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Privilege Taxes

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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Privilege Taxes

Reference Number: CTAS-680

The county clerk serves as the collector of certain privilege taxes imposed by the state, county or municipality on merchants, persons, companies, firms, corporations or agents, unless otherwise provided by law. T.C.A. § 67-4-103. In addition to the privilege taxes on marriage, privilege taxes which may be collected by the county clerk include the annual privilege tax on the business of selling, distributing, storing or manufacturing beer (T.C.A. § 57-5-104), the county motor vehicle privilege tax (T.C.A. § 5-8-102), and county hotel/motel taxes. The county clerk also issues business licenses and collects the \$15 fee (T.C.A. § 67-4-723), and collects the privilege tax on transient vendors, including antique malls, flea markets, antique shows, craft shows, gun shows, and auto shows (T.C.A. § 67-4-710); however, business taxes are collected by the state department of revenue.

There are several methods for levying privilege taxes. For example, the county motor vehicle privilege tax (wheel tax) can be levied by private act, by referendum approved by resolution of the county legislative body, or by passage of a resolution of the county legislative body by a two-thirds (2/3) vote at two (2) consecutive meetings (with the potential for a referendum upon petition of the voters). T.C.A. § 5-8-102. Hotel/motel taxes are levied by private act of the General Assembly, with a few exceptions. Some privilege taxes are levied under general law, such as the annual beer tax under T.C.A. § 57-5-104. Each tax usually contains provisions for collection of that tax and mechanisms for collecting delinquent taxes. General law provisions for collection of privilege taxes may also apply.

The county clerk collects all taxes on merchants, persons, companies, firms, corporations, agents, or traders, and all privileges, unless otherwise provided by law. T.C.A. § 67-4-103. Licenses for exercising all privileges for which specific license provisions are not otherwise made are to be issued when the applicant pays to the county clerk the appropriate taxes and fees for the exercise of the privilege. T.C.A. § 67-4-104. The person, partnership, or corporation is required to complete an application signed by all owners, and the application is retained in a book maintained by the county clerk for public inspection. No license may be issued until such an application is completed and delivered to the county clerk. T.C.A. § 67-4-105. The county clerk can issue licenses quarterly, unless the term of the license is provided for in the legislation authorizing the privilege tax. T.C.A. § 67-4-104. At the time the license is issued, all privilege taxes must be paid to the county clerk, and the county clerk is subject to certain fines and penalties for failing to pay these taxes over to the commissioner of revenue, county trustee, or municipal authorities, as appropriate. T.C.A. § 67-4-103. Certain persons are exempt from paying privilege taxes on selling taxable articles, including indigent persons, certain agricultural association business agents, and blind persons who have received an exemption from the county legislative body. T.C.A. § 67-4-102.

The assessor is required to notify the county clerk of all persons engaged in business in any way liable for the payment of privilege taxes and the county clerk and the county mayor are to compare the list of names provided by the assessor with the list of persons paying privilege taxes, and report the result to the county legislative body at the July meeting, at which time the list is to be read and entered into the minutes. T.C.A. § 67-4-108. If any person sells goods or exercises any privilege without obtaining a required license, the county clerk is directed to issue distress warrants to the sheriff requiring the sheriff to levy a tax in double the amount of the highest tax imposed upon such privilege, plus costs and commission, by seizing and selling the property of the taxpayer; in the alternative, suit may be brought in circuit or chancery court for such double tax. T.C.A. § 67-4-109. Also, if the taxpayer is required to post a bond, the county clerk is required to turn over such bonds to the county attorney within thirty (30) days after the bond is due and payable, and notify the Commissioner of Revenue and the county legislative body that such bonds were turned over for collection. T.C.A. § 67-4-112.

The statute of limitations for collection of state, county, and municipal privilege taxes collected by the county clerk is six years, after which time collection is barred. This six-year period commences on January 1 of the year in which the taxes were to be paid by the taxpayer. T.C.A. § 67-1-1501.

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