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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

Assessor of Property

Private Acts of 1974 Chapter 189

SECTION 1. Any conveyance of property vesting or divesting title or interest in or to any real property located in Jackson County, shall be recorded in the office of the county tax assessor before any such instrument may be registered and stamped in the office of the county register of deeds. The county tax assessor shall:

- (I) receive such instruments for recording;
- (II) make a permanent record of the instrument for this office, which shall show (1) the date of the instrument, (2) the consideration for the transfer, (3) the name and address of the grantor and grantee or trustee, (4) the location of the property, and (5) a sufficient description of the property; and
- (III) stamp on such instruments a notation of his endorsement signifying compliance with the requirements of this section.

SECTION 2. Any such instrument specified in Section 1 of this Act shall bear the name and the address, as of the date of the recording or registration, of the grantor, and grantee or trustee, before such instrument shall be received for registration by the county register of deeds.

SECTION 3. This Act shall have no effect unless it is approved by a two-thirds (2/3) vote of the Quarterly County Court of Jackson County. Its approval or non-approval shall be proclaimed by the presiding officer of the court and certified by him to the Secretary of State.

SECTION 4. For the purpose of approving this Act as provided in Section 1, it shall take effect on becoming a law, the public welfare requiring it, but for all other purposes, it shall take effect July 1, 1974.

Passed: February 14, 1974.

Hotel/Motel Tax

Private Acts of 2019 Chapter 31

SECTION 1. For the purposes of this act:

- (a) "Clerk" means the county clerk of Jackson County, Tennessee;
- (b) "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. This definition does not 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;
- (c) "County" means Jackson County, Tennessee;
- (d) "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, campground, tourist camp, tourist court, tourist cabin, motel, or any place in which rooms, lodgings, or accommodations are furnished to transients for a consideration;
- (e) "Occupancy" means the use or possession, or the right to the use or possession, of any room, lodgings, or accommodations in any hotel;
- (f) "Operator" means the person operating the hotel whether as owner, lessee, or otherwise, and includes governmental entities;
- (g) "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; and
- (h) "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 Jackson County may levy a privilege tax upon the privilege of occupancy in any hotel of each transient, in the amount of five percent (5%) of the rate charged by the operator. The tax imposed is a privilege tax upon the transient occupying such room or other accommodation and is to be collected and distributed as provided in this act. The rate of the tax may be modified by the county legislative body; provided, that the rate must not exceed five percent (5%). Such tax is in addition to all other taxes levied or authorized to be levied, whether in the form of excise, license, or privilege taxes, and is in addition to all other fees and taxes now levied or authorized to be levied.

SECTION 3. The proceeds received by the county from the tax are allocated to and placed in the county general fund, and designated and used for such purposes as specified by resolution of the county legislative body.

SECTION 4.

(a) Each operator shall:

- (1) Add the occupancy tax to each invoice prepared by the operator for the occupancy of the hotel, which must be given directly or transmitted to the transient;
- (2) Collect such tax from the transient; and
- (3) Remit such tax to the clerk.

(b) When a person has maintained occupancy for thirty (30) continuous days, the operator shall provide a refund or credit to the person for the tax previously collected from or charged to the person, and the clerk shall credit the operator for the amount of such tax if previously paid or reported to the county.

SECTION 5.

(a) Each operator that leases, rents, or charges for rooms or spaces in hotels within the county shall remit the tax levied pursuant to this act to the clerk, or such other officer, as may by resolution, be charged with the duty of collection of the tax, not later than the twentieth day of each month for the preceding month. The operator shall collect the tax from the transient at the time of the presentation of the invoice for the occupancy as may be the custom of the operator.

(b) For the purpose of compensating the operator in accounting for remitting the tax levied by this act, the operator is entitled to retain two percent (2%) from the amount of the tax due by including such a deduction in the operator's report and paying the remaining amount due by the operator, so long as the amount due was not delinquent at the time of payment.

SECTION 6. The clerk, or other authorized collector of the tax, is responsible for the collection of the tax and shall place the proceeds of such tax in accounts for the purposes stated in this act. Each operator shall file a monthly tax return under oath with the clerk with such number of copies thereof as the clerk may reasonably require for the collection of such tax. The report of the operator must include such facts and information as may be deemed reasonable for the verification of the tax due. The clerk shall develop the form of the report, which must be 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 on a quarterly basis to the county legislative body. The county legislative body may adopt resolutions to provide reasonable rules and regulations for the implementation 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.

(a) Taxes collected by an operator that are not remitted to the county clerk on or before the due dates are delinquent. An operator is liable for interest on delinquent taxes from the due date at the rate of twelve percent (12%) per annum and, in addition, for a penalty of one percent (1%) for each month or fraction thereof such taxes are delinquent. Such interest and penalty become a part of the tax herein required to be remitted.

(b) 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 an offense and constitutes a misdemeanor punishable upon conviction of a fine not in excess of fifty dollars (\$50.00).

