



July 22, 2024

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 1983 Chapter 98

SECTION 1. For the purposes of this Act:

(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, governmental entity, or any other group or combination acting as a unit.

As amended by: Private Acts of 1995, Chapter 113

(b) "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, including structures or space owned or operated by a governmental entity.

As amended by: Private Acts of 1995, Chapter 113

(c) "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" 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" 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" means Henderson County, Tennessee.

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

(h) "Clerk" means the county clerk of Henderson County, Tennessee.

SECTION 2. Henderson 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 rate charged by the operator.

Private Acts of 1998, Chapter 187

As amended by:

Private Actsd of 2021, Chapter 12

SECTION 3. The proceeds received by the County from the tax shall be designated and used in the following manner:

(a) Thirty-five percent (35%) of the proceeds to be designated and used to purchase new equipment for the Henderson County fire department; provided that any funds remaining unexpended at the end of each fiscal year shall not revert to the general fund but shall be restricted in the fund balance for use of the fire department for the purchase of new equipment. Such fund balance shall be appropriated by the Henderson County Commission after consulting with the Chief Officer of the Henderson County Fire Department.

(b) Twenty percent (20%) of the proceeds to be designated and used to promote tourism within Henderson County.

(c) Twenty percent (20%) of the proceeds to be designated and placed in an industrial development fund to be used to recruit the location of new industry in Henderson County.

(d) Twenty-five percent (25%) of the proceeds to be designated and used for general operating expenses and capital expenditures for the Henderson County jail.

As amended by:

Private Acts of 1992, Chapter 186

Private Acts of 1998, Chapter 187

Private Acts of 2021, Chapter, 12

SECTION 4. 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 Henderson County.

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 county.

SECTION 5.

(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 county, to the county clerk 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 granted 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 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 6. The clerk 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 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 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 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 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 (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 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 fifty dollars (\$50.00).

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 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 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 clerk shall be entitled to retain as a commission two (2%) 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 clerk 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 county taxes collected by the county clerk under authority of this Act shall be refunded by him.

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

As amended by: Private Acts of 1984, Chapter 187

SECTION 11. The proceeds of the tax authorized by this Act shall be allocated to and placed in the General Fund of Henderson County.

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 Henderson County before September 1983. Its approval or nonapproval 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 upon being approved as provided in Section 13.

Passed: April 14, 1983.

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

1. Private Acts of 1925, Chapter 487, set out the duties of the Tax Assessor in Henderson County, which included assessment of taxes, serving as ex officio Chairman of the County Equalization Board, and keeping the book of the respective districts. The Tax Assessor would be paid \$1,500 annually.
2. Private Acts of 1927, Chapter 159, amended Private Acts of 1925, Chapter 487, to increase the salary of the Tax Assessor to \$2,200 per year. This act was repealed by Private Acts of 1929, Chapter 420.
3. Private Acts of 1929, Chapter 415, amended Private Acts of 1925, Chapter 487, to relieve the Tax Assessor of his position as Chairman of the County Equalization Board and to lower his salary to \$1,700 per year during those years when he was required to assess the real estate and \$800 per year in all other years.
4. Private Acts of 1929, Chapter 420, repealed Private Acts of 1927, Chapter 159.
5. Private Acts of 1937, Chapter 821, amended the Charter of the City of Lexington to allow the Mayor and Aldermen elect a Tax Assessor to assess all taxes within the city limits.
6. Private Acts of 1949, Chapter 452, set the compensation of the Tax Assessor of Henderson County at \$2,500 per year.
7. Private Acts of 1959, Chapter 172, authorized the Tax Assessor to employ a secretary at a salary of no more than \$600 per year. This Act was repealed by Private Acts of 1980, Chapter 194.
8. Private Acts of 1965, Chapter 291, would have provided the Tax Assessor reimbursement for office and travel expenses up to \$1,400 per year, but this act was rejected by the Quarterly County Court of Henderson County and never became law.

Taxation

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

1. Public Acts of 1870-71, Chapter 50, authorized the counties and incorporated towns to levy taxes for county and municipal purposes under the following conditions: (1) that all property be taxed according to its value upon the principles laid down for State taxation; (2) that no county or city could extend credit without the consent of a majority of the Justices of the Peace or the Board of Mayor and Aldermen, and approval of 3/4 of the qualified voters in a referendum; and (3) that no county or town could be a stockholder with others in any company without the same approval. Henderson County, along with several others, was exempt from the 3/4 approval requirement so that a simple majority of the voters would suffice until 1881, at which time approval of 3/4 of the voters would be required.
2. Public Acts of 1885, Chapter 145, abolished the taxing district of the town of Lexington.
3. Public Acts of 1893, Chapter 111, authorized, ratified and approved the actions of the Henderson County Quarterly Court with regard to the Paducah, Tennessee and Alabama Railroad Company and the construction of a railroad into Henderson County to Lexington. The town of Lexington and its citizens had agreed to subscribe to \$20,000 of the railroad's stock to bring the railroad to the town, and it was agreed that all taxes collected by Henderson County from the Paducah, Tennessee and Alabama Railroad Company for the next twenty years would be assigned to the town of Lexington.
4. Private Acts of 1911, Chapter 183, authorized Henderson County to levy a high school tax of 10¢ per \$100 property valuation. This act was repealed by Private Acts of 1915, Chapter 538.
5. Private Acts of 1917, Chapter 812, authorized the Henderson County Quarterly Court to levy a highway tax of 50¢ or more per \$100 property valuation, and validated the Quarterly Court's action in levying the tax in 1916.
6. Private Acts of 1929, Chapter 417, authorized Henderson County, through its Quarterly County Court, to levy a special tax not to exceed 12¢ per \$100 property valuation to pay the salaries of county officials. The tax was not mandatory, but was to be levied if and when insufficient funds were produced by the general tax levy.
7. Private Acts of 1937, Chapter 95, amended Private Acts of 1929, Chapter 417, to increase the permissible tax rate from 12¢ to 20¢.
8. Private Acts of 1937, Chapter 96, authorized the Quarterly County Court of Henderson County to levy a special tax to defray the expense of the maintenance and relief of paupers and the maintenance, care and upkeep of the insane. The tax rate was not to exceed 20¢ per \$100 property valuation.
9. Private Acts of 1937, Chapter 97, approved and validated the actions of the Henderson County Quarterly Court with regard to the levy in 1936 of a special tax of 16¢ per \$100 property valuation to pay salaries of county officials, a special tax of 8¢ per \$100 for the upkeep, care, and maintenance of the insane confined in Western State Hospital, and a special tax of 9¢ per \$100 for paupers in the county.
10. Private Acts of 1947, Chapter 632, authorized the Quarterly Court of Henderson County to assess and levy a tax on all real and personal property in the county for the purpose of obtaining funds for the construction, maintenance, and repair of roads, bridges, culverts, and other structures connected with the county road system.
11. Private Acts of 1957, Chapter 6, would have authorized the Quarterly Court of Henderson County to levy a special tax, not to exceed 25¢ per \$100 property valuation, to establish an Industrial Department for the county. Annual appropriations could not exceed \$15,000. This act was subject to approval of the voters in a referendum. The act was never presented to the voters and therefore never went into effect.

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