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Chapter XII - 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.

Sincerely,

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Chapter XII - Taxation

Litigation Tax

Private Acts of 1963 Chapter 206

SECTION 1. That a litigation tax of Three dollars (\$3.00) shall be taxed as part of the costs in all civil and criminal actions in either the Trial Justice Court, Juvenile Court, Circuit or Chancery Court, of Anderson County, Tennessee.

SECTION 2. That the Clerk of the said Courts will collect the said litigation tax and pay same to the Trustee of Anderson County, Tennessee, who will place same into a separate fund, which is to be designated as the "Anderson County Capital Improvement Fund," with expenditures to be made therefrom by the County Executive, with the approval of the County Commission.

As amended by: Private Acts of 1983, Chapter 89

SECTION 3. That all expenditures made from the said fund shall be made by the County Judge upon the approval and authorization of the Anderson County Court for the purposes specified herein.

SECTION 4. That the County Court is hereby authorized to issue notes and bonds for the purposes specified herein and pledge the income hereof for the exclusive payment of the bonds or notes.

SECTION 5. That this Act shall have no effect unless the same shall have been approved by a two-thirds (2/3) vote of the County Court of Anderson County, Tennessee, on or before the next regular meeting of such County Court occurring more than thirty (30) days after its approval by the Chief Executive of the State. Its approval or non-approval shall be proclaimed by the presiding officer of the body having jurisdiction to approve or the reverse, and shall be certified by him to the Secretary of State.

SECTION 6. That this Act shall take effect from and after its passage, the public welfare requiring it.

Passed: March 18, 1963.

Hotels and Motels

Private Acts of 1990 Chapter 193

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

"Clerk" means the County Clerk of Anderson County, Tennessee.

"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 and services of any kind or nature without any deduction therefrom whatsoever. Nothing in this definition shall be construed to imply that consideration is charged when the space provided to the person is complimentary from the operator and no consideration is charged to or received from any person.

"County" means Anderson County, Tennessee.

"Hotel" means any structure or space, or any portion thereof, which is occupied or intended or designed for occupancy by transients for dwelling, lodging, or sleeping purposes; and includes any hotel; inn; tourist court; tourist camp or campground; tourist cabin; motel; campsite, tourist cabin or motel owned or operated by a governmental entity; or any place in which rooms, lodgings, or accommodations are furnished to transients for a consideration.

"Occupancy" means the use or possession, or the right to the use or possession, of any room, lodgings or accommodations in any hotel.

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

"Person" means any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, governmental entity, or any other group or combination acting as a unit.

"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.

As amended by: Private Acts of 1993, Chapter 60

SECTION 2. The legislative body of Anderson County is authorized to levy a privilege tax upon the privilege of occupancy in any hotel of each transient in the amount of 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 in this act.

SECTION 3. The proceeds received by the county from the tax shall be retained by the county and ninety percent (90%) of said funds shall be designated for and deposited into the tourism fund and ten percent (10%) of said funds, net of the Trustee's commissions, shall be designated for the Anderson County Chamber of Commerce for economic development purposes.

As amended by: Private Acts of 2011, Chapter 11

SECTION 4. Such tax shall be added by each and every operator to each invoice prepared by the operator for the occupancy of his or her hotel and to be given directly or transmitted to the transient and shall be collected by such operator from the transient and remitted to Anderson County. Such tax shall be collected by each and every operator of any hotel in which the dwelling, lodging or sleeping facilities are located in the county regardless of the location of the office of such facility.

When a person has maintained occupancy for thirty (30) continuous days, that person shall receive from the operator a refund or credit for the tax previously collected from or charged to him or her, and the operator shall receive credit for the amount of such tax if previously paid or reported to the county.

There shall be exempt from the tax levied by the provisions of this act the occupancy in any hotel of a transient who is a not-for-profit corporation which is exempt from taxation pursuant to the Internal Revenue Code.

