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Chapter XI - 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.

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Chapter XI - Taxation

Hotel/Motel Tax

Private Acts of 2013 Chapter 23

SECTION 1. For the purposes of this act:

(1) "Clerk" means the county clerk of Cannon County, Tennessee or such other officer as the county legislative body may direct.

(2) "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.

(3) "County" means Cannon County, Tennessee.

(4) "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 camp, tourist court, tourist cabin, campground, motel, or any place in which rooms, lodgings or accommodations are furnished to transients for consideration. "Hotel" does not include a nonprofit campground that includes a portion of the camp fee for housing.

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

(6) "Operator" means the person operating the hotel whether as owner, lessee or otherwise, and shall include governmental entities.

(7) "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 unit other than the United States or any of its agencies, or any other group or combination acting as a unit.

(8) "Transient" means any person who exercises occupancy or is entitled to occupancy for any rooms, lodgings, spaces, or accommodations in a hotel for a period of less than thirty (30) continuous days.

As amended by: Private Acts of 2019, Chapter 10.

SECTION 2. The legislative body of Cannon County is authorized to levy a privilege tax upon the privilege of occupancy in any hotel of each transient, in an amount of five percent (5%) of the rate charged by the operator. The tax imposed is a privilege tax upon the transient occupying such room or other accommodation and is to be collected and distributed as herein provided. Such tax shall be in addition to all other taxes levied or authorized to be levied whether in the form of excise, license, or privilege taxes, and shall be in addition to all other fees and taxes now levied or authorized to be levied.

SECTION 3. Such tax shall be added by each operator to each invoice prepared by the operator for the occupancy of the hotel. Such invoice shall be given directly or transmitted to the transient, a copy thereof to be retained and filed by the operator as provided in Section 8. 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 or charged, and the operator shall receive credit for the amount of such tax if previously paid or reported to the county.

SECTION 4. 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 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 not later than the twentieth (20th) day of each month for the preceding month. The operator is required to collect the tax from the transient at the time of the presentation of the invoice for occupancy, whether prior to, during or after occupancy, as may be the custom of the operator. 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 county clerk for collecting the tax, the clerk shall be allowed two percent (2%) of the amount of the tax remitted by the operators.

(c) The clerk 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 authorized by this act.

SECTION 6. The county clerk shall be responsible for the collection of the tax and shall place the proceeds of such tax in accounts as designated in Section 10 for the purposes stated therein. 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 per 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.

(a) 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 is 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.

(b) Each occurrence of knowing refusal of an operator to collect or remit the tax or knowing refusal of a transient to pay the tax imposed is a separate violation of this act and may result in the imposition of a civil penalty, to be imposed separately for each violation, not to exceed fifty dollars (\$50.00) upon a finding of such knowing refusal by a court of competent jurisdiction. As used in this section, "each occurrence" means each day.

(c) Nothing in this section shall be construed to prevent the county clerk or other authorized collector of the tax from pursuing any civil remedy available to the collector by law, including issuing distress warrants and the seizure of assets, to collect any taxes due or delinquent under this act.

SECTION 8. It shall be the duty of every operator liable for the collection and payment to the county of any tax levied pursuant to this act to keep and preserve for a period of three (3) years all records necessary to determine the amount of such tax, which records the clerk shall have the right to inspect at all reasonable times.

SECTION 9. The clerk in administering and enforcing the provisions of the act shall have as additional powers, those powers and duties with respect to collecting taxes as provided in Title 67, Tennessee Code Annotated, or otherwise provided by law for the county clerks.

Upon any claim of illegal assessment and collection, the taxpayer has the remedies provided in Title 67 of Tennessee Code Annotated, 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 pursuant to this act. The provisions of Tennessee Code Annotated § 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 the 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 10. The proceeds of the tax authorized by this act shall be deposited in the general fund of the county to fund the Cannon County Chamber of Commerce for the purpose of tourism development.

SECTION 11. The tax levied pursuant to the provisions of this act shall only apply in accordance with the provisions of Tennessee Code Annotated § 67-4-1425.

SECTION 12. 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 13. This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the county legislative body of Cannon County. Its approval or nonapproval shall be proclaimed by the presiding officer

of the county legislative body 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, it shall take effect on the first day of the month following approval as provided in Section 13, the public welfare requiring it.

Passed: April 15, 2013.

