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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.

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Chapter XI - Taxation

Assessor of Property

Private Acts of 1947 Chapter 729

COMPILER'S NOTE: See T.C.A. 67-1-506 for general law of employment of deputies.

SECTION 1. That the Tax Assessor of Henry County, Tennessee shall receive the salary of Three Thousand (\$3,000.00) Dollars per annum, payable in equal monthly installments out of the General Fund of said County. That said Tax Assessor shall have the authority to hire Deputy Tax Assessors who shall assist him with his duties, but the number of said Deputy Tax Assessors to be appointed must be specifically authorized by the Quarterly County Court of said County and the compensation of said Deputy Tax Assessors shall likewise be fixed by the Quarterly County Court. That said Tax Assessor is further authorized to appoint necessary clerical help to carry out the duties and functions of this office, but before any person can be employed for this work the same must be authorized by the Quarterly County Court and the salary shall likewise be fixed by said Court. All of these compensations herein provided for shall be paid out of the General Fund of said County.

SECTION 2. That this Act shall take effect from and after its passage, the public welfare requiring it.

Passed: March 12, 1947.

Private Acts of 1987 Chapter 52

SECTION 1. Chapter 188 of the Private Acts of 1961, is hereby repealed.

SECTION 2. In Henry County the register of deeds shall provide the assessor of property with copies of all instruments of whatever nature recorded affecting ownership of land.

As amended by: Private Acts of 1992, Chapter 223

SECTION 3. [Deleted by Private Acts of 1992, Chapter 223].

SECTION 4. This Act shall have no effect unless it is approved by a two-thirds (2/3) vote of the county legislative body of Henry County by October 1, 1987. Its approval or nonapproval shall be proclaimed by the presiding officer of the Henry County Commission and certified by him to the Secretary of State.

SECTION 5. For the purpose of approving and 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 26, 1987.

Hotel/Motel Tax

Private Acts of 1984 Chapter 237

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

(a) "Person" means any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, receiver, trustee, syndicate, 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 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.

(c) "Occupancy" means the use or possession, or the right to 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 or services of any kind or nature without any deduction therefrom whatsoever. Nothing in this definition shall be construed to imply that consideration is charged with the space provided to the person is complimentary from the operator and no consideration is charged to or received from any person.

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

SECTION 2. The Board of Commissioners of Henry County is authorized to levy a privilege tax upon the occupancy in any hotel of each transient in an amount not to exceed five percent (5%) of the consideration charged by the operator. Such tax is a privilege tax upon the transient occupying such room and is to be collected as provided by this Act.

SECTION 3. 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 the 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 4. The tax hereby levied shall be remitted by all operators who lease, rent or charge for any rooms within the county to the County Clerk, such 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 such 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 obligations to the county entitled to such tax shall be that of the operator.

SECTION 5. The County Clerk shall be responsible for the collection of the tax authorized by this Act. A monthly tax return under oath shall be filed with the County Clerk by the operator with such number of copies thereof as the County 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 County Clerk and approved by the Board of County Commissioners prior to use. The County Clerk may audit each operator in the county at least once per year and shall report on any audits made on a quarterly basis to the Board of County Commissioners. The Board of County Commissioners is hereby authorized to adopt Resolutions to provide reasonable rules and regulations for the implementation of the provisions of this Act.

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. 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 fourteen and one-half percent (14.5%) per annum, and in addition for penalty of five percent (5%) for each month or fraction thereof that such taxes are delinquent; provided, however, that such penalty shall not exceed a maximum of twenty-five (25%) percent. 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 be punishable upon conviction by a fine not in excess of fifty dollars (\$50).

SECTION 8. 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 be right to inspect at all reasonable times.

SECTION 9. 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 Clerk.

Upon any claim of illegal assessment and collection, the taxpayer shall have the remedy provided in Tennessee Code Annotated, Section 67-1-912, it being the intent of this Act that the provisions of law which apply to the recover of state taxes illegally assessed and collected shall also apply to the tax levied under the authority of this Act. The County Clerk shall also possess those powers and duties as provided in Tennessee Code Annotated, Section 67-1-707, for the County Clerks with respect to the adjustment and settlement with taxpayers all errors of county taxes collected by him under the authority of this Act and to direct the refunding the same. Notice of any tax paid under protest shall be given to the County Clerk and suit for any recovery shall be brought against the County Executive.

SECTION 10. The County Clerk is hereby charged with the duty of collection of the tax herein authorized and 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. The trustee shall deposit the proceeds of the tax herein authorized in the County General Fund. Proceeds used for purposes other than debt service shall be placed in whatever fund as the Board of County Commissioners may specify by Resolution.

