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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 1980 Chapter 216

SECTION 1. As used in the Act, unless the context requires otherwise, the following terms shall have the meanings indicated:

- (a) "Person" means any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit.
- (b) "Hotel" means any structure, or any portion of any structure, 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, or any place in which rooms, lodgings or accommodations are furnished to transients for a consideration.
- (c) "Occupancy" means the use or possession or the right to use or possession of any room, lodging, or accommodations in a hotel for a period of less than thirty (30) continuous days.
- (d) "Transient" means any person who exercises occupancy or is entitled to occupancy of any rooms, lodgings, accommodations in a hotel room or campground for a period of less than thirty (30) days.
- (e) "Consideration" means the consideration charged, whether or not received, for the occupancy in a hotel or campground valued in money whether to be received in money goods, labor, or otherwise, including all receipts, cash, credits, property and service 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 or received from any person.
- (f) "Operator" means the person operating the hotel whether as owner, lessee, or otherwise.
- (g) "Tax collection official" means the county clerk.

SECTION 2. Cocke County is hereby authorized to levy a privilege tax upon the privilege of occupancy in any hotel by a transient in an amount not to exceed three percent (3%) of the consideration charged by the operator. The rate of the tax shall be set annually before the July term by the county legislative body. Such tax is a privilege upon the transient occupying the room or space and shall be paid by such transient.

SECTION 3. The tax shall be added by each operator to each invoice prepared by the operator for the occupancy of his hotel. Such invoice to be given directly or transmitted to the transient, a copy thereof filed by month and retained by the operator as provided in Section 7 hereof.

SECTION 4.

- (a) The tax hereby levied shall be remitted by all operators who lease, rent, or charge for any rooms or campground space to the county clerk not later than the twentieth (20th) day of each month next following such collection from the transient. 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. 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 and 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 county clerk in the form of a deduction in submitting his report and paying the amount due by him, provided, however, that the amount due was not delinquent at the time of payment.
- (c) For the purpose of compensating the county for collecting the tax, the county shall be allowed two percent (2%) of the amount of tax remitted by hotel, motel or campground operators or twelve thousand dollars (\$12,000.00) per annum whichever is less.

SECTION 5. No operator of a hotel, motel, or campground 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 be added to the rent, or that, if added, any part will be refunded.

SECTION 6. Taxes collected by an operator which are not remitted to the county 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 a rate of eight percent (8%) per annum, and in addition for a penalty on such taxes of one percent (1%) for each month or fraction thereof that such taxes are delinquent. Such interest and penalty shall become a part of the tax herein required to be remitted. Willful refusal of an operator to collect or remit the tax or willful refusal of a transient to pay the tax imposed is hereby declared to be unlawful and shall be punishable upon conviction by a fine not in excess of fifty dollars (\$50.00).

Any fine levied herein shall be applicable to each individual transaction involving lodging services paid by a transient to the operator in those cases when the operator fails or refuses to pay the tax payable to the county clerk.

SECTION 7. It is the duty of every operator liable for the collection and payment of any tax imposed by 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 tax collection official shall have the right to inspect at all reasonable times.

SECTION 8. In administering and enforcing the provisions of this Act, the tax official shall have as additional power the powers and duties with respect to collection of taxes provided in Tennessee Code Annotated, Title 67, or otherwise provided by law.

Upon any claim or illegal assessment and collection, the taxpayer shall have the remedy provided in Tennessee Code Annotated, Section 67-2313, it being the intent of this Act that the provisions of law which apply to the recovery of taxes illegally assessed and collected shall apply to the tax collected under the authority of this Act; provided, the tax collection official shall possess those powers and duties as provided in Tennessee Code Annotated, Section 67-2301, with respect to adjustment and settlement with taxpayers of all the errors of taxes collected by him under the authority of this Act and to direct the refunding of same. Notice of any tax paid under protest shall be given the tax collection official, any suit for recovery shall be brought against such tax collection official.

SECTION 9. The county 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.

SECTION 10. The proceeds of the tax imposed in this Act, when collected and paid to the county trustee, shall become part of the county general fund and may be used for county services. However, proceeds of this tax may not be used to provide a subsidy in any form to any hotel.

SECTION 11. The privilege tax levied by this Act 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 12. If any clause, sentence, paragraph, section or any part of this Act shall be held or declared to be unconstitutional, it shall not affect the remainder of this Act notwithstanding the part held to be invalid, if any, and to that end the provisions of this Act are declared severable.

SECTION 13. This Act shall have no effect unless it is approved by a two-thirds (⅔) vote of the county legislative body of Cocke County. Its approval or nonapproval shall be proclaimed by the presiding officer of the legislative body and certified by him to the Secretary of State.

SECTION 14. For the purpose of approving this Act as provided in Section 13, it shall take effect on becoming a law, the public welfare requiring it. For all other purposes, it shall take effect on the first day of the month following ninety (90) days from approval as provided in Section 13.

Passed: March 5, 1980.

Litigation Tax

Courthouse Remodeling and Refurbishing Fund

Private Acts of 1975 Chapter 162

SECTION 1.

