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Chapter XI - Taxation

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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 1981 Chapter 135

SECTION 1. As used in the 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, governmental units, 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 designated for occupancy by transients for dwelling, lodging, or sleeping purposes, and includes any hotel, inn, tourist court, tourist camp or campground, tourist cabin, motel, or any place in which rooms, lodgings, or accommodations are furnished to transients for a consideration.

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

(e) "Consideration" means the consideration charges whether or not received, for the occupancy in a hotel or campground 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, lessee, or otherwise.

(g) "Tax collections official" means the county clerk.

SECTION 2. Humphreys County is hereby 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 tax imposed is a privilege tax upon the transient occupying such room and is to be collected and distributed as herein provided.

SECTION 3. The tax shall be added by each operator to each invoice prepared by the operator for the occupancy of his hotel. Such invoice is to be given directly or transmitted to the transient, a copy thereof filed by month and retained by the operator as provided in Section 7 hereof.

SECTION 4.

(a) The tax hereby levied shall be remitted by all operators who lease, rent, or charge for any rooms or campground space to the county clerk not later than the twentieth (20th) day of each month next following such 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 remitted 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, however, that the amount due was not delinquent at the time of payment.

(c) For the purpose of compensating the county clerk for collecting the tax, the county clerk shall be allowed two percent (2%) of the amount of tax remitted by hotel, motel, or campground operators or twelve thousand dollars (\$12,000.00) per annum whichever is less.

SECTION 5. No operator of a hotel, motel, or campground 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. An operator shall be liable for interest on such delinquent taxes from the due

date at a rate of twelve percent (12%) per annum, and in addition for a penalty on such taxes of one percent (1%) for each month or fraction thereof that 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 be punishable upon conviction by a fine not in excess of fifty dollars (\$50.00).

Any fine levied herein shall be applicable to each individual transaction involving lodging services paid by a transient to the operator in those cases when the operator fails or refuses to pay the tax payable to the county clerk.

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 of 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 Tennessee Code Annotated, Title 67, or otherwise provided by law.

Upon any claim of illegal assessment and collection, the taxpayer shall have the remedy provided in Tennessee Code Annotated, Section 67-2313, it being the intent of this act that the provisions of law which apply to the recovery of taxes illegally assessed and collected shall apply to the tax collected under the authority of this act; provided, the tax collection official shall possess those powers and duties as provided in Tennessee Code Annotated, Section 67-2301, 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. Any suit for recovery shall be brought against such tax collection official.

SECTION 9. The county clerk shall faithfully account for, make proper reports of, and pay over to the trustee of the county at monthly intervals, all funds paid to and received by such clerk for the privilege tax.

SECTION 10. The proceeds of the tax imposed in this act, when collected and paid to the county trustee, shall become part of the county general fund, or such other fund as the county legislative body may direct.

SECTION 11. The privilege tax levied by this act shall be in addition to all other taxes 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 clause, sentence, paragraph, section or any part of this act shall be held or declared to be unconstitutional, it shall not affect the remainder of this act notwithstanding the part held to be invalid, if any, and to that end the provisions of this act are declared 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 Humphreys County. Its approval or nonapproval shall be proclaimed by the presiding officer of the legislative body and certified by him to the Secretary of State.

SECTION 14. For the purpose of approving this act as provided in Section 13, it shall take effect on becoming a law, the public welfare requiring it. For all other purposes, it shall take effect on the first day of the month following ninety (90) days from approval as provided in Section 13.

Passed: May 21, 1981.

Litigation Tax

Private Acts of 1981 Chapter 66

SECTION 1. There is hereby created a litigation tax on the privilege of litigating a civil or criminal action in the Circuit, Criminal, or Chancery Courts, the court of General Sessions, Juvenile and any other Special Courts in Humphreys County. The amount of such tax shall be ten dollars (\$10.00) to be levied in Circuit, Criminal and Chancery Courts and five dollars (\$5.00) in General Sessions, Juvenile and all other Courts. As used in this Act, "cause of action" or "Action" includes, but is not limited to, all ex parte hearings, advisory hearings and adversary proceedings.

SECTION 2. The Clerks of the various Courts shall collect the litigation tax from the parties as part of the costs of the cause of action and such collections shall be made upon the disposition of such cause of action. Provided, however, the clerks shall not collect the litigation tax on such action if the Judge having jurisdiction over the action suspends the costs of the cause of action. The clerks shall collect the litigation

taxes authorized by this Act and transfer such taxes to the County trustee on a monthly basis to be deposited with the trustee no later than the 10th day of the month immediately following the month of collection.

