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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 2000 Chapter 144

SECTION 1. For the purposes of this act:

- (a) "Clerk" means the county clerk of Houston 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. 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.
- (c) "County" means Houston 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, 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 shall include 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.
- (h) "Transient" means any person who exercises occupancy or is entitled to occupancy for any rooms, lodgings, spaces or accommodations in a hotel for a period of less than thirty (30) continuous days.

SECTION 2. The legislative body of Houston County is authorized to 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.

SECTION 3. The proceeds received by the county from the hotel tax shall be for general county purposes for the benefit of the citizens of Houston County.

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 and shall be collected by such operator from the transient and remitted to Houston County.

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 or spaces in hotels within the county, to the county clerk or such other officer as may by resolution be charged with the duty of collection thereof, said 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 such 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 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 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 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 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 are delinquent. 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 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 a violation of this act and shall be punishable by a civil penalty 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 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 10. The county clerk in administering and enforcing the provisions of the act shall have as additional powers, those powers and duties with respect to collecting taxes as provided in Title 67, Tennessee Code Annotated, or otherwise provided by law for the county clerks.

For services in administering and enforcing the provisions of this act, the county clerk is entitled to retain as a commission five percent (5%) of the taxes so collected. Upon any claim of illegal assessment and collection, the taxpayer has the remedies provided in Title 67, Tennessee Code Annotated, it being 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 county clerk under the authority of this act shall be refunded by the county clerk. Notice of any tax paid under protest shall be given to the county 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 (or other fund) of Houston 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, Section 67-5-1425.

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 Houston County. Its approval or nonapproval shall be proclaimed by the presiding officer of the county legislative body 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: May 22, 2000.

Litigation Tax

Private Acts of 1981 Chapter 65

SECTION 1. There is hereby imposed a litigation tax on the privilege of litigating a civil or criminal action in the Circuit, Criminal or Chancery Courts, and the Court of General Sessions, in Houston County, in the amount of ten dollars (\$10) to be levied on each cause of action disposed of in such courts.

SECTION 2. The clerks of the respective courts shall collect such litigation tax and report and pay the same over to the county general account.

SECTION 3. The collected sum paid to the county general account shall be used for the purpose of funding court services and improvements in Houston County.

SECTION 4. 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 cause of action.

SECTION 5. As used in this Act, unless the context requires otherwise, "cause of action" or "action" includes, but is not limited to, all ex parte hearings, advisory hearings and adversary proceedings.

SECTION 6. 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 7. This Act shall have no effect unless it is approved by a two-thirds (2/3) vote of the legislative body of Houston County before September 6, 1981. Its approval or nonapproval shall be proclaimed by the presiding officer of the legislative body of Houston County and certified by him to the Secretary of State.

SECTION 8. 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 7.

Passed: April 8, 1981.

Motor Vehicle Tax

Private Acts of 1976 Chapter 211

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

(a) "Public roads" means the public roads, streets, and highways in Houston County but does not include state maintained roads.

(b) "Motor vehicle" means any vehicle which is self-propelled but does not include any motor vehicle owned by any government agent or instrumentality or any farm tractor and any self-propelled farm machine not usually used for operation upon a public road.

(c) "Wheel tax" means the privilege tax levied by Section 2 of this act on each motor vehicle.

(d) "Decal" means an emblem which signifies payment of the privilege tax levied by Section 2 of this act.

(e) "Motorcycle" means every motor vehicle having a saddle for the use of the rider and designed to travel on not more than three (3) wheels in contact with the ground, but excluding a farm tractor or other farm motorcycle, or a motorcycle owned by a government agency or instrumentality.

SECTION 2. For the privilege of using the public roads in Houston County, there is levied upon each motor vehicle and its operation a special privilege tax of forty-five dollars (\$45.00) and ten dollars (\$10.00) for each motorcycle. Such tax is in addition to other taxes. The tax applies to motor vehicles, whose owner is a resident of Houston County or whose owner is a non-resident of Houston County and operates such vehicle on the public roads for a period of not less than thirty (30) days in any tax year.

The payment of such tax and the display of the decal entitles the owner of such motor vehicle to operate it over the public roads from March 1 of each year to midnight on the last day of February of the next succeeding year.

When a motor vehicle becomes taxable under the provisions of the act at a later date than March 1, the same proportionate reduction shall be made as to the cost of the wheel tax as is now provided for the issuance of motor vehicle registration and license for the State of Tennessee under Tennessee Code Annotated, Title 5, Chapter 47 [Title 55, Chapter 4].

As amended by: Private Acts of 2000, Chapter 78

COMPILER'S NOTE: The Act refers to T.C.A. Title 5, Chapter 47, this appears to be a mistake, as Title 5, Chapter 47 does not exist.

