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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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Table of Contents

Chapter XI - Taxation 3
Hotel/Motel Tax 3
Private Acts of 1987 Chapter 34 3
Mineral Severance Tax 4
Private Acts of 1987 Chapter 35 5
Motor Vehicle Tax 6
Private Acts of 2004 Chapter 120 6
Taxation - Historical Notes 7

Chapter XI - Taxation

Hotel/Motel Tax

Private Acts of 1987 Chapter 34

SECTION 1. For the purposes of this Act:

- (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 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, 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 thirty (30) 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) "County" means Decatur County, Tennessee.
- (g) "Operator" means the person operating the hotel whether as owner, lessee or otherwise.
- (h) "Clerk" means the county clerk of Decatur County, Tennessee.

SECTION 2. The legislative body of Decatur 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 rate charged by the operator.

SECTION 3. The proceeds received by the county from the tax shall be designated and used for any lawful purpose under Tennessee statutes.

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, such invoice to be given directly or transmitted to the transient and such tax shall be collected by such operator from the transient and remitted to Decatur County.

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.

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 county clerk or such other officer as may be by resolution charged with the duty of collection thereof, said 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 said tax from the transient at the time of the presentation of the invoice for said 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 these sections the operator shall be allowed two percent (2%) of the amount of 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, shall be responsible for the collection of said tax and shall place the proceeds of such tax in accounts for the purpose 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 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. 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 county clerk on or before the due dates shall be 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 the tax or willful refusal of a transient to pay the tax imposed is hereby declared to be unlawful and shall constitute a misdemeanor punishable upon conviction of a fine 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 and payment to the county, which records the county clerk shall have the right to inspect at all reasonable times.

SECTION 10. The county 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.

For his or her services in administering and enforcing the provisions of this Act, the county clerk shall be entitled to retain as a commission five percent (5%) of the taxes so collected.

Upon any claim of illegal assessment and collection, the taxpayer shall have 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 under the authority of this Act; provided further, the county clerk shall possess those powers and duties as provided in Tennessee Code Annotated, Section 67-1-707 for the county clerks.

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

Notice of any tax paid under protest shall be given to the county 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 general fund of Decatur County to be used for the purposes stated in Section 3 of this Act.

SECTION 12. If any provision of this Act or the application thereof to any person or circumstances 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 the 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 Decatur County. Its approval or nonapproval shall be proclaimed by the presiding officer of the county legislative body and certified 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 become effective upon becoming a law. For all other purposes, it shall become effective upon being approved as provided by Section 13, the public welfare requiring it.

Passed: March 12, 1987.

Mineral Severance Tax

Private Acts of 1987 Chapter 35

SECTION 1. A severance tax is hereby levied in Decatur County on sand, gravel, clay, and all other minerals that are severed from the earth for private commercial purposes. The term "sand, gravel, sandstone, chert and limestone" shall mean sand, gravel, sandstone, chert and limestone severed from the earth in the process of producing a saleable product by whatever means of severance used. It shall not include, however, any mineral taxed under the provisions of Tennessee Code Annotated, Section 60-1-301; any lime or limestone used for agricultural purposes; any lime or limestone used for pollution control or abatement purposes; any burnt lime, any hydrated lime or any lime or limestone used for manufacture of cement, glass, fiberglass, rubber, paper, filler for paint, caulking, putty and roofing; rock dust for settling coal dust in underground mines or similar uses requiring chemical purity.

Further, the tax shall not be levied on any mineral taxes under the provisions of Tennessee Code Annotated, Section 67-7-101 through 67-7-110. The tax shall be 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, except that no tax shall be due on any sand, gravel, sandstone, chert and limestone sold for use outside the state of Tennessee.

SECTION 2. For purposes of this Act, "owner" shall be defined as the person or persons who would be liable for payment of a tax levied pursuant to Tennessee Code Annotated, Title 67, Chapter 7, Part 2, if such were levied in Decatur County.

SECTION 3. The measure of the tax shall be fifteen cents (15¢) per ton on all minerals severed from the ground in Decatur County that are subject to the tax levied by this Act. The owner shall become liable for payment of the severance tax and the tax shall accrue at the time the mineral is severed from the earth and sold. The tax is levied upon the severance of the mineral and sale thereof regardless of the place of processing or sale of the mineral or the fact that delivery may be made outside the county. The tax levied shall be a lien upon all subject minerals severed in the county and any other property owned by the owner. Such lien shall be entitled to preference over all judgments, encumbrances or liens whatsoever created.

As amended by: Private Acts of 1994, Chapter 109

SECTION 4. The tax levied by this Act shall be due and payable monthly on the first (1st) day of the first (1st) month next succeeding the month in which the mineral taxed herein is sold. For the purpose of ascertaining the amount of tax payable it shall be the duty of all owners to transmit to the Decatur County trustee, on or before the last day of the first (1st) month next succeeding the month in which the tax accrues, a return upon forms provided by the trustee. The return shall indicate the month or period covered, the total number of tons of all minerals severed in Decatur County and sold