SECTION 3. Upon receipt of the funds of such litigation tax from the clerks, the county trustee shall deposit such funds in the County General Fund. Such funds shall be subject to appropriation by the County Legislative body for any County purpose.

SECTION 4. The litigation tax created by this Act shall be in addition to all other privilege taxes on litigation imposed by the laws of this state.

SECTION 5. This Act shall have no effect unless it is approved by a two-thirds (2/3) vote of the county legislative body of Humphreys County, Tennessee. Its approval or nonapproval shall be proclaimed by the presiding officer of the Humphreys County legislative body and certified by him to the Secretary of State.

SECTION 6. For the purpose of approving or rejecting the provisions of this Act, is (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 next following the approval of the County Legislative Body as provided in Section 5.

Passed: April 8, 1981.

Marriage License

Private Acts of 1981 Chapter 53

SECTION 1. In addition to all other fees, there is hereby imposed a fee of two dollars (\$2.00) upon the issuance of a license to marry in Humphreys County. This fee shall be collected by the clerk at the time of the issuance of the license and remitted by him to the county trustee as a part of the general fund of the county.

SECTION 2. This Act shall have no effect unless it is approved by a two-thirds (2/3) vote of the county legislative body of Humphreys County before September 1, 1981. Its approval or nonapproval shall be proclaimed by the presiding officer of the Humphreys County legislative body and certified by him to the Secretary of State.

SECTION 3. 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 2.

Passed: March 18, 1981.

Severance Tax

Private Acts of 1981 Chapter 148

SECTION 1. Humphreys County by Resolution of its county legislative body is authorized to levy a tax on all sand, gravel, limestone, phosphate rock, and all other mineral products severed from the ground within its jurisdiction. The tax shall be levied for the use and benefit of Humphreys County only and all revenues collected for the tax, except deductions for administration and collection provided for herein, shall be allocated to Humphreys County. Administration and collection of this tax shall be by the county clerk of Humphreys County who shall have the power to promulgate all rules and regulations necessary and reasonable for the administration of the provisions of this Act.

SECTION 2. The rate of the tax shall be set by the county legislative body, but shall not exceed five cents (5¢) per ton of sand, gravel, limestone, phosphate rock, or other mineral products severed from the ground in the county. Every interested owner shall become liable at the time the sand, gravel, limestone, phosphate rock, or other mineral product is severed from the earth and ready for sale, whether before processing or after processing as the case may be. The term "sand, gravel, limestone, phosphate rock, or other mineral product" shall mean, sand, gravel, limestone, phosphate rock, or any other mineral severed from the earth in the process of producing a saleable product by whatever means of severance used. It shall not include, however, any mineral taxed under the provisions of Tennessee Code Annotated, Section 67-5901 through 67-5905 [§ 67-7-110], Section 60-1-301 or any lime or limestone used for agricultural purposes. The tax shall be levied upon the entire production in the county regardless of the place of sale or the fact that delivery may be made outside the county. The tax shall accrue at the time the sand, gravel, limestone, phosphate rock, or other mineral product is severed from the earth and in its natural or unprocessed state. The tax levied shall be a lien upon all sand, gravel, limestone, phosphate rock, and

other mineral products severed in the county and upon all property from which it is severed, including but not limited to mineral rights of the producer, and such lien shall be entitled to preference over all judgements, encumbrances or liens whatsoever created.

SECTION 3. The tax levied by this Act shall be due and payable on the first day of the month succeeding the month in which the sand, gravel, limestone, phosphate rock, or other mineral products are severed from the soil. For the purpose of ascertaining the amount of tax payable, it shall be the duty of all operators in Humphreys County to transmit to the county clerk on or before the fifteenth (15th) day of the month next succeeding the month in which the tax accrues a return upon forms provided by him. The return shall show the month or period covered, the total number of tons of each type of mineral, sand, gravel, limestone, phosphate rock, or other mineral product severed from each production unit operated, owned or controlled by the taxpayer during the period covered, the amount of the tax and such information as the county clerk may require. The return shall be accompanied by a remittance covering the amount of tax due as computed by the taxpayer.

