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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.

Sincerely,

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Chapter XI - Taxation

Hotel/Motel Tax

Private Acts of 2009 Chapter 25

SECTION 1. For the purposes of this act:

- (1) "Clerk" means the county clerk of Clay 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 rental of any room, lodging or accommodations 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 Clay County, Tennessee;
- (4) "Hotel" means any structure, space, or vessel, 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, marina, tourist camp, tourist court, tourist cabin, campground, houseboat, motel, or any place in which rooms, lodgings or accommodations are furnished to transients for a consideration;
- (5) "Houseboat" means a vessel fitted for use as a dwelling, a pleasure craft with a broad beam, a usually shallow draft, a large superstructure resembling a house that contains space intended and designed for lodging and sleeping accommodations.
- (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) "Space" means the rental for personal use of, or the right to rent for the personal use of, any room, lodgings or accommodations in a hotel;
- (9) "Transient" means any person who rents or is entitled to rent any rooms, lodgings, spaces, or accommodations in a hotel for a period of less than thirty (30) continuous days; and

SECTION 2. The legislative body of Clay County is authorized to levy a privilege tax upon the privilege of a transient renting any room, lodging or accommodations in a hotel, in an amount of four percent (4%) of the rate charged by the operator. The tax imposed is a privilege tax upon the transient renting such room, lodging or other accommodations in a hotel 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.

As amended by:

Private Acts of 2024, Chapter 43

SECTION 3. Such tax shall be added by each operator to each invoice prepared by the operator for the rental of the room, lodging or accommodations in a hotel to a transient. 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 rented a room, lodging or accommodations in a hotel for thirty (30) continuous days, that person shall receive from the operator a refund or credit for the tax previously collected from 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 such rental, whether prior to, during or after the rental period expires, 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" (sic) 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, 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, 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 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 a fund designated by the county legislative body to be used for tourism and economic 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, Section 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 legislative body of Clay County. Its approval or nonapproval shall be proclaimed by the presiding officer of such legislative body and certified 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 become effective as provided in Section 13.

Passed: June 2, 2009.

Litigation Tax

Private Acts of 1967 Chapter 18

SECTION 1. That a litigation tax of two dollars (\$2.00) shall be taxed as part of the costs in all civil and criminal actions in the General Sessions Court or the Circuit Court of Clay County, Tennessee.

SECTION 2. That the Clerk of said Courts will collect the said litigation tax and pay same into a separate and distinct fund, which is to be designated as the "Clay County Capital Improvement Fund," to be spent exclusively for improvements on the jail, improvements on the courthouse and grounds, and construction of a new courthouse, either for one purpose or all.

SECTION 3. That all expenditures made for either one or all the said purposes will be made by the County Judge upon the authorization of the quarterly County Court for the purpose or purposes specified herein.

SECTION 4. That the County Court is hereby authorized to issue bonds or capital outlay notes for the purposes herein specified and pledge the revenue from the tax herein levied for the exclusive payment of said notes or bonds.

SECTION 5. That this Act shall have no effect unless it shall have been approved by a two-thirds (2/3) vote of the Quarterly County Court of Clay County, Tennessee, on or before the next regular meeting of said Quarterly 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 Quarterly County Court, and shall be certified by him to the Secretary of State.

SECTION 6. That the provisions of the Act are hereby declared to be severable. If any of its sections, provisions, exceptions, sentences, clauses, phrases or parts be held unconstitutional or void, the remainder of this Act shall continue in full force and effect, it being the legislative intent now hereby declared that this Act would have been adopted even if such unconstitutional or void matter had not been included therein.

SECTION 7. That this Act shall take effect upon becoming a law, the public welfare requiring it.

Passed: March 10, 1967.

Motor Vehicle Tax

Private Acts of 2003 Chapter 59

SECTION 1. For the privilege of using the public roads and county highways in Clay County, Tennessee, there is levied upon motor-driven vehicles, and upon the privilege of the operation thereof, except motorcycles, motor-driven bicycles and scooters, farm tractors, self-propelled farm machines not usually used for operation upon public highways or roads, and motor-driven vehicles owned by any governmental agency or governmental instrumentality, and except for other exemptions provided by general law, a special privilege tax for the benefit of such county, which tax shall be in the amount of twenty-five dollars (\$25.00) for each such motor-driven vehicle, the owner of which resides within said county. This tax applies to, is a levy upon, and shall be paid on each motor-driven vehicle, the owner of which resides within said county.

SECTION 2. The tax herein levied shall be paid to and collected by the county clerk of Clay County, who is authorized by T.C.A. § 67-4-103 to collect such privilege taxes. The county clerk shall collect this tax at the same time he or she collects the state privilege tax levied upon the operation of a motor-driven vehicle over the public highways of this state. The county clerk shall deduct a fee of five percent (5%), or such higher or lower fee as may from time to time be authorized under T.C.A. § 8-21-701(55) for receiving and paying over county revenue, from the amount of taxes collected and paid over to the county trustee.

The proceeds of the tax levied by this act shall be placed in such county fund as the county legislative

body shall designate by appropriate resolution and shall be used for the purposes of such fund.

