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Chapter XII - 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,

The University of Tennessee
County Technical Assistance Service
226 Anne Dallas Dudley Boulevard, Suite 400
Nashville, Tennessee 37219
615.532.3555 phone
615.532.3699 fax
www.ctas.tennessee.edu

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Chapter XII - Taxation

Coin Operated Machine Tax

Private Acts of 1963 Chapter 280

SECTION 1. That the Quarterly County Court of any county of this State having a population of not less than 10,750 nor more than 10,800, according to the Federal Census of 1960, or any subsequent Federal Census, is authorized to levy a tax of twenty-five dollars (\$25.00) on coin-operated pinball machines and coin-operated record machines regularly licensed and used in such county and to provide for the collection and enforcement of such tax levy.

SECTION 2. That this Act shall have no effect unless the same shall have been approved by the Quarterly County Court of any county to which it may apply on or before the next regular meeting of said Quarterly County Court occurring more than thirty (30) days after its approval by the Governor or after its otherwise becoming a law. Its approval or non-approval shall be proclaimed by the presiding officer of said Quarterly County Court 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 21, 1963.

Hotel/Motel Tax

Private Acts of 1989 Chapter 73

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

(1) "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;

(2) "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;

(3) "Occupancy" means the use or possession, or the right to the use or possession, of any room, lodgings or accommodations in any hotel;

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

(5) "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; and

(6) "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 ninety (90) continuous days.

SECTION 2. A privilege tax is hereby levied in Johnson County upon the privilege of occupancy in any hotel of each transient in an amount not to exceed five percent (5%) of the consideration charged by the operator.

SECTION 3. (a) Such tax shall be added by each and every operator to each invoice prepared by the operator for the occupancy of his or her hotel and be given directly or transmitted to the transient, and shall be collected by such operator from the transient and remitted to the county.

(b) When a person has maintained occupancy for ninety (90) 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 Johnson County.

SECTION 4. (a) The tax hereby levied shall be remitted by all operators who lease, rent or charge for rooms or spaces in hotels within Johnson County to the county clerk, the tax to be remitted to such officer

not later than the twentieth day of each month for the preceding month.

The operator is hereby required to collect the tax from the transient at the time of the presentation of the invoice for 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 pursuant to 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 or her report and paying the amount due by such operator, provided the amount due was not delinquent at the time of payment.

SECTION 5. (a) (1) The county clerk shall be responsible for the collection of such tax and shall place the proceeds of such tax in accounts for the purposes stated herein.

(2) A monthly tax return shall be filed under oath with the county clerk by the operator with such number of copies thereof as such collector may reasonably require for the collection of such tax.

(3) 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 county clerk and approved by the county legislative body prior to use.

(4) The county 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.

(b) The county legislative body is hereby authorized to adopt reasonable rules and regulations for the implementation of the provisions of this part, including the form for reports.

SECTION 6. 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 7. (a) Taxes collected by an operator which are not remitted to the county clerk on or before the due dates shall be delinquent.

(b) 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 the 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.

(c) 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 8. It shall be the duty of every operator liable for the collection of 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 9. (a) Upon any claim of illegal assessment and collection, the taxpayer shall have the remedies provided in Tennessee Code Annotated, Title 67, it being the intent of this act that the provisions of the law which apply to the recovery of state taxes illegally assessed and collected shall apply to the tax collected under the authority of this act.

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

(c) Notice of any tax paid under protest shall be given to the county clerk, and suit for recovery may be brought against the county clerk.

SECTION 10. The proceeds of the tax levied by this act shall be placed and retained in the county general fund; provided, however, that the first fifteen thousand dollars (\$15,000) of such proceeds each year shall be appropriated by the county legislative body for the purpose of advertising and promoting tourism in Johnson County.

SECTION 11. The tax levied pursuant to the provisions of this act shall only apply in accordance with the provisions of Tennessee Code Annotated, Section 67-4-1425.

SECTION 12. The privilege tax levied by this act 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 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 ($\frac{2}{3}$) vote of the county legislative body of Johnson County. Its approval or nonapproval shall be proclaimed by the presiding officer of the legislative body of Johnson County and certified by him 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: April 26, 1989.

Litigation Tax

Private Acts of 1980 Chapter 258

SECTION 1. A litigation tax of Two (\$2.00) Dollars shall be taxed as part of the costs of all civil and criminal actions in the Court of General Sessions of Johnson County.

