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Hotel/Motel Tax

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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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.

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