SECTION 3. Payment of the privilege tax imposed hereunder shall be evidenced by a receipt, issued in duplicate by the county clerk, the original of which shall be kept by the owner of the motor-driven vehicle and, if required by the county legislative body by resolution pursuant to T.C.A. § 55-4-103, by a decal or emblem also issued by the county clerk, which shall be displayed in the manner required by resolution of the county legislative body. The design of the decal or emblem shall be determined by the county clerk. The expense incident to the purchase of such decals herein required, as well as the expense of obtaining proper receipts and other records necessary for the performance of the duties herein incumbent upon the county clerk, shall be paid from the general fund of the county.

SECTION 4. The privilege tax or wheel tax herein 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 which any required decal or emblem has been affixed, as herein provided, to operate or allow to be operated this vehicle over the streets, roads and highways of the county for a period of one (1) year which shall run concurrently with the period established by T.C.A. § 55-4-104 for state registration fees.

In the event a wheel tax decal or emblem is sold by the clerk for more or less than a twelve-month period, the tax imposed shall be proportionate to the annual tax fixed for the vehicle and modified in no other manner, except that the proportionate tax shall be rounded off to the nearest quarter of a dollar.

SECTION 5. In the event any motor-driven vehicle for which the wheel tax has been paid and any required decal or emblem issued and placed thereon become unusable or is destroyed or damaged to the extent that it can no longer be operated over the public roads, streets or highways of said county, or in the event that the owner transfers the title to such vehicle, or completely removes therefrom and destroys the decal or emblem issued for and placed thereon, and the owner makes proper application to the clerk for the issuance of a duplicate decal or emblem to be used by him on another vehicle for the unexpired term for which the original decal or emblem was issued, and the clerk is satisfied that the applicant is entitled to the issuance of a duplicate decal or emblem and the owner pays into the hands of the clerk the sum of ten dollars (\$10.00), the clerk will then issue to such owner a duplicate receipt, canceling 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 motor-driven vehicle for which it is issued, as herein provided, and such duplicate decal or emblem shall entitle the owner to operate or allow to be operated the vehicle upon the streets, roads and highways of said county for the remainder of the period for which the original decal or emblem was issued. 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 ten dollars (\$10.00), may issue and deliver to the owner a duplicate decal or emblem.

SECTION 6. Any person violating the provisions of this act, or any part thereof, is subject to being assessed a civil penalty not in excess of fifty dollars (\$50.00) for each violation.

SECTION 7. 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 8. This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the county legislative body of Clay County. Its approval or non-approval shall be proclaimed by the presiding officer of the county legislative body and certified by him or her to the secretary of state.

SECTION 9. For the purpose of approving or rejecting the provisions of this act, it shall be effective upon becoming law, the public welfare requiring it. For all other purposes, it shall become effective upon approval as provided in Section 8.

Passed: May 29, 2003.

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 Clay County Assessor. Also referenced below is an act which repealed prior law without providing new substantive provisions.

1. Private Acts of 1921, Chapter 810, fixed the salary of the Tax Assessor in Clay County at \$750 per

- annum to be paid out of the county treasury on warrant from the County Judge, or Chairman, on the first day of April, July, and October of each year.
2. Private Acts of 1933, Chapter 741, set the compensation of Clay County's Tax Assessor at \$400 annually on the warrant of the County Judge or Chairman. Countersigned by the County Court Clerk, and drawn on the county treasury on the first day of April, July, and October. This act would not take effect until the expiration of the term of the incumbent Tax Assessor.
 3. Private Acts of 1937, Chapter 574, repealed Chapter 741, Private Acts of 1933, which was an Act to fix the salary of the Tax Assessor of Clay County.
 4. Private Acts of 1951, Chapter 688, provided that the Tax Assessor in Clay County be paid \$1,000 a year in equal monthly installments from the county treasury.
 5. Private Acts of 1961, Chapter 79, fixed the salary of the Tax Assessor of Clay County at \$1,800 annually in equal monthly installments from the county treasury which would be in addition to allowances for clerical help. The allowance for clerical assistance was \$75 per month, not to exceed \$900 annually, and neither would be effective until the expiration of the incumbent's term. This Act was not approved by the Clay County Quarterly Court and therefore did not become a law under the provisions of the Home Rule Amendment to the constitution.

Taxation

The following is a listing of acts pertaining to taxation in Clay County which are no longer effective.

1. Private Acts of 1925, Chapter 737, made it the duty of the Quarterly County Court of Clay County to levy at its April term, or at any term at which the general county assessment is made a special tax not exceeding twelve cents per \$100 of property valuation for the purpose of maintaining three two-year high schools which were located in Moss, Hermitage Springs, and Willow Grove, all under the Board of Education of Clay County and teaching the same subjects as would be found in the first two years of a four year high school curriculum. The taxes would be collected as other county taxes are.
2. Private Acts of 1976, Chapter 277, enacted a \$5.00 motor vehicle tax in Clay County for all vehicles except the farm type vehicles expressly exempted. The Act applied to all residents of Clay County and to those who usually stay in Clay County, and failure to purchase the same would constitute a misdemeanor for which one could be fined. The County Court Clerk would collect the tax at the same time the State license tags were sold and issue a tag, or some type of decal, signifying payment of the tax, for all of which a fee of fifty cents could be charged. The proceeds of this tax were to be deposited in the debt service fund. The means by which lost, or destroyed tags could be replaced, and/or transferred from one vehicle to another, were included in the law. That act was subject to approval by the people in a referendum but never got that far because the Quarterly County Court rejected the act, thus it never became operative in Clay County.

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