

As amended by: Private Acts of 2015, Chapter 14.

SECTION 3. The proceeds received by the county from the tax shall be designated and used for the general fund; provided, however, the revenue generated by the two percent (2%) increase in the rate of the tax authorized by this act shall be used solely to promote tourism in the county and for no other purpose.

As amended by: Private Acts of 2015, Chapter 14.

SECTION 4. Such tax shall be added by each and every operator to each invoice prepared by the operator for the occupancy of the hotel and given directly or transmitted to the transient. Such tax shall be collected by such operator from the transient and remitted to the county clerk as provided in Section 5.

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 or charged 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, lodgings, spaces or accommodations in hotels within the county to the clerk or such other officer as may by resolution be charged with the duty of collection thereof, such 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 such 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 for remitting the tax levied by this act, the operator shall be allowed two percent (2%) of the amount of the tax due and remitted to the clerk

in the form of a deduction in submitting the 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 such tax and shall place the proceeds of such tax in accounts for the purposes stated herein.

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 a year and shall report on the audits made on a quarterly basis to the county legislative body.

The county legislative body is 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. Taxes collected by an operator which are not remitted to the clerk on or before the due dates are delinquent. An operator is liable for interest on such delinquent taxes from the due date at the rate of twelve percent (12%) per annum, and is liable for an additional 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. 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 unlawful and shall be punishable by a civil penalty not in excess of fifty dollars (\$50.00).

SECTION 9. It is 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 necessary to determine the amount of tax due and payable to the county. The clerk has the right to inspect such records at all reasonable times.

SECTION 10. The clerk in administering and enforcing the provisions of this act has 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 services in administering and enforcing the provisions of this act, the clerk is entitled to retain as a commission five percent (5%) of the taxes collected.

Upon any claim of illegal assessment and collection, the taxpayer has the remedies provided in Tennessee Code Annotated, Title 67. It is 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 provisions of Tennessee Code Annotated, Section 67-1-707, shall be applicable to adjustments and refunds of such tax.

With respect to the adjustment and settlement with taxpayers, all errors of county taxes collected by the clerk under authority of this act shall be refunded by the clerk.

Notice of any tax paid under protest shall be given to the clerk and the resolution authorizing levy of the tax shall designate a county officer against whom suit may be brought for recovery.

SECTION 11. The proceeds of the tax authorized by this act shall be allocated to and placed in the General Fund of Lewis County to be used for the purposes stated in Section 3 of this act.

SECTION 12. The tax levied pursuant to the provisions of this act shall only apply in accordance with the provisions of Tennessee Code Annotated 67-4-1425.

SECTION 13. 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 14. This act shall have no effect unless it is approved by a two thirds (2/3) vote of the county legislative body of Lewis County. Its approval or nonapproval shall be proclaimed by the presiding officer of the county legislative body and shall be certified by such presiding 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, this act shall take effect upon being approved as provided in Section 14.

Passed: February 22, 1995.

Litigation Tax

Private Acts of 1988 Chapter 229

SECTION 1. There is hereby imposed a litigation tax on the privilege of litigating a civil and criminal action in the amount of five dollars (\$5.00) to be assessed and taxed as part of the costs of the action on all such actions disposed of in the circuit, criminal or chancery courts of Lewis County.

SECTION 2. There is hereby imposed a litigation tax on the privilege of litigating a civil or criminal action in the amount of two dollars and fifty cents (\$2.50) to be assessed and taxed as part of the costs of action on all such actions disposed of in the court of general sessions of Lewis County.

SECTION 3. The litigation taxes provided in Section 1 and Section 2 shall be collected by the clerks of the various courts in which the actions are disposed. The clerks shall pay over the revenue generated by such litigation taxes to the county trustee every quarter, by the tenth (10th) of the month immediately following the end of the quarter in which such collections were made by the clerks.

SECTION 4. There is hereby created a special fund to be known as the "Courthouse Improvement and Maintenance Fund". The trustee of Lewis County shall deposit the litigation taxes collected under the authority of Section 3 into such fund. Such fund shall be subject to appropriations by the county legislative body for the purpose of improvements and maintenance of the Lewis County Courthouse.