As amended by: Private Acts of 1993, Chapter 60

SECTION 5. (a) The tax levied shall be remitted by all operators who lease, rent or charge for any rooms or spaces in hotels within the county to the clerk or such other officer as may by resolution be charged with the duty of collection thereof, such tax to be remitted to such officer not later than the twentieth (20th) 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 as may be the custom of the operator, and if credit is granted by the operator to the transient, then the obligation to the county entitled to such tax shall be that of the operator.

(b) For the purpose of compensating the operator in accounting for remitting the tax levied by this act the operator shall be allowed two percent (2%) of the amount of the tax due and accounted for and remitted to the clerk in the form of a deduction in submitting his or her report and paying the amount due by such operator, provided the amount due was not delinquent at the time of payment.

SECTION 6. The clerk, or other authorized collector of the tax authorized by this act, shall be responsible for the collection of such tax and shall place the proceeds of such tax in accounts for the purposes stated herein. A monthly tax return shall be filed under oath with the clerk by the operator with such number of copies thereof as the 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 clerk and approved by the county legislative body prior to use. The clerk shall audit each operator in the county at least once a year and shall report on the audits made on a quarterly basis to the county legislative body.

The county legislative body is hereby authorized to adopt resolutions to provide reasonable rules and regulations for the implementation of the provisions of this act, including the form for such reports.

SECTION 7. 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 8. Taxes collected by an operator which are not remitted to the 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 twelve percent (12%) per annum, and shall be liable for an additional penalty of one percent (1%) for each month or fraction thereof such taxes are delinquent. 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 unlawful and shall be punishable by a civil penalty not in excess of fifty dollars (\$50.00).

SECTION 9. 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 or she may have been liable for the collection of any payment to the county, which records the clerk shall have the right to inspect at all reasonable times.

SECTION 10. The 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 clerks.

Upon any claim of illegal assessment and collection, the taxpayer shall have the remedies provided in Tennessee Code Annotated, Title 67, it being the intent of this act that the provisions of law which apply to the recovery of state taxes illegally assessed and collected shall also apply to the tax levied under the

authority of this act. The provisions of Tennessee Code Annotated, Section 67-1-707, shall be applicable to adjustments and refunds of such tax.

With respect to the adjustment and settlement with taxpayers, all errors of county taxes collected by the clerk under authority of this act shall be refunded by the clerk.

Notice of any tax paid under protest shall be given to the clerk and the resolution authorizing levy of the tax shall designate a county officer against whom suit may be brought for recovery.

SECTION 11. The proceeds of the tax authorized by this act shall be allocated to and placed in the tourism fund of Anderson County to be used for the purposes stated in Section 3 of this act. After receipt of each payment, the Director of Accounts and Budget is authorized and shall allocate ten percent (10%) of the payment, net of Trustee's commissions, to the Anderson County Chamber of Commerce.

As amended by: Private Acts of 2011, Chapter 11

SECTION 12. The tax levied pursuant to the provisions of this act shall only apply in accordance with the provisions of Tennessee Code Annotated, Section 67-4-1425.

SECTION 13. 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 the 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 14. This act shall have no effect unless it is approved by a two thirds (2/3) vote of the county legislative body of Anderson County. Its approval or nonapproval shall be proclaimed by the presiding officer of the county legislative body and shall be certified by such presiding officer to the Secretary of State.

SECTION 15. 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: April 5, 1990.

Severance Tax on Pulpwood

Private Acts of 1997 Chapter 98

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

- (1) "County" means Anderson County; and
- (2) "Person" means any individual, corporation, partnership, limited partnership, conglomerate, or any other entity owning or possessing an interest in lands located in the county; and
- (3) "Pulpwood" means trees severed from the ground, both hardwood and softwood, whether whole or part, that is ground or chipped and manufactured into salable wood or paper products.

SECTION 2.

(a) There is hereby levied a severance tax on pulpwood products severed from the ground in the county. The tax is levied upon the entire production in the county regardless of the place of sale or the fact that delivery may be made outside the county.

(b) The tax shall accrue at the time such products are severed from the earth and in their natural or unprocessed state.