SECTION 4. The tax levied by this Act shall become delinquent on the sixteenth (16th) day of the month next succeeding the month in which such tax accrues. When any operator shall fail to make any return and pay the full amount of the tax levied on or before such date there shall be imposed, in addition to other penalties provided herein, a specific penalty in the amount of ten percent (10%) of the tax due. Whenever a penalty is imposed there shall also be added to the amount of tax and penalty due interest thereon at the rate of eight percent (8%) per annum from the date due until paid. A further penalty of fifty percent (50%) of the amount due may be added if the nonpayment of the tax is due to an intent to evade payment. If the tax is delinquent for a period of sixty (60) days, or if the nonpayment of the tax is due to an intent to evade payment, the person liable for such payment may be restrained and enjoined from severing sand, gravel, limestone, phosphate rock, or other mineral products that have been severed and sold and upon which the tax is due. Restraint proceedings shall be instituted in the name of the county by the district attorney general for the county at the request of the Humphreys County Clerk. All such penalties and interest imposed by this Act shall be payable to and collectible by the county clerk in the same manner as if they were a part of the tax imposed and shall be retained by the county clerk's office to help defray the expenses of administration and collection. Any person required by this Act to make a return, pay a tax, keep records, or furnish information deemed necessary by the county clerk for the computation, assessment, or collection of the tax imposed by this Act, who fails to make the return, pay the tax, keep the records, or furnish the information at the time required by law or regulation is, in addition to other penalties provided by law, guilty of a misdemeanor, and upon conviction is punishable by a fine of not more than one thousand dollars (\$1,000), or by imprisonment for not more than one (1) year or both.

Any person who willfully or fraudulently makes and signs a return which he does not believe to be true and correct as to every material fact is guilty of a felony and subject to the penalties prescribed for perjury under the law of this state. For the purposes of this section the word "person" also includes an officer or employee of a corporation or a member or employee of a partnership who is under duty to perform the act in respect to which the violation occurs.

SECTION 5. When any person shall fail to file any form, statement, report or return required to be filed with the county clerk, after being given written notice of same, the county clerk is authorized to determine the tax liability of such person from whatever source of information may be available to him. An assessment made by the county clerk pursuant to this authority shall be binding as if made upon the sworn statement, report or return of the person liable for the payment of such tax; and any person against whom such an assessment if lawfully made shall thereafter be estopped to dispute the accuracy thereof except upon filing a true and accurate return together with such supporting evidence as the county clerk may require indicating precisely the amount of the alleged inaccuracy.

SECTION 6. All revenues collected from the severance of sand, gravel, limestone, phosphate rock, or other mineral products in Humphreys County less an amount to cover the expenses of administration and collection and all of the penalties and interest collected, which shall be retained by the office of the county clerk and credited to its current service revenue to cover the expense of administration and collection, shall be remitted quarterly to the county trustee of Humphreys County, not later than the tenth (10th) day of the month following the end of the calendar quarter. These revenues shall become a part of the general fund of Humphreys County, subject to appropriation by the county legislative body.

Any adjustment of taxes, penalties, or interest which is necessary to adjust any error in collection of disbursement may be made at subsequent collection or disbursement.

SECTION 7. This Act shall have no effect unless it is approved by a two-thirds (2/3) vote of the county legislative body of Humphreys County. Its approval or nonapproval shall be proclaimed by the presiding officer of the Humphreys County legislative body and certified by him to the Secretary of State.

SECTION 8. For the purposes 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 7.

Passed: May 16, 1981.

Taxation - Historical Notes

Wheel Tax

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

1. Private Acts of 1975, Chapter 130, established a \$15 wheel tax on all motor vehicles using the roads in Humphreys County, except for farm vehicles, motorcycles and government vehicles. Anyone using the said roads for 30 days in any year was subject to payment of the tax. It was declared to be a misdemeanor when one failed to comply. The County Court Clerk had the responsibility of collecting the tax and issuing decals to be prominently displayed on vehicles as evidence of payment. Procedures were established in the statute whereby transfers of the decals could take place and those replaced which might have been lost or stolen. The proceeds of the tax would be placed into the general fund. This Act was not approved by the Quarterly County Court of Humphreys County and therefore was rendered null and void under the Home Rule Amendment to the State Constitution.
2. Private Acts of 1978, Chapter 287, established a \$25 privilege tax on motor vehicles in Humphreys County. The County Court Clerk would collect the tax and issue decals. The proceeds of the tax would be allocated as follows: 12% to the city of Waverly, 4% to the city of McEwen, 4% to the city of New Johnsonville, and 80% to the general fund of Humphreys County exclusively for the county road department. All proceeds would be used for road maintenance and repair. This Act was not approved by the County Court and never took effect.

Taxation

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

1. Private Acts of 1826, Chapter 100, was the authority for the Quarterly Court of Humphreys County to levy a tax in the amounts stipulated in the Act. The proceeds of this tax would be used to repair the Court House and to build a bridge across Cypress Creek. The tax could be continued for a period of three years.
2. Private Acts of 1833, Chapter 302, declared that those citizens of Humphreys and Perry Counties who reside in the Brown's bend of the Duck River were authorized to enter their lands and other property for taxation in Hickman County and be exempt from the same in their own county.

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