Litigation Tax

Private Acts of 1997 Chapter 49

SECTION 1. There is hereby imposed a litigation tax on the privilege of litigating a civil and criminal action in the amount of five dollars (\$5.00) to be assessed and taxed as part of the costs of the action on all such action disposed of in the circuit, criminal, chancery and general sessions courts of Cannon County.

SECTION 2. The litigation taxes provided in Section 1 shall be collected by the clerks of the various courts in which the actions are disposed. The clerks shall pay over the revenue generated by such litigation taxes to the county trustee every month, by the tenth (10th) of the month immediately following the end of the month in which such collections were made by the clerks.

SECTION 3. The trustee of Cannon County shall deposit the litigation taxes collected under the authority of Section 2 into such general fund. Such fund shall be used exclusively for the purpose of purchasing equipment for the Cannon County Sheriff's Department upon the appropriation of the county Legislative Body.

SECTION 4. The litigation taxes collected under this act shall be considered suspended when the court having jurisdiction over the cause of actions suspends the costs of such action.

SECTION 5. As used in this act, unless the context requires otherwise, "action" includes all ex parte hearings, advisory hearings and contested proceedings in the enumerated courts.

SECTION 6. 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 7. This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the Legislative Body of Cannon County. Its approval or nonapproval shall be proclaimed by the presiding officer of the Cannon County Legislative Body and certified to the Secretary of State.

SECTION 8. 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, it shall become effective upon being approved as provided in Section 7.

Passed: May 7, 1997.

Motor Vehicle Tax

Private Acts of 1975 Chapter 62

SECTION 1. For the privilege of using the public roads and highways in Cannon County, Tennessee, there is levied upon motor-driven vehicles and upon the privilege of the operation thereof, except farm tractors, self-propelled farm machines not usually used for operation upon public highways or roads, motorcycles, motor-driven bicycles and scooters and except all motor-driven vehicles owned by any governmental agency or governmental instrumentality, a special privilege tax for the benefit of such county, which tax shall be in addition to all other taxes, and shall be in the amount of Ten Dollars (\$10.00) for each such motor-driven vehicle during each registration year.

As amended by: Private Acts of 1979, Chapter 131

SECTION 2. This tax applies to, is a levy upon, and shall be paid on each motor-driven vehicle, the owner of which lives within, or usually stays within, or who operates such a motor-driven vehicle on, over, or upon the streets, roads, or highways of said county for a period of as many as thirty days, during any year hereafter beginning March 1st and ending the next succeeding April 15th.

Residence in the county shall constitute prima facie evidence of use by such resident of roads and highways of the county without regard to whether such resident resides within the boundaries of a

municipal corporation within the county. Any person establishing a new residence within the county shall be allowed thirty (30) days thereafter within which to comply with the provisions of this Act.

This tax also applies to, is a levy upon, and shall be paid on each motor-driven vehicle owned by motor vehicle manufactures and dealers issued registration plates under the category of dealer.

As amended by: Private Acts of 1979, Chapter 131
Private Acts of 1992, Chapter 152

SECTION 3. It shall be and is hereby declared a misdemeanor and punishable as such for any owner of a vehicle to operate or allow to be operated any motor-driven vehicle over the streets, roads, or highways of such county without the payment of the tax herein provided having been made as herein required, prior to such operation thereof. Provided further that nothing in this Act shall be construed as permitting and authorizing the levy of and the collection of a tax against non-residents of the county to which this Act applies and to owners of such vehicles using the streets, roads, and highways of such county, who live or reside without the bounds of said county, but who do not come within the provisions of this Act, and within a reasonable construction of the provisions hereof.

As amended by: Private Acts of 1979, Chapter 131.

SECTION 4. The tax herein levied shall be paid to and collected by the county court clerk of Cannon County, who shall collect this tax at the same time he collects the state registration tax levied upon the operation of a motor-driven vehicle over the public highways of this State. The clerk of Cannon County shall not issue to a resident of such county, a State license for the operation of a motor-driven vehicle taxable hereunder, unless, at the same time, such owner shall purchase the license or pay the privilege tax levied hereunder, for the operation of each of his motor-driven vehicles under the provisions of this Act.