SECTION 2. The Clerk of said Court will collect the litigation tax and pay the same into a separate fund, which is to be designated as the "Courthouse and Jail Maintenance Repair and Improvement Fund", to be used exclusively for the maintenance, upkeep and repair of the Courthouse and Jail of Johnson County.

SECTION 3. All expenditures made from the funds are to be made by the County Executive upon the authorization of the Johnson County Legislative Body.

SECTION 4. This Act shall have no effect unless it is approved by a two-thirds ($\frac{2}{3}$) vote of the County Legislative Body of Johnson County before October 1, 1980. Its approval or nonapproval shall be proclaimed by the presiding officer of the Johnson County Legislative Body and certified by him to the Secretary of State.

SECTION 5. 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 4.

Passed: March 24, 1980.

Wheel Tax

Private Acts of 1983 Chapter 68

SECTION 1. That for the privilege of using the public roads and highways, and for the privilege of operating a motor vehicle within Johnson County, Tennessee, there is levied upon motor-driven vehicles and upon the privilege of the operation thereof, except farm tractors, self-propelled farm machines not usually used for operation upon public highways or roads, antique automobiles, and except all motor-driven vehicles owned by any governmental agency or governmental instrumentality, a special privilege tax for the benefit of the county, which tax shall be in addition to all other taxes, and shall be in the amount of twenty dollars (\$20.00) per each such motor-driven vehicle. In addition to the foregoing, this tax applies to, is a levy upon, and shall be paid on each motor-driven vehicle, the owner of which lives within, or usually stays within, or operates such motor-driven on, over, or upon the streets, roads, or highways of the county. Provided further, that nothing in this act shall be construed as permitting and authorizing the levy of, and the collection of, a tax against non-residents of the county to which this act applies, and to owners of such vehicles using the streets, roads, and highways of the county, who live or reside without the bounds of the county, and who do not come within the provisions of this act.

SECTION 2. The tax herein levied shall be collected by the county clerk of Johnson County, who shall collect this tax at the same time he or she collects the state privilege tax levied upon the operation of a motor-driven vehicle over the public highways of this state. The clerk shall not issue to a county resident a state license for the operation of a vehicle taxable hereunder unless, at the same time, the owner pays the privilege tax levied hereunder.

SECTION 3. Payment of the tax shall be evidenced by a receipt, issued in duplicate by the clerk, the original of which shall be kept by the vehicle owner and by a decal or emblem also issued by the clerk, which shall be affixed on the lower right hand side of the vehicle windshield. Provided, however, that the

privilege tax decal for motorcycles, motor-driven bicycles and scooters shall be placed on the top portion of the gasoline tank, but if such tank is not visible or exposed, then on any prominent and visible portion of that vehicle.

SECTION 4. The design of the decal or emblem shall be determined by the county clerk. The expense incident to the purchase of such decals and emblems herein required, as well as the expense of obtaining proper receipts and other records necessary for the performance of the duties herein incumbent upon the county clerk shall be paid from the general fund of the county. For his or her services in collecting the tax, and in issuing the receipt therefor and delivering the decal or emblem to the owner, the clerk shall be entitled to a fee of one dollar (\$1.00) for each vehicle, motorcycle, motor-driven scooter and bicycle, it being the legislative intent that the clerk fee equal not more than five percent (5%) of the amount of tax paid; and further provided that this fee shall be deducted from the amount of tax paid. The clerk will faithfully account for, make proper reports of, and pay over to the county trustee at monthly intervals, all funds received by him or her for the payment of the tax.

SECTION 5. The privilege tax hereby levied, when paid together with full, complete, and explicit performance of and compliance with all provisions of this act, by the owner, shall entitle the owner of the motor-driven vehicle for which said tax was paid, to operate this vehicle over the streets, roads and highways of the county from the purchase date of his state motor vehicle license plate or decal to the next succeeding date of renewal of such license plate or decal. If the privilege tax levied hereunder is paid at the time other than the purchase of state motor vehicle license plates or decals, such tax shall be prorated accordingly by the county clerk.

