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# Chapter XI - Taxation

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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

## Assessor of Property

### Private Acts of 1951 Chapter 131

**COMPILER'S NOTE:** Cumberland County did not fall within the population bracket stated in the Act, nor did any other Tennessee county; however, this Act was attributed to Cumberland County in the Index to Private Acts of 1951.

**SECTION 1.** That in all counties of this State having a population of not less than 18,830, nor more than 18,850, by the Federal Census of 1950, or any subsequent Federal Census, the salary of the County Tax Assessor shall be Three Thousand (\$3,000.00) Dollars per annum, payable in equal monthly installments on the first day of each month out of the County Treasury upon the warrant of the County Trustee.

**SECTION 2.** That it shall be the duty of the Tax Assessors in counties to which this Act applies to assess all taxable property, both realty and personalty, belonging to every tax payer in the county, and to make out and turn over to the County Court Clerk the tax books and tax aggregates, and no additional compensation shall be paid such Tax Assessor for making out such tax books and tax aggregates. It shall be further the duty of the Tax Assessor to stamp each and every deed conveying the title to land with a rubber stamp, to be furnished by the county, showing the date same was presented to the Tax Assessor for stamping, and bearing the name of the Tax Assessor, and it shall be the duty of the Tax Assessor to immediately note on the tax books in the Civil District wherein the property sold is located showing the transfer of such title, and any deed not thus stamped will not be received for record by the Register of deeds until it bears the stamp as above described. It shall be the duty of all counties to which this Act is applicable to furnish to the Tax Assessor an office in its Court House and every Tax Assessor falling under the provisions hereof shall be in such office every day of the week, except Sunday, between the hours of 9:00 o'clock A.M. and 3:00 o'clock P.M., sickness and unavoidable casualty excepted, and shall have all records in such office available for public inspection by the general public during the hours such office remains open.

**SECTION 3.** That the General Assembly of the State of Tennessee hereby declares the provisions of this Act to be severable and expressly states that if any Section hereof be invalid, such shall not affect the validity of the remainder thereof as the same would have been enacted with such invalid Sections omitted therefrom.

**SECTION 4.** That all laws and parts of laws in conflict with this Act be and the same are hereby repealed, and this Act shall take effect from and after its passage, the public welfare requiring it.

Passed: February 7, 1951.

## Hotel/Motel Tax

### Private Acts of 1979 Chapter 145

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

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

As amended by: Private Acts of 1995, Chapter 112

(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 camp, tourist court, 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 the use or possession, of any room, lodgings or accommodations in any hotel.

(d) "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 ninety (90) continuous days.

(e) "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.

(f) "Operator" means the person operating the hotel whether as owner, lessee, state or local governmental entity, or otherwise.

As amended by: Private Acts of 1995, Chapter 112

**SECTION 2.** The legislative body of Cumberland County is authorized to levy a privilege tax upon the privilege of occupancy in any hotel of each transient in an amount not to exceed seven and one half percent (7 ½%) 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 by this act.

As amended by: Private Acts of 2011, Chapter 30

**SECTION 3.** Such tax shall be added by each and every operator to each invoice prepared by the operator for the occupancy of his hotel and to be given directly or transmitted to the transient and shall be collected by such operator from the transient and remitted to the county.

When a person has maintained occupancy for ninety (90) continuous days, he shall receive from the operator a refund or credit for the tax previously collected from or charged to him, and the operator shall receive credit for the amount of such tax if previously paid or reported to the county.

**SECTION 4.** The tax hereby levied shall be remitted by all operators who lease, rent or charge for any rooms within the county to the county trustee or such other officer as may by resolution of the county legislative body be charged with the duty of collection thereof, such tax to be remitted to such officer not later than the 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 whether prior to occupancy or after occupancy as may be the custom of the operator, and if credit is granted by the operator to the transient; then the obligations to the county entitled to such tax shall be that of the operator.

**SECTION 5.** The trustee or other authorized collector of the tax authorized by this act shall be responsible for the collection of such tax. A monthly tax return under oath shall be filed with the trustee by the operator with such number of copies thereof as the trustee 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 trustee and approved by the county legislative body prior to use. The trustee 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.

**SECTION 6.** 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 7.** Taxes collected by an operator which are not remitted to the county trustee 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 in addition for 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 that 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 \$50.00.

**SECTION 8.** 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 may have been liable for the collection of and payment to the county, which records the county trustee shall have the right to inspect at all reasonable times.

**SECTION 9.** The county trustee 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.

For his services in administering and enforcing the provisions of this act, the county trustee shall be entitled to retain as a commission one percent (1%) of the taxes collected.

Upon any claim of illegal assessment and collection, the taxpayer shall have the remedy provided in Tennessee Code Annotated, Title 67, Chapter 23, 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 county trustee shall also possess those powers and duties as provided

in Tennessee Code Annotated, Section 67-2301, for the county clerks with respect to the adjustment and settlement with taxpayers all errors of county taxes collected by him under authority of this act and to direct the refunding of same. Notice of any tax paid under protest shall be given to the county trustee and the resolution authorizing levy of the tax shall designate a county officer against whom suit may be brought for recovery.

**SECTION 10.** The county trustee is hereby charged with the duty of collection of the tax herein authorized and shall place the proceeds of such tax in the county debt service fund or such other fund as the county legislative body may specify by resolution.

**SECTION 11.** The provisions of this act are hereby declared to be severable. If any of its sections, provisions, exceptions, or parts be held unconstitutional or void, the remainder of this act shall continue to be 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 herein.

**SECTION 12.** This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the county legislative body of Cumberland County, not more than ninety (90) days subsequent to its approval by the governor. Its approval or nonapproval shall be proclaimed by the presiding officer of the county legislative body and shall be certified by him to the Secretary of State.