SECTION 5. The litigation taxes collected under this act shall be considered suspended when the court having jurisdiction over the cause of action suspends the costs of such action.

SECTION 6. As used in this act, unless the context requires otherwise "action" includes all ex parte hearings, advisory hearings and contested proceedings in the enumerated courts.

SECTION 7. 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 8. This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the legislative body of Lewis County by October 1, 1988. Its approval or nonapproval shall be proclaimed by the presiding officer of the Lewis County legislative body and certified by him to the secretary of state.

SECTION 9. 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 8.

Passed: April 29, 1988.

Property Tax

Private Acts of 1955 Chapter 358

SECTION 1. That Lewis County, acting through its Quarterly County Court is hereby authorized and empowered to levy a tax, not to exceed 554 on each hundred dollars of assessed valuation of property for general county purposes.

SECTION 2. That this Act shall have no effect unless the same shall have been approved by two-thirds vote of the Quarterly County Court of any county to which it may apply on or before the next regular meeting of such Quarterly County Court occurring more than thirty days after its approval by the Chief Executive of this 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 3. That this Act shall take effect from and after its passage, the public welfare requiring it.

Passed: March 18, 1955.

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

1. Acts of 1907, Chapter 602, Section 9 was a general State law, the ninth Section of which regulated Tax Assessors, setting their terms at four years, providing for filling vacancies, abolishing the positions of District Tax Assessor, and allowing the Quarterly Court to fix the salary and bond of the Tax Assessor
2. Public Acts of 1911, Chapter 411 amended the general State law on Tax Assessors by fixing the salary for the Tax Assessor in several of the counties which were all designated by the employment of population figures. Under this law Lewis County would pay its Tax Assessor \$500 annually.
3. Private Acts of 1915, Chapter 268 set the annual salary of the Tax Assessor in Lewis County at \$300. The County Judge, or Chairman, was directed to draw a warrant for that amount for the Tax Assessor on or before July 1 of each year.
4. Private Acts of 1929, Chapter 623 amended Private Acts of 1915, Chapter 268, above, by changing the population figures to make the act applicable and by raising the annual stipend of the Tax Assessor from \$300 to \$400.
5. Private Acts of 1929, Chapter 624 created the position of Delinquent Poll Tax Collector in Lewis County who would be appointed for a two year term by the County Judge, or Chairman, at the July meeting of the Quarterly County Court. Polls which were not paid by May 1, 1929, and by May 1 of each year following their due year were declared to be delinquent and subject to the procedures of this Act for collection. The collector would be paid 60 cents for each one collected plus the same fee a Deputy Sheriff, or Constable, would be paid for handling process. It was made the duty of the Collector to assess every person known to be delinquent whether the name appeared on the delinquent list from the Trustee, or not. The Trustee's list constituted the basis for the issuance of a distress warrant by the Collector. Receipts could be issued only from those books furnished by the Trustee. The Collector must be sworn and bonded, had the right to conduct hearings, summon witnesses, and to inspect any payroll or other type of record in the course of his duties. (Public Acts of 1973, Chapter 226, repealed all Poll Tax laws in Tennessee.)

Taxation

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

1. Acts of 1870, Chapter 50 permitted the counties and the incorporated cities of the state to impose taxes for county and municipal purposes in the following manner and upon these conditions (1) that all taxable property be taxed according to its value upon the principles established for state taxation, and (2) the credit of no county, or city, could be given, or loaned, to any person, firm, or corporation, unless a majority of the Quarterly County Court, or Council, first agree, and then only upon the subsequent approval by the people wherein three-fourths of those voters vote favorably. Twenty-six counties exempted themselves from the requirement of the three-fourths vote, saying that a simple majority would be sufficient for the next ten years. Lewis County was not one of these.
2. Private Acts of 1935, Chapter 526 provided that, in Lewis County, the Quarterly County Court must, at the time the tax levies were made for other purpose, also levy a tax to repair, remodel, and improve the jail and court house, or for any other related purpose, which tax would not be less than 15 cents nor more than 30 cents per \$100 of property valuation.

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