(a) That there is hereby imposed upon each case of any description filed in any of the following courts sitting in Cocke County, a tax of one (\$1.00) dollar, to be assessed and collected as a part of the costs of the cause; circuit court, chancery court, county court, general sessions court, and municipal court of Newport.

(b) That there is hereby imposed upon each conviction in the general sessions court of Cocke County, a

tax of fourteen dollars (\$14.00), to be assessed and collected as a part of the cost of the cause.

As amended by: Private Acts of 1982, Chapter 328

SECTION 2. That there is imposed a special privilege tax of one (\$1.00) dollar upon and with respect to each and every instrument offered for recordation in the office of the County Register of Cocke County, the payment of which shall be a condition precedent to the recordation of said instrument.

SECTION 3. That the litigation taxes provided for herein shall be collected by the clerks of the respective courts in which cases are filed, and that the registration tax herein provided for shall be collected by the County Register. Each of said officials shall be accountable for and shall pay over said revenue to the County Trustee quarterly, not later than the tenth day of the month following the quarter in which collections are made.

SECTION 4. That it is hereby expressly provided that the term "case" shall include ex parte as well as adversary or contested proceedings.

SECTION 5.

(a) That the Trustee shall deposit the taxes herein collected in a special fund hereby created, to be known as the "Courthouse Remodeling and Refurbishing Fund", and shall be subject to appropriation by the Quarterly County Court for the purpose of providing for the remodeling and refurbishing of the Cocke County Courthouse and for no other purpose.

(b) That the trustee shall deposit the taxes collected under subsection (b) of Section 1 in the Cocke County education fund.

As amended by: Private Acts of 1982, Chapter 328

SECTION 6. That the tax provided for in subsection (a) of Section 1 shall expire at the conclusion of the quarter in which the cost of the remodeling and refurbishing of the courthouse for which it is levied shall have been paid, and the fact of such payment shall have been certified by the County Judge to the Trustee and to the respective officers charged with collection of the respective taxes. It is hereby made the duty of the County Judge to make such certification promptly upon the discharge of all financial obligations attending the remodeling and refurbishing of the courthouse building and the necessarily related expenses.

As amended by: Private Acts of 1982, Chapter 328

SECTION 7. That this Act is hereby declared to be severable, and if any portion thereof be held to be unconstitutional, such unconstitutionality shall not affect the validity of the remaining portions, it being the intent that the latter would have been enacted in the absence of the invalid portions.

SECTION 8. That this Act shall take effect upon its approval by a two-thirds majority of the Quarterly County Court of Cocke County, such approval to be certified to the Secretary of State within thirty (30) days following action of the Quarterly County Court giving such approval.

Passed: May 15, 1975.

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 Cocke County Assessor.

1. Private Acts of 1917, Chapter 335, set the annual salary of the assessor in Cocke County at \$1,000, to be paid on July 1st of each year.
2. Private Acts of 1925, Chapter 571, raised the assessor's annual compensation to \$1,200, still to be paid in a lump sum payment on July 1st of each year. This was amended by Private Acts of 1933, Chapter 394, to provide that the assessor would be paid monthly on the first day of each month.
3. Private Acts of 1927, Chapter 193, provided that the assessor was to receive as additional compensation a per diem of \$4.00 for each day he met with the county board of equalization.
4. Private Acts of 1937, Chapter 182, raised the assessor's annual salary to \$1,500.
5. Private Acts of 1947, Chapter 625, set the salary of the Cocke County Assessor at \$2,100 per year, to be paid in monthly installments.
6. Private Acts of 1959, Chapter 135, was attempted legislation which would have required the purchase of a building permit from the office of the assessor before any construction or remodeling of more than \$500 could be begun in Cocke County. This act failed to receive local approval and never became effective.

7. Private Acts of 1959, Chapter 136, was also rejected by the quarterly county court. This act would have required the assessor to examine any deed or instrument conveying real property before it could be recorded in the register's office.

Taxation

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

1. Acts of 1801, Chapter 63, provided for an additional tax levy for two years, to be used to build a prison and pay the debts incurred from building a new courthouse.
2. Acts of 1805, Chapter 74, authorized Cocke County to levy another tax for the purpose of paying the grand jurors.
3. Acts of 1806, Chapter 4, authorized a one year additional tax levy to be used to pay the grand jurors who had served during the previous three years.
4. Acts of 1819, Chapter 20, authorized the county court to levy an additional tax on all taxable property in the county for the purpose of building a new courthouse on the public square in Newport.
5. Public Acts of 1870-71, Chapter 50, Section 2, exempted Cocke County from the provisions of the act which authorized several counties to impose taxes for county and corporation purposes.
6. Private Acts of 1925, Chapter 254, authorized a tax levy of not more than \$.30 per \$100 assessed valuation for the purpose of supporting county high schools in Cocke County. This has been superseded by Tennessee Code Annotated 49-605, which provides that no more than one school tax can be levied in each county for the support of all grades in the public schools.
7. Private Acts of 1999, Chapter 19, amended Private Acts of 1980, Chapter 216, relative to hotel/motel occupancy tax in Cocke County. This act was disapproved by the local governing body and therefore never became law.

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