(c) The tax levied shall be a lien upon all such products severed in the county, which lien upon such products shall be entitled to preference over all judgments, encumbrances or liens whatsoever created; and upon the real property from which such products were severed provided that, with respect to real property, said lien shall be effective when the county causes a notice thereof to be filed in the office of the register of deeds of the county in which the real property lies, second only to liens of the State, county and any municipality for taxes, any lien of the county for special assessments, and any valid lien, right or interest in such property duly recorded or duly perfected by filing, prior to the filing of such notice; such notice shall identify the owner of record of the real property, contain the property address if any, described the property sufficient to identify it, and recite the amount of the obligation secured by the lien.

(d) The tax hereby levied shall only apply to pulpwood products severed from tracts or parcels of land greater in size than one hundred (100) acres. For purposes of this act, contiguous property owned by the same owner shall be regarded as a single tract or parcel of land.

SECTION 3. The measure of the tax shall be fifteen cents (15¢) per ton on all pulpwood products severed

from the ground in the county.

SECTION 4. Every interested owner shall be liable for this tax to the extent of such owner's interest in the products. The owner shall become liable at the time the pulpwood products are severed from the earth and ready for sale, whether before processing or after processing, as the case may be.

SECTION 5.

(a) The tax levied by this act shall be due and payable monthly on the tenth day of the month next succeeding the month in which the pulpwood is severed from the soil.

(b) For the purpose of ascertaining the amount of tax payable, it shall be the duty of all owners to transmit to the County Trustee, on or before the fifteenth day of the month next succeeding the month in which the tax accrues, a return upon forms provided by the County Trustee. The return shall be accompanied by a remittance covering the amount of tax due as computed by the taxpayer.

SECTION 6.

(a) The tax levied by this act shall become delinquent on the sixteenth day of the month next succeeding the month in which such tax accrues.

(b) When any owner shall fail to make any return and pay the full amount of the tax levied on or before such date, there shall be imposed, in addition to other penalties provided herein, a specific penalty in the amount of ten percent (10%) of the tax due. A further penalty of fifty percent (50%) of the amount due may be added if the nonpayment of the tax is due to an intent to evade payment.

(c) All such penalties and interest imposed by this act shall be payable to and collectible by the County Trustee in the same manner as if they were a part of the tax imposed.

SECTION 7. If the nonpayment of the tax is due to an intent to evade payment, the person liable for such payment may be restrained and enjoined for severing pulpwood from all production units administered, owned or possessed by that person and upon which the tax is due. Restraint proceedings shall be instituted in the name of the county by the sheriff upon the request of the County Trustee.

SECTION 8. The proceeds of the tax levied by this act shall be deposited in the general fund of the county, with the school system have first priority, all or part of which may be designated by the County Commission.

SECTION 9.

(a) It shall be a violation of this act for any person required by this act to make a return, pay a tax, keep records, or furnish information deemed necessary by the County Trustee for the computation, assessment, or collection of the tax imposed by this act, to fail to make the return, pay the tax, keep the records, or furnish the information at the time required by law or regulation. It shall be a violation for any person to willfully or fraudulently make and sign a return which such person does not believe to be true and correct as to every material fact.

(b) Violations of the provisions of this act shall be punishable by a fine of not more than one thousand dollars (\$1,000).

(c) For purposes of this section, the word "person" also includes an officer or employee of a corporation or a member or employee of a partnership who is under duty to perform the act in respect to which the violation occurs.

SECTION 10. 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 the 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 11. This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the County Legislative Body of Anderson County. Its approval or nonapproval shall be proclaimed by the Presiding Officer of the County Legislative Body and certified to the Secretary of State.

SECTION 12. For the purpose of approving or rejecting the provisions of this act, as provided in Section 11, it shall be effective upon becoming a law, the public welfare requiring it. For all other purposes it shall become effective July 1, 1997; the public welfare require it.

Passed: May 26, 1997.

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 Anderson County Assessor. Also referenced below are acts which repeal prior law without providing new substantive provisions.