SECTION 6. In the event any vehicle for which the motor vehicle privilege tax has been paid and the emblem or decal issued and placed thereon by the owner, becomes unusable to the extent that it can no longer be operated over public roads; or in the event that the owner transfers the title to such vehicle, and completely removes therefrom and destroys the decal or emblem, and the owner makes proper application to the county clerk for the issuance of a duplicate decal or emblem to be used by him or another vehicle for the unexpired term for which the original decal or emblem was issued, and the clerk is satisfied that the applicant is entitled to the issuance of such duplicate decal or emblem, and the owner pays the hands of the county clerk the sum of two dollars (\$2.00), the clerk will then issue to such owner a duplicate receipt, canceling the original receipt delivered to him by the owner, and will deliver to the owner a duplicate decal or emblem, which shall be affixed to the vehicle for which it is issued by the owner, as herein provided, and such duplicate decal or emblem shall entitle the owner to operate or allow to be operated the vehicle upon the roads for the remainder of the period for which the original decal or emblem was issued.

Likewise, in the event a decal or emblem becomes obliterated, erased or defaced, or is destroyed under the provisions of this act, and is therefore illegible and unusable by the owner, upon proper application made by the owner and filed with the clerk showing such circumstances and facts to be true, then the county clerk, upon receipt from the owner of two dollars (\$2.00), may issue and deliver to the owner a duplicate decal or emblem.

SECTION 7. The proceeds from this tax shall be placed in the county general fund, and used exclusively for county purposes.

SECTION 8. It is the intent of the General Assembly of the State of Tennessee, that this act shall be construed as a measure providing for additional revenue for Johnson County.

SECTION 9. Any person violating the provisions of this act, or of any part thereof, shall upon conviction be guilty of a misdemeanor and shall be punished by imprisonment in the county jail or workhouse not more than one (1) year, or by fine of not less than twenty dollars (\$20.00) nor more than fifty dollars (\$50.00), or by both, in the discretion of the court.

SECTION 10. 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 11. This act expressly repeals Chapter 343 of the Private Acts of 1974.

SECTION 12. This act shall have no effect unless the same shall have been approved by a two-thirds ($\frac{2}{3}$) vote of the commissioners present and constituting a quorum of the board of county commissioners of Johnson County. Its approval or nonapproval shall be proclaimed by the presiding officer of the Board of County Commissioners of Johnson County, and the action of the Board of County Commissioners of Johnson County shall be certified by him to the Secretary of State.

SECTION 13. 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 12.

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 Johnson County Assessor.

1. Private Acts of 1937, Chapter 610, fixed the salary of the Johnson County Tax Assessor at \$1,080 per annum, which was paid in equal monthly installments by warrants drawn by the county judge. The population figures for Johnson County, according to the 1930 Federal Census, did not meet the population requirements of this act. However, it is our judgement that Private Acts of 1937, Chapter 610, was intended for Johnson County because the author of the act represented Johnson County and it was also indexed under Johnson County in the 1937 Private Act Volume.
2. Private Acts of 1949, Chapter 186, authorized the Johnson Quarterly County Court to set the salary of the Johnson County Tax Assessor at \$1,800 per annum.
3. Private Acts of 1949, Chapter 694, provided that the salary of the Johnson County Tax Assessor should be \$1,800 per annum. This act was amended by Private Acts of 1951, Chapter 656, which provided a travel allowance for the Johnson County Tax Assessor. Chapter 694 was further amended by Private Acts of 1953, Chapter 173, which revoked the travel allowance granted to the Johnson County Tax Assessor by Private Acts of 1951, Chapter 656 and provided that the tax assessor be additionally compensated at the rate of \$600 per annum for traveling expenses.

Taxation

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

1. Private Acts of 1915, Chapter 159, provided for a tax levy of "one and a half mills on the dollar" for the purpose of maintaining county high schools. This was amended by Private Acts of 1921, Chapter 737, to increase the tax levy to two mills on the dollar.
2. Private Acts of 1974, Chapter 343, attempted to levy a wheel tax upon motor driven vehicles in Johnson County. While it was approved by the quarterly county court, this act was rejected by the voters of Johnson County, so that this tax levy never became effective.
3. Private Acts of 1974, Chapter 376, was an attempt to levy a solid waste disposal tax in Johnson County. No local action was ever taken on this act and it never became law.
4. Private Acts of 1980, Chapter 263, authorized the legislative body of Johnson County to levy a privilege tax not to exceed 5% on the occupancy of any hotel room by transients and provided for the collection of the tax and the distribution of the proceeds. This act was never ratified by local officials and never became operative.

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