SECTION 11. The provisions of this Act are hereby declared to be severable. If any of its sections, provisions, exceptions, or parts be held unconstitutional or void, the remainder of this Act shall continue to be in full force and effect, it being the legislative intent now hereby declared, that this Act would have been adopted even if such unconstitutional or void matter had not been included herein.

SECTION 12. The collection of the tax authorized by this Act shall begin on the first day of the month occurring 30 or more days after this Act is officially ratified by the Board of County Commissioners.

SECTION 13. This Act shall have no effect unless it is approved by a two-thirds (2/3) vote of the Board of County Commissioners of Henry County, not more than ninety (90) days subsequent to its approval by the Governor. Its approval or nonapproval shall be proclaimed by the presiding officer of the Board of County Commissioners and shall be 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, this Act shall take effect upon being approved as provided in Section 13.

Passed: May 22, 1984.

Motor Vehicle Privilege Tax

Private Acts of 2018 Chapter 35

SECTION 1. In addition to other presently or hereinafter levied special privilege taxes upon motor vehicles taxable by the state, for the privilege of using the public roads and highways in Henry County, Tennessee, there is levied upon all motor vehicles taxable by the state, and upon the privilege of the operation thereof, except disabled veterans and prisoners of war as provided in Tennessee Code Annotated S 5-8-102, and any other exemptions provided by general law, a special privilege tax for the benefit of such county, which tax shall be in the amount of twenty-five dollars (\$25.00) for each such motor vehicle, the owner of which resides within said county. This tax applies to, is a levy upon, and shall be paid on each motor vehicle, the owner of which resides within Henry County.

SECTION 2. The tax levied under this act shall be paid to and collected by the County Clerk of Henry County, who is authorized by Tennessee Code Annotated S 67-4-103 to collect such privilege taxes. The County Clerk shall collect this tax at the same time the Clerk collects the state privilege tax levied upon the operation of a motor vehicle over the public highways of this state. The County Clerk shall not issue a state registration for the operation of a motor vehicle taxable under this act unless at the same time the owner pays the privilege tax due under the provisions of this act. The County Clerk shall deduct a fee of five percent (5%), or such higher or lower fee as may from time to time be authorized under Tennessee Code Annotated S 8-21-701 for receiving and paying over county revenue, from the amount of taxes collected and paid over to the County Trustee.

SECTION 3. Payment of the privilege tax imposed by this act shall be evidenced by a receipt, issued in duplicate by the County Clerk, the original of which shall be kept by the owner of the motor vehicle. The owner of the motor-driven vehicle shall make available for inspection the original of said receipt at any time law permits inspection of the vehicle registration.

SECTION 4. The motor vehicle privilege tax levied under this act, 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 vehicle for which said tax was paid to operate the vehicle or allow the vehicle to be operated over the streets, roads, and highways of the county for a period of one (1) year which will run concurrently with the period established by Tennessee Code Annotated S 55-4-104 for state registration fees.

SECTION 5. Any person violating provisions of this act, or any part thereof, commits a misdemeanor and shall, upon conviction, be subject to the same penalties provided for in Tennessee Code Annotated SS 5-8-102 and 55-4-105, or other applicable general law.

SECTION 6. All revenue generated from the privilege tax imposed under this act shall be allocated to the Henry County Board of Education for purposes of capital improvements or service of debts incurred to fund capital improvements.

SECTION 7. 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 this 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 8. This act shall have no effect unless it is approved by a two thirds (2/3) vote of the legislative body of Henry County. Its approval or non-approval shall be proclaimed by the presiding officer of the county legislative body and certified to the Secretary of State.

SECTION 9. 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, if approved prior to July 1 ,2018, by the legislative body of Henry County, Tennessee, then this Act shall become effective July 1 , 2018, or if approved on or after July 1 , 2018, then this Act shall become effective as provided in Section 8.

SECTION 10. This act shall cease to be in effect July 1, 2025.

Passed: March 23, 2018.

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 Henry County Assessor. Also referenced below is an act which repeals prior law without providing new substantive provisions.

