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Assessment of Leasehold

Dear Reader:

The following document was created from the CTAS website (ctas.tennessee.edu). This website is maintained by CTAS staff and seeks to represent the most current information regarding issues relative to Tennessee county government.

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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Reference Number: CTAS-1479

A leasehold is considered real property and is taxable as such¹ under certain circumstances. The interest of a lessee is distinct from the fee, and may be taxed under certain circumstances when the fee is exempt from taxation.² Leasehold interests assessable under T.C.A. § 67-5-502 are valued by discounting to present value the excess, if any, of fair market rent over actual and imputed rent for the leased premises, for the projected term of the lease including renewal options. As an alternative in valuing an interest in residential property, the interests assessable under T.C.A. § 67-5-502(d) may be valued by the sales comparison approach using sales or transfers of similar interests in residential property. By virtue of the speculative nature of valuation of options to purchase, any option which the lessee may be given to purchase the leased premises shall be deemed to have no value. The State Board of Equalization is authorized to promulgate rules governing the procedure for these valuations.³

Note: Although a county cannot tax an industrial development property owned by a city, county, or industrial development corporation organized under T.C.A. § 7-53-101 *et seq.*, if the private company lessee pays less in rent and in lieu of tax payments than the fair market value of the rent, the company has a leasehold interest that is taxable based upon the capitalized value of the difference between actual rent (and in lieu of tax payments) and fair market rent.⁴

¹*United States v. Metropolitan Gov't*, 808 F.2d 1205, 1208-1209 (6th Cir. 1987); T.C.A. § 67-5-502(d).

²*Jeston v. University of the South*, 208 U.S. 489, 500, 28 S.Ct. 375, 377 (1908); *University of the South v. Franklin Co.*, 506 S.W.2d 779, 784 (Tenn.Ct.App. 1973).

³T.C.A. § 67-5-605.

⁴See Op. Tenn. Atty. Gen. 88-154 (August 29, 1988), Op. Tenn. Atty. Gen. 79-375 (August 20, 1979), Op. Tenn. Atty. Gen. 79-61 (February 14, 1979) and Op. Tenn. Atty. Gen. 78-251 (June 19, 1978) explaining the taxation of this type of interest in real property.

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