SECTION 5. Payment of the privilege tax imposed hereunder shall be evidenced by a receipt, issued in duplicate by the clerk, the original of which shall be kept by the owner of the motor-driven vehicle, and by a decal or emblem, also issued by the clerk, which decal or emblem shall be displayed by affixing the same on and to the lower right-hand side of the windshield of the motor-driven vehicle for which same was issued.

The design of the decal or emblem shall be determined by the clerk and the expense incident to the purchase thereof, as well as the expense of obtaining proper receipts and other records necessary for the performance of the duties herein and hereby incumbent upon the clerk, shall be paid from the general funds of the county.

SECTION 6. The privilege tax or wheel tax herein and hereby levied, when paid together with full, complete, and explicit performance of and compliance with all provisions of this Act, by the owner, shall entitle the owner of the motor-driven vehicle for which said tax was paid, and on the windshield of which the decal or emblem has been affixed as herein provided, to operate this vehicle over the streets, roads, and highways of the county from March 1st of each year to the next succeeding April 15th. When a motor-driven vehicle becomes taxable under the terms and provisions of this Act, at a later date than April 15th, of each year, the same proportionate reduction shall be made as to the cost of the privilege tax or wheel tax, or the amount to be paid into the hands of the clerk therefor, as is now made in the issuance of the registration tax payable to the State of Tennessee and collected by the clerk, under the provisions of the general laws of this State.

SECTION 7. For his services in collecting the aforesaid tax, and in issuing the receipt therefor and delivering the decal or emblem to the owner, he shall be entitled to a fee of twenty-five cents (25¢). The clerk will 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 him for the aforesaid privilege tax or wheel tax.

The proceeds of the tax, when collected and paid into the hands of the Trustee, shall be deposited in the general funds of the county and shall be used for the county's school building or expansion program.

SECTION 8. In the event any motor-driven vehicle for which the privilege tax or wheel tax has been paid and the emblem or decal issued and placed thereon, becomes unusable, or is destroyed or damaged to the extent that this motor-driven vehicle can no longer be operated as such, and the owner ceased to operate same on the public roads, streets, or highways of said county, or in the event the owner transfers the title to the motor-driven vehicle, and completely removes therefrom and destroys the emblem or decal issued and placed thereon or affixed thereto, and the owner makes proper application for the issuance of a duplicate decal or emblem to be used by him on the same or on another motor-driven vehicle for the unexpired term for which the original decal or emblem was issued, and the Clerk is satisfied that this owner is entitled to the issuance of such a duplicate decal or emblem, and the owner pays into the hands of the clerk the sum of twenty-five cents (25¢), the clerk will then issue to such owner a duplicate receipt, cancelling the original receipt delivered to him by the owner, and will deliver to the owner a duplicate decal or emblem, which shall be affixed to the windshield of the motor-driven vehicle for which it is issued,

as herein-above provided, and this shall entitle the owner to drive the vehicle on the streets, roads, and highways of such county until the next following April 15th. Likewise, in the event a decal or emblem becomes obliterated, erased, or defaced or is destroyed under the provisions of this Act, and is therefore illegible and unusable by the owner, upon proper application made by the owner and filed with the clerk, showing such circumstances and facts to be true, then the clerk, upon receipt from the owner of twenty-five cents (25¢), may issue and deliver to the owner, a duplicate decal or emblem.

SECTION 9. The tax levied under this Chapter shall become effective with the beginning of the motor vehicle registration period establishing by general law for the 1976 registration year and shall remain effective for each year thereafter for subsequent registration years.

SECTION 10. It shall be and is hereby declared a misdemeanor and punishable as such for any motor-driven vehicle, taxable hereunder, to be driven or impelled over or upon the streets, roads, highways of the county to which this Act is applicable without payment of this privilege tax levied hereunder and without full and complete compliance with all provisions hereof.

As amended by:

Private Acts of 1979, Chapter 131

Any person violating the provisions of this Act, or of any part thereof, shall, upon conviction, be fined not less than Fifteen Dollars (\$15.00), nor more than Fifty Dollars (\$50.00).

SECTION 11. It is the intent of the General Assembly of the State of Tennessee, that this Act be construed as a measure providing for additional revenue for the county affected.