**SECTION 13.** 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 12.

Passed: May 15, 1979.

## Litigation Tax

### Private Acts of 1967-68 Chapter 111

**SECTION 1.** That there is hereby imposed a special privilege tax in the amount of \$1.50 in each case, upon all civil and criminal cases heard and determined in the Circuit, Criminal, Chancery and General Sessions Courts in Cumberland County, said tax to be collected by the clerks of the respective courts and taxed as part of the costs in each case.

**SECTION 2.** That when any part of the costs in any case has been collected, after payment of any State litigation tax accrued thereon, the amount necessary for the payment of the tax hereby imposed shall be next applied thereto, before applying any of the amount collected as costs to any other funds or items of costs.

**SECTION 3.** That on or before the last day of each month the clerks of the respective courts shall pay to the County Trustee all amounts collected hereunder in the preceding calendar month. The sum paid the said Trustee shall be earmarked for the office of Sheriff, and paid over to the office of Sheriff upon the fifteenth (15th) day of the month, or as soon thereafter as is practicable. The proceeds of said payments shall be utilized by the Sheriff for the operation of his department, including compensation for deputies.

The Sheriff shall account for the sums so paid in the same manner as he is required to account for other monies coming into his hands.

**SECTION 4.** That this Act shall have no force or effect unless it shall be approved by a two-thirds (2/3) majority of the Quarterly County Court of Cumberland County at its next regular meeting following the passage of this Act. Its approval or non-approval by that body shall be certified by the presiding officer of said Quarterly County Court to the Secretary of State.

**SECTION 5.** That in the event of approval of this Act by the Quarterly County Court it shall be effective from and after July 1, 1967, the public welfare requiring it.

Passed: April 24, 1967.

## 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 Cumberland County Assessor.

1. Private Acts of 1925, Chapter 427, fixed the salary of the Tax Assessor of Cumberland County at \$1,000 per year, payable out of the regular county funds at the rate of \$400 on the first Monday

- in April and \$600 when the assessments have been completed, both to be upon the warrant of the County Judge.
2. Private Acts of 1939, Chapter 113, stated in its preamble that the assessed value of property, as set by the County Tax Assessor, was set at such a low value in the Town of Crossville that the town was forced to levy an artificially high tax rate in order to generate sufficient revenue. This Act established the position of Tax Assessor for the Town who would assess property at its "actual cash value". The County Tax Assessor was barred access to the books and records of the City Tax Assessor.
  3. Private Acts of 1945, Chapter 362, provided that beginning in 1945 and annually thereafter, the sum of \$600 shall be paid to the Tax Assessor of Cumberland County to compensate him for clerical expenses, or unusual expenses, incurred during the year, \$300 of which would be paid on the Saturday before March 15, and \$300 on the Saturday before August 15.
  4. Private Acts of 1955, Chapter 215, amends Private Acts of 1951, Chapter 131, by changing the quoted population figures to make the act apply to Cumberland County and further amends Section One by increasing the salary of the Tax Assessor from \$3,000 to \$5,000 annually. This Act did not receive local approval and therefore never became operative.

### **Taxation**

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

1. Acts of 1870-71, Chapter 50, provided that counties and cities may impose taxes for county and corporate purposes if (1) all taxable property is taxed according to its value and (2) neither the credit of the county nor the city be loaned to any person, firm, or private corporation except upon a vote by a majority of the county court and after submitting the question to a referendum vote in which three quarters of the voters must affirm the same. Twenty-seven counties, including Cumberland, exempted themselves from the three-quarter requirement and provided that in those counties only a majority of the voters voting in the referendum must approve. See State v. Mayor of Bristol, 109 Tenn. 315, 70 S.W. 1031 (1902).
2. Acts of 1905, Chapter 398,, authorized and empowered the county court to supply the Tax Books belonging to the office of the County Trustee when the same have been permanently lost or destroyed, and established the mode of procedure in such cases. The Trustee would file a petition with the County Judge, or Chairman, averring the fact that the books are destroyed and the manner in which the loss occurred. The petition would also state whether the same books can be supplied from the assessment rolls or other public records on file. If all information to establish proper assessments is gone, the County Court would appoint three Commissioners with the same qualifications as members of the Board of Equalization who would hear proof as to the assessed value of all the property in the county and thus complete the Tax Books. Exceptions to the rulings of the Commission could be filed within five days after completion and return of the books. No penalties would be levied on people who were not delinquent on their own doing.
3. Acts of 1905, Chapter 424, was also enacted by the General Assembly and is identical to Acts of 1905, Chapter 398.
4. Private Acts of 1931 (2nd Extra Session), Chapter 71, provided for a more efficient method of collecting delinquent taxes in Cumberland County by permitting the County to become the purchaser of such real estate as may be sold for taxes and to dispose of such land. All the details of the procedures, including the right to redeem the land by the owner, are included within the law. These would have to be followed strictly for a county to avail themselves of this manner of collecting taxes.
5. Private Acts of 1951, Chapter 78, authorized the Quarterly County Court of Cumberland County to levy an annual tax of 5 mills on all taxable property, which would be in addition to all other taxes, which would be used to contribute towards the expense of operating the "Cumberland Medical Center." The County Trustee was directed to pay the proceeds of this tax to the City of Crossville to be expended by them for the purpose mentioned. This Act was repealed by Private Acts of 1951, Chapter 256.
6. Private Acts of 1972, Chapter 280, imposed a privilege tax of \$2 on all cases filed in the Circuit Court, Chancery Court and General Sessions Court of Cumberland County. The taxes would be placed in a special fund designated "The Courthouse Remodeling and Maintenance Fund" and be used solely for that purpose. This Act was repealed by Private Acts of 1981, Chapter 85.

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