SECTION 3. The wheel tax shall be collected by the County Court Clerk of Houston County. Upon payment of the wheel tax, the Clerk shall issue a receipt in duplicate and a decal. The County Court Clerk shall not issue a state of Tennessee automobile license plate, sticker, decal or emblem to a resident of Houston County unless, at the same time, such resident purchases the appropriate Houston County Wheel Tax decal in accordance with this chapter.

All expenses of the County Court Clerk in providing the decal, the receipts and other records of such wheel tax shall be paid from the general fund of Houston County.

The design of the decal shall be determined by the Clerk. For his services in collecting the tax, the Clerk shall receive a fee of fifty cents (\$.50).

Each month, the Clerk shall report the amount of wheel tax collected and pay such amount to the Trustee of Houston County.

As amended by: Private Acts of 1978, Chapter 304

SECTION 4. Upon payment of the wheel tax, the owner of the motor vehicle shall receive the original receipt and a decal. The decal shall be affixed to the windshield of the motor vehicle in the lower right hand corner. The decal for motorcycles shall be affixed on the top portion of the gasoline tank, but if such tank is not visible then the decal shall be placed on any prominent and visible portion of said vehicle. The decal for motorcycles shall be of a different color than the decal issued for motor vehicles.

SECTION 5. Upon application to the County Court Clerk and the payment of a fee of fifty cents (\$.50), a duplicate receipt and a duplicate decal shall be issued to the owner when:

- (a) The motor vehicle or motorcycle on which the tax is paid becomes unusable or is destroyed or damaged and cannot be operated and the owner destroys the decal;
- (b) The owner transfers the title to the motor vehicle or motorcycle on which the tax is paid and destroys the decal;
- (c) The motor vehicle or motorcycle on which the tax is paid ceases to be operated on the public roads and the destroyed; or
- (d) A decal becomes obliterated, defaced or illegible.

SECTION 6. The proceeds from the wheel tax shall be placed by the Trustee into a special account, designated as the "Growth and Building Fund," to fund existing debt as well as various growth and development projects in and for Houston County and the public debt associated with such projects. The Legislative Body of Houston County shall designate by resolution the manner in which such funds shall be expended.

As amended by: Private Acts of 1977, Chapter 2
Private Acts of 2000, Chapter 78

SECTION 7. The tax levied under this chapter shall be collected for the tax year beginning March 1, 1977, and every year thereafter.

As amended by: Private Acts of 1977, Chapter 2

SECTION 8. It is a misdemeanor to operate, drive or impel a motor vehicle or motorcycle taxable under this act on the public roads of Houston County without the payment of such wheel tax and without the decal being displayed in accordance with this act. Any person violating the provisions of this act shall, upon conviction, be fined not less than fifty dollars (\$50.00) nor more than one hundred dollars (\$100.00).

As amended by: Private Acts of 1987, Chapter 19

SECTION 9. It is the intent of the General Assembly that this act be construed as a measure providing for additional revenue for Houston County.

SECTION 10. This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the Quarterly County Court of Houston County. Its approval or nonapproval shall be proclaimed by the presiding officer of the Quarterly County Court and certified by him to the Secretary of State.

SECTION 11. 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 10.

Passed: February 25, 1976.

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 Houston County Assessor.

1. Private Acts of 1911, Chapter 411, amended the general law to provide that the Houston County Tax Assessor would be paid \$300 per annum.
2. Private Acts of 1943, Chapter 422, set the Tax Assessor's salary at \$600 per year. This was amended by Private Acts of 1949, Chapter 787, to provide that the salary would be set by the Quarterly County Court, provided that it was not less than \$600 nor more than \$1,200 per year.

Motor Vehicle Tax

The private acts listed below are no longer in effect in Houston County.

1. Private Acts of 1975, Chapter 53, levied a \$15 motor vehicle tax on the residents of Houston County and all non-residents using the county roads at least 30 days in each tax year. The County Court Clerk would collect the tax and issue a decal signifying payment of the same, for all of which the Clerk could charge a fee of fifty cents (\$.50) for each decal issued. Provisions were included to transfer decals from one vehicle to another and to replace those which might be lost, stolen, or destroyed. The proceeds of the tax would be used as the County Court decided but could be used, if desired, to pay school bonds or be deposited in the regular sinking fund. The terms of this act had to be approved by the people in a referendum before taking effect. Anyone not complying with the provisions of this act could be fined as in misdemeanor cases. This act was rejected by the Houston County Quarterly Court and never took effect. Further, it was specifically repealed by the act following.
2. Private Acts of 1975, Chapter 163, expressly repealed Private Acts of 1975, Chapter 53, above, in its entirety.

Taxation

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

1. Private Acts of 1931, Chapter 817, authorized a tax levy of not more than \$.31 per \$100 assessed valuation, for general county purposes.
2. Private Acts of 1955, Chapter 214, authorized a tax levy of \$.75 per \$100 assessed value, for general county purposes.

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