SECTION 12. This Act shall have no effect unless it is approved by a majority of the number of qualified voters of the county voting in an election on the question of whether or not the Act should be approved. The election may be held in connection with and at the same time as any other countywide referendum, but in no event later than December 1, 1975. The ballots used in the election shall have printed on them the title or substance of this Act and voters shall vote for or against its approval. The votes cast in the election shall be canvassed and results proclaimed by the Cannon County Commissioners of Elections and certified by them to the Secretary of State as provided by law in the case of general elections. The qualification of voters voting on the question shall be the same as those required for participation in general elections. All laws applicable to General Elections shall apply to the determination of the approval or rejection of this Act. The costs of the election shall be paid by Cannon County.

SECTION 13. For the purpose of approving or rejecting the provisions of this Act, as provided in Section 12, it shall take effect on becoming a law, the public welfare requiring it, but for all other purposes, it shall become effective only upon being approved as provided in Section 12, and the tax levied herein shall apply to the motor vehicle registration year commencing April 1, 1976, and thereafter.

Passed: April 17, 1975.

COMPILER'S NOTE: The Private Acts of 1975, Chapter 62, was never confirmed by Cannon County officials to the Secretary of State's Office that it had been acted upon by local government. The act requires in section 12 that it be "approved by a majority of the qualified voters of the county voting in an election on the question of whether or not the act should be approved." This vote was not reported to the Secretary of State's office as having occurred. Thus, the Private Acts of 1975, Chapter 62, would seem to be inoperative though it was amended both in 1979 (Chapter 131) and 1992 (Chapter 152) and both of these amendments were properly approved and certified to the Secretary of State's Office.

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

1. Private Acts of 1911, Chapter 411, amended a general law of the State which concerned Tax Assessors only so as to fix the salary to be paid to him in several of the counties. In Cannon County, the Tax Assessor would be paid \$600 per year.
2. Private Acts of 1913, Chapter 103, amended Private Acts of 1911, Chapter 411, above, so as to raise the annual salary of the Tax Assessor in Cannon County from \$600 to \$800 per year.
3. Private Acts of 1927, Chapter 455, provided that the salary of the County Tax Assessor in Cannon County, (the 1920 Census figures were used to identify the county but they were wrong on the small end) would be \$1000 per year, payable quarterly, out of the county treasury on the warrant of the County Judge, or Chairman. This act was part of the litigation in Wood v. Cannon County, 195 Tenn. 9, 166 S.W.2d 399 (1942), in which the legality of the act was not questioned but there were disagreements on set-off, and the statute of limitations. This act was further

considered and the decision broadened in Tenpenny v. Cannon County, 177 S.W.2d 817 (Tenn. 1944).

4. Private Acts of 1949, Chapter 265, amended Private Acts of 1927, Chapter 455, above, so as to increase the salary of the Tax Assessor from \$1,000 to \$1,200 per annum in Cannon County.
5. Private Acts of 1961, Chapter 33, amended Private Acts of 1949, Chapter 265, above, by upping the Tax Assessor's salary from \$1,200 to \$1,800 per year in Cannon County. This Act was properly ratified by the Quarterly Court.

Taxation

The following is a listing of acts pertaining to taxation in Cannon County which are no longer effective or failed to win local ratification .

1. Acts of 1837-38, Chapter 61, Section 6, stated that the county courts of Cannon, White, Jackson, or Warren Counties, shall levy and collect a tax for the year 1838 in any part of DeKalb County, if the citizens of DeKalb County should elect to establish that county by their votes.
2. Acts of 1870-71, Chapter 50, provided that counties and cities may levy taxes for county and city purposes in the following manner, (1) that all taxable property be taxed according to its value and upon the principles established in regard to State taxation, and (2) the credit of no county, or city, shall be loaned to any person, firm, or corporation, unless it is first agreed by a majority of the Quarterly County Court to submit the question to a referendum vote of the people in which the proposition must be approved by a three-fourths majority. Several counties exempted themselves from the three-fourths vote approval for the next ten years but Cannon County was not found among their number.
3. Private Acts of 1983, Chapter 117, would have authorized Cannon County to impose a litigation tax of \$5.22 per case in all courts in the county except city courts and juvenile courts. The act was not acted upon by the October 1, 1983 deadline for approval provided in Section 4 of the act.
4. Private Acts of 2019, Chapter 6, would have altered the allocation of the hotel/motel tax by distributing an amount not to exceed the amount collected in the fiscal year that ended June 30, 2018, to the chamber of commerce and the remainder to be appropriated by the county commission for any lawful purpose. The act was never adopted locally.

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