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# The Tax Levy

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Please feel free to contact us if you have questions or comments regarding this information or any other CTAS website material.

Sincerely,

The University of Tennessee  
County Technical Assistance Service  
226 Anne Dallas Dudley Boulevard, Suite 400  
Nashville, Tennessee 37219  
615.532.3555 phone  
615.532.3699 fax  
[www.ctas.tennessee.edu](http://www.ctas.tennessee.edu)

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# The Tax Levy

Reference Number: CTAS-1569

For county general purposes, counties may levy an ad valorem tax on all property subject to this form of taxation.<sup>1</sup> "County general purpose levy" means a levy for all county purposes except roads, bridges, schools, debt service, sinking funds and levies pursuant to special tax laws.<sup>2</sup> In addition to the levy for general purposes, the county may levy taxes to (1) build, extend or repair, any courthouse, jail or public office for county purposes;<sup>3</sup> (2) provide funds for the purpose of securing humane treatment of animals;<sup>4</sup> (3) pay a judgment against the county;<sup>5</sup> (4) provide funds for the operation of a county fire department;<sup>6</sup> (5) provide funds for the collection and disposal of garbage;<sup>7</sup> (6) provide funds for a public library;<sup>8</sup> (7) provide funds for the operation and maintenance of county schools;<sup>9</sup> (8) repay loans for capital projects;<sup>10</sup> (9) repay loans for the purchase of fire equipment;<sup>11</sup> (10) repay loans made to an airport authority or municipal airport which are guaranteed by the county;<sup>12</sup> and (11) repay loans for capital projects for kindergarten through grade twelve educational purposes.<sup>13</sup> This list is not exhaustive, for example, some counties have been granted the authority by private act to levy property taxes for highway, road or bridge purposes.

The county legislative body sets the rate of the tax, which under general law should be done by the first Monday in July, or shortly thereafter.<sup>14</sup> Changes made in 2015 to the County Financial Management System of 1981 and the County Budgeting Law of 1957 removed specific deadlines in July for approving the budget. Now, under both of those laws, if a county fails to adopt a budget by July 1 the current budget continues through August or until the new budget is adopted. If a county is unable to approve a budget beyond August, it is required to obtain the comptroller's approval to continue the budget through the end of September. T.C.A. § 5-21-111, 5-12-109. Those revisions were not made to the Local Option Budgeting Law of 1993, which still requires adoption of a tax rate and budget by July 31, or the date required by any other budget law applicable in the county.<sup>15</sup> Under this 1993 Act, if the county legislative body fails to adopt a budget, a property tax rate resolution and appropriation resolution by August 15 of any year, then the portion of the budget, tax levy and appropriation for education proposed by the board of education becomes effective by operation of law; and, the balance of the budget, tax levies and appropriations proposed by the budget committee or county mayor/executive likewise takes effect. Counties not under the 1993 Act that do not set a tax rate and adopt a budget by the applicable statutory deadline may continue operations by the adoption of a continuation budget, which remains in effect until a budget is passed. However, the county legislative body must adopt a budget by October 1 in order to continue receiving state school funds.<sup>16</sup> For more information on County Budget Laws, see Financial Management under General Laws with Local Option Application under Financial Structure of County Government of the Accounting/Budgeting/Finance topic.

The rate applies annually as of January 1, and is assessed to the owner of record and becomes a lien on the property as of this date (excepting leased personal property in the hands of the lessee). In addition to the lien, property taxes are a personal debt of the owner or owners as of January 1 and, when delinquent, may be collected by suit as any other personal debt. In any lawsuit for collection of property taxes, the same penalties and attorney fees apply as set forth in T.C.A. § 67-5-2410 for suits to enforce liens for property taxes. The claim for the debt and the claim for enforcement of the lien may be joined in

the same complaint. The owner of record as of January 1 has the sole responsibility for paying the property tax assessed for the year even if the property is sold during the year, as the seller is the record owner.<sup>17</sup> However, the tax lien runs with the land and failure by the seller to pay does not limit enforcement actions against the land to recover any delinquent taxes.

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<sup>1</sup>T.C.A. § 67-5-102(a)(1).

<sup>2</sup>T.C.A. § 67-5-102(a)(3).

<sup>3</sup>T.C.A. §§ 5-5-122, 5-7-106

<sup>4</sup>T.C.A. § 5-9-110.

<sup>5</sup>T.C.A. § 5-9-312. *See also* T.C.A. § 29-20-402.

<sup>6</sup>T.C.A. §§ 5-17-101, 5-17-105, 5-17-106, 5-17-107.

<sup>7</sup>T.C.A. § 5-19-108.

<sup>8</sup>T.C.A. § 10-3-102.

<sup>9</sup>T.C.A. § 49-2-101.

<sup>10</sup>T.C.A. § 4-31-410.

<sup>11</sup>T.C.A. § 4-31-510.

<sup>12</sup>T.C.A. § 4-31-607.

<sup>13</sup>T.C.A. § 4-31-1006.

<sup>14</sup>T.C.A. § 67-5-510. *See also* T.C.A. §§ 5-5-123, 67-1-601.

<sup>15</sup>T.C.A. § 5-12-210.

<sup>16</sup>T.C.A. § 49-3-316(d)(3).

<sup>17</sup>T.C.A. § 67-5-2101; *see also* Op. Tenn. Atty. Gen. 86-39 (February 21, 1986).