(c) This section does not prevent the clerk or other authorized collector of the tax from pursuing any civil remedy available to the collector by law, including issuing distress warrants and the seizure of assets, to collect any taxes due or delinquent under this act.

SECTION 9. Each operator shall keep and preserve for a period of three (3) years all records as may be necessary to determine the amount of such tax as the operator may have been liable for the collection of

and payment to the county. The clerk may inspect, and the operator shall provide access to, the operator's occupancy tax records at reasonable times at the request of the clerk.

SECTION 10. The clerk, in administering and enforcing this act, may exercise the powers and duties with respect to collecting taxes as provided in Tennessee Code Annotated, Title 67, or otherwise provided by law for the county clerks. For the clerk's services in administering and enforcing this act, the clerk may 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 being the intent of this act that the provisions of law that apply to the recovery of state taxes illegally assessed and collected also apply to the tax levied under the authority of this act. The clerk has the powers and duties provided in Tennessee Code Annotated, § 67-1-707, for the county clerks, With respect to the adjustment and settlement with taxpayers, all errors of county taxes collected by the clerk under the authority of this act must be refunded by the county clerk. Notice of any tax paid under protest must be given to the county clerk, and the resolution authorizing levy of the tax must designate a county officer against whom suit may be brought for recovery.

SECTION 11. 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 12. This act shall have no effect unless it is approved by two-thirds (2/3) vote of the county legislative body of Jackson County. Its approval or no approval shall be proclaimed by the presiding officer of the county legislative body and certified by the presiding officer of the county legislative body to the secretary of state.

SECTION 13. For the purpose of approving or rejecting the provisions of this act, it shall become effective upon becoming a law, the public welfare requiring it. For all other purposes, it shall take effect on the first day of the second month following approval as provided in Section 12, the public welfare requiring it.

Passed: May 24, 2019.

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 Jackson County Assessor.

1. Private Acts of 1915, Chapter 441, stated that the salary of the Tax Assessor in Jackson County shall be \$500 per year to be drawn from the regular county funds in the treasury upon the warrant of the County Chairman, or Judge, on the first Monday in July of each year.
2. Private Acts of 1929 (Ex. Sess.), Chapter 65, fixed the salary of the Tax Assessor in Jackson County at \$1,000 per year, payable on July 1 of each year upon the warrant of the County Chairman or Judge drawn on the regular county general funds.
3. Private Acts of 1931, Chapter 713, provided that the Tax Assessor of Jackson County shall receive as compensation for his services the sum of \$800 per year, payable on July 1, 1931, and on that day thereafter out of the county treasury on a warrant from the County Judge, or Chairman.
4. Private Acts of 1941, Chapter 478, amended Private Acts of 1931, Chapter 713, by increasing the annual salary of the Tax Assessor of Jackson County from \$800 to \$1,200 per year.

Taxation

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

1. Acts of 1805, Chapter 67, Section 3, made it lawful for the Sheriff of Smith County to collect the taxes for the present year, and all arrearages, in that portion of Smith County which was annexed to Jackson County, to be accomplished under the same rules and regulations as if the annexation Act had not been passed.
2. Acts of 1809, Chapter 23, granted to Robert Armstrong the time until January 1, 1811, to finish up his collection of taxes and he is further empowered to collect any tax from any citizen of Jackson County who had listed his, her or their property in White County.
3. Acts of 1817, Chapter 128, authorized the county clerks of several counties, Jackson being among them, to lay a tax at their first session each year for the purpose of making an additional compensation to jurors attending the circuit or the county court, provided a majority of the justices are present and voted for the tax, and, provided further, that the additional compensation to the jurors shall not exceed fifty cents per day.

4. Acts of 1820 (Ex. Sess.), Chapter 28, cited in the preamble that the seat of justice in Jackson County had been moved from Williamsburg and a great number of the inhabitants had moved with it; that the lots of the said town were owned by the people of Jackson County who are presently greatly oppressed by the amount of taxes accruing on these lots, therefore, this Act exempts these properties, and their owners, from the payment of any state and county taxes on them, and prohibits any justice of the peace from making them a part of any tax list.
5. Acts of 1857-58, Chapter 127, stated that the Tax Assessor of Jackson County in 1857 neglected to add to the tax rate the 4% tax for the common schools and the lunatic asylum and he is therefore 4% short in the amount collected. This act permits the tax assessor to add the 4% to the 1858 taxes which he shall pay to the treasurer of the state and thereupon be relieved of liability for the same, but his sureties will remain liable for any 1858 deficiency in payment.
6. Acts of 1870-71, Chapter 50, provided that all counties and cities could levy taxes for county and municipal purposes in the following manner, (1) that all taxable property shall be taxed according to its value upon principles established for state taxation, and (2) that 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 agree and that the voters approve the same in the referendum by a three-fourths majority. Several counties, including Jackson, exempted themselves from the second requirement of three-fourths majority for the next ten years saying a simple majority would suffice.

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