1. Private Acts of 1937, Chapter 660, authorized the County Tax Assessor in Henry County to receive a salary of \$2,000 annually, out of the regular county funds upon warrant of the County Judge.
2. Private Acts of 1941, Chapter 119, amended Private Acts of 1937, Chapter 660, Section 1, above, by providing for the annual salary of the Tax Assessor of Henry County to be paid in monthly installments of \$166.66.
3. Private Acts of 1959, Chapter 297, made it the mandatory duty of the Tax Assessor of Henry County to enter upon every parcel of property, ascertain the ownership, obtain an accurate description and transcribe all of this data into a permanent record book. All written conveyances of real property were required to be presented to the Tax Assessor for him to make a notation of the changes. The act prohibited any registration of the conveyance unless it bore the notation of the County Tax Assessor. The Tax Assessor would have had the authority to appoint Deputy Tax Assessors and their salaries provided for in the act. This act was not approved by the Quarterly County Court and therefore never became a law.
4. Private Acts of 1961, Chapter 188, provided for every conveyance in writing of real property in Henry County to be first presented to the Tax Assessor for him to make notation of the change on the tax assessment books of the county. The act specifically set out the required procedure and language for the notation and provided for no registration of any conveyance without the required notation. Any registration which failed to bear on its face the proper notation of the County Tax Assessor was declared to be totally void.
5. Private Acts of 1987, Chapter 52, repealed Private Acts of 1961, Chapter 188.

Board of Equalization

The following is an act for Henry County which affected the Board of Equalization, but has been superseded. It is listed here for historical and reference purposes.

1. Private Acts of 1921, Chapter 832, provided for all members of the County Board of Equalization in Henry County to receive \$4 per day for their services.

Taxation

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

1. Private Acts of 1824, Chapter 66, required the collector of the public building tax in Henry County for the year of 1823 and subsequent years to turn the money collected over to the Commissioners in Paris. The Commissioners were authorized to obtain a judgment by motion against the collector and his securities for their failure to comply. The act expressly released the residents of the Counties of Weakley and Obion, from this public building tax in Henry County.
2. Private Acts of 1824, Chapter 128, authorized the Quarterly County Courts of Henry, Weakley, Obion, Dyer, Gibson, Carroll, Madison, Haywood, Tipton and Hardeman Counties to levy a tax not to exceed twelve and one-half cents per \$100 of property valuation to improve the navigation on

the streams of the respective counties.

3. Private Acts of 1826, Chapter 131, made it unlawful for the County Court of Henry County to lay a navigation tax and made it the duty of the Treasurer of the Board of Trustees for the Western District to pay to the Trustee of Henry County all sums of money in his hands which were collected as a navigation tax from Henry County. If the Treasurer refused to refund this money to Henry County, the county could recover upon motion made to do so in Circuit or County Court.
4. Private Acts of 1931, Chapter 223, created the office of Delinquent Poll Tax Collector to be appointed by the County Judge or Chairman, for a two year term. All poll taxes not paid by March 1 of the year following the year the polls were levied were delinquent and would be turned over to the Collector for collection. The list of delinquent polls constituted a judgment against the individual assessed and had the force of execution and could be levied against the delinquent's goods and chattels or collected by garnishment.
5. Private Acts of 1931, Chapter 387, authorized the Quarterly County Court of Henry County to levy and collect an annual tax not exceeding thirty-five cents per \$100 worth of taxable property, to be used for general county purposes.
6. Private Acts of 1931, Chapter 518, amended Private Acts of 1931, Chapter 223, by providing that all poll taxes not paid by March 1 of the year following the year said taxes were due were delinquent. The act also required the Collector to assess for that year any eligible male citizen who had not been assessed the previous year, when this information came to the collector's attention.
7. Private Acts of 1931, Chapter 757, repealed Private Acts of 1931, Chapter 223, as amended, and restored to active status all laws which were repealed by said act.
8. Private Acts of 1935 (Ex. Sess.), Chapter 64, created the office of Delinquent Poll Tax Collector to be elected by the County Court for a one year term. All polls would be considered delinquent on the 1st Monday in July following the year in which the polls were levied and were to be turned over to the Collector for collection. Any person liable for payment of the tax for the previous year, but not assessed was to be assessed for that year. The list of delinquent polls constituted a judgment against the individual assessed and a warrant could be issued which would have the force of execution against the goods, chattels and wages of the delinquent.
9. Private Acts of 1941, Chapter 193, amended Private Acts of 1931, Chapter 387, Section 2, above, by changing the maximum allowable rate levy from thirty-five cents to forty-five cents but added a provision which made the higher rate effective only in the years of 1941 and 1943.
10. Private Acts of 1949, Chapter 67, amended Private Acts of 1931, Chapter 387, increasing the maximum allowable tax rate in Henry County from thirty-five cents to fifty cents and validating the forty-five cent general tax rate levied by the county court for the year 1948.
11. Private Acts of 1961, Chapter 160, amended Private Acts of 1931, Chapter 387, Section 2, as amended above, by changing the maximum allowable tax rate in Henry County from fifty cents to sixty cents.
12. Private Acts of 1983, Chapter 134, as amended by Private Acts of 1985, Chapter 56, established a wheel tax for Henry County. This act was repealed by Private Acts of 2000, Chapter 79.

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