## Certified Tax Rate

Reference Number: CTAS-1570

Upon a general reappraisal of property as determined by the State Board of Equalization, the county assessor of property shall certify to the governing bodies of the county and of each municipality within the county the total assessed value of taxable property within the jurisdiction of each governing body. The assessor shall also furnish each governing body an estimate of the total assessed value of all new construction and improvements not included on the previous assessment roll and the assessed value of deletions from the previous assessment roll. Exclusive of such new construction, improvements and deletions, each governing body, in the event of a general reappraisal as determined by the state board, shall determine and certify a tax rate which will provide the same ad valorem revenue for that jurisdiction as was levied during the previous year.<sup>1</sup>

For the purpose of calculating the certified rate, the governing body shall use the taxable value appearing on the roll exclusive of taxable value of properties appearing for the first time on the assessment roll. In calculating the certified tax rate, the governing body of the county or municipality may adjust the calculation, according to a method approved by the State Board of Equalization, to reflect extraordinary assessment changes anticipated from appeals to the state or local boards of equalization. The State Board of Equalization shall order recapture of an excessive adjustment in the following year if the certified tax rate is found to have been overstated due to overestimation of the appeals adjustment, and in these cases the jurisdiction may exceed the recapture rate only after public hearing..<sup>2</sup>

The State Board of Equalization is authorized to establish policies providing a procedure or formula for calculating the certified tax rate. Prior to final determination of the certified tax rate by the county legislative body, a proposed certified tax rate, including supporting calculations, must be submitted to the executive secretary of the State Board of Equalization for review. The executive secretary has fifteen days to report on the rate, and after this period passes, the county legislative body must determine the certified tax rate, which may be adjusted in accordance with the executive secretary's report, if one has been provided.<sup>3</sup>

<sup>1</sup>T.C.A. § 67-5-1701(a)(1) - (3).

<sup>2</sup>T.C.A. § 67-5-1701(a)(4) - (5).

<sup>3</sup>T.C.A. § 67-5-1701(b)(1) - (5); Op. Tenn. Atty. Gen. 83-006 (January 7, 1983).

## Levy in Excess of the Certified Rate

Reference Number: CTAS-1571

No tax rate in excess of the certified tax rate may be levied by the county legislative body until a resolution or ordinance has been approved by county legislative body according to the following procedure: (1) the county legislative body must advertise its intent to exceed the certified tax rate in a newspaper of general circulation in the county (See Sample newspaper advertisement of Notice of Intent to Exceed Certified Tax Rate), (2) the county mayor must, within 30 days after publication, furnish to the State Board of Equalization an affidavit of publication; (3) a public hearing must be held on the issue, and (4) the county legislative body, after the public hearing, may adopt a resolution or ordinance levying a tax rate in excess of the certified tax rate.<sup>1</sup>

If the resolution or ordinance is approved it must be forwarded to the county board of equalization and the State Board of Equalization. The county board or the state board, as appropriate, must notify each taxing authority of any change in the assessment roll which results from action by either board. An increase in the tax rate above that certified or adopted by resolution or ordinance of the county legislative body, which is required solely by a reduction of the assessment roll by the state or county boards, may be adopted without further notice. A levy of tax found to be based on an erroneous calculation may be revised prior to tax billing on certification of a revised calculation by the state board of equalization accepted by act or resolution of the governing body of the affected taxing authority without further notice. If the error is certified after tax billing, the revised rate will take effect as of the next general ad valorem levy by the governing body of the affected taxing authority.<sup>2</sup>

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<sup>1</sup>T.C.A. § 67-5-1702; Op. Tenn. Atty. Gen. U87-43 (April 13, 1987).

<sup>2</sup>T.C.A. § 67-5-1703.

## Special School Districts

Reference Number: CTAS-1572

Notwithstanding the provisions of the general law or a private act to the contrary which creates a special school district, upon a general reappraisal of property as determined by the State Board of Equalization, the tax rate as established in any general law or private act must be adjusted to provide the same ad valorem revenue for the special school district as was levied during the previous year prior to the general reappraisal. The county assessor of property must certify to the appropriate county trustee the total assessed value of taxable property within the jurisdiction of the special school district. The assessor must also furnish the county trustee an estimate of the total assessed value of all new construction and improvements not included on the previous assessment roll and the assessed value of deletions from the previous assessment roll.<sup>1</sup>

In the event of a general reappraisal as determined by the State Board of Equalization, the county trustee must determine and certify the adjusted tax rate exclusive of such new construction, improvements and deletions. For the purpose of calculating the adjusted rate, the county trustee must use the taxable value appearing on the roll exclusive of taxable value of properties appearing for the first time on the assessment roll. The procedure or formula for calculating the certified adjusted tax rate must be in accordance with policies as established by the state board of equalization pursuant to T.C.A. § 67-5-1701(b). A levy of tax found to be based on an erroneous calculation may be revised prior to tax billing on certification of a revised calculation by the state board of equalization accepted by act or resolution of the board of education of the special school district without further notice. If the error is certified after tax billing, the revised rate shall take effect as of the next general ad valorem levy for the special school district.<sup>2</sup>

The county trustee must certify the adjusted tax rate to the school board of the special school district

within a reasonable time following the general reappraisal, and in addition, must post the adjusted tax rate at each school within the special school district, at the appropriate courthouse, and at one other public building within the appropriate county.<sup>3</sup> If additional revenue is required in a special school district following the general reappraisal and the adjustment to the tax rate, the General Assembly must by general law or private act set the tax rate for the special school district at a level to generate the ad valorem revenue necessary for the special school district. Before the board of education of the special school district requests legislation to exceed the certified rate, it shall first publish notice of its intent to exceed the certified rate in the manner required of cities and counties pursuant to 67-5-1702.<sup>4</sup>

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<sup>1</sup>T.C.A. § 67-5-1704(a)(1) - (3).

<sup>2</sup>T.C.A. § 67-5-1704(a)(4) - (6).

<sup>3</sup>T.C.A. § 67-5-1704(b).

<sup>4</sup>T.C.A. § 67-5-1704(c).

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