1. Private Acts of 1915, Chapter 570, fixed the annual salary of the tax assessor of Anderson County at \$1,000, payable quarterly out of the county treasury on the warrant of the county judge, or chairman.
2. Private Acts of 1923, Chapter 641, was the legislative authority for the county courts of the state to appropriate out of the county's funds an amount not to exceed \$300 in each county for the year 1921 as an added salary for the county tax assessor. This act applied only to Anderson County.
3. Private Acts of 1945, Chapter 57, set the annual compensation of the tax assessor of Anderson County at \$2,400, payable monthly on the warrant of the county judge, or chairman, out of regular county funds, repealing all acts in conflict.
4. Private Acts of 1947, Chapter 394, which is published herein in full in the section on the county register, restricted the registration of instruments of conveyance in Anderson County unless the instrument had first been presented to the tax assessor and he had extracted from it all the information specified in the act, and made a record of it for all of which a fee could be charged.
5. Private Acts of 1951, Chapter 224, increased the annual salary of the tax assessor of Anderson County (identified by the 1950 Census) to \$3,000 payable monthly out of the county treasury on the warrant of the county judge, or chairman, on the first day thereof.
6. Private Acts of 1959, Chapter 69, fixed the compensation of the Anderson County Tax Assessor at \$7,000 per annum which would be paid out of the county treasury on the warrant of the county judge or chairman, on the first day on each month.
7. Private Acts of 1959, Chapter 357, required the county tax assessor to issue building permits. This act was repealed by Private Acts of 2000, Chapter 108.

Taxation

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

1. Acts of 1813, Chapter 8, permitted two-thirds of the justices of the court in Anderson County to appoint commissioners, who must be sworn and bonded according to the terms of the act, to contract for, and supervise, the building of a courthouse, and prison, for the county's use. The court was further authorized, two-thirds of the justices agreeing, to levy a tax on polls and property every year until the courthouse and prison were completed and paid for. This act was repealed by the one following below.
2. Acts of 1824, Chapter 99, expressly repealed the prior act of the general assembly which allowed the county court of Anderson County to build a courthouse and prison and to levy a tax to produce the funds to finance the same.
3. Private Acts of 1827, Chapter 191, made it lawful for the court of pleas and quarter sessions of Anderson County, a majority of the justices being present at their first session of the year, and on the first day of the session, to lay a county tax on all the lands subject to tax, which could not however exceed 12 ½ cents per 10 acres property valuation for the purpose of erecting a courthouse, prison, and stocks in the town of Clinton. The sheriff was directed to collect the tax and the trustee would be accountable for the funds.
4. Private Acts of 1831, Chapter 231, required the sheriff, or the tax collectors, of the counties of Carter, Fentress, Morgan, and Anderson, to pay over the state tax for the next two years to the commissioners appointed by the respective county courts for the purpose of enabling the citizens of the county to build a jail.
5. Public Acts of 1870, Chapter 50, allowed the counties and the cities of the state to levy taxes for county and municipal purposes in the following manner and upon condition that (1) all taxable property would be taxed according to its value upon the principles established for state taxation, and (2) the credit of no county, or city, could be given, or loaned to any person, firm, or corporation, unless the majority of the justices of the quarterly court, or the city councils, first agree, and then an election would be held wherein three-fourths of the voters must approve. Some counties, including Anderson County, exempted themselves from the requirement of three-fourths' voter approval, for the next ten years, substituting a majority approval only in its place.
6. Private Acts of 1931, Chapter 471, was the enabling legislation for the Anderson County Quarterly

Court to levy, in addition to all other taxes now authorized by law, a special tax, not to exceed 11 cents per \$100 to provide the funds to pay the salaries of the county officials listed in the act which seemed to include all of the same.

7. Private Acts of 1931, Chapter 612, stated that in all the counties in the act (identified separately by the use of the 1930 census figures) including Anderson County, the quarterly court had the authority to levy and collect a tax on all personal and ad valorem property in the county whenever the court made an appropriate order to that effect which would be used for county purposes but which could not exceed thirty cents per \$100 property valuation.
8. Private Acts of 1961, Chapter 328, provided for an annual assessment of real property, personal property, and privileges in Anderson County. The act further directed that the assessment be made on all real property in the county by the tax assessor no later than April 20th which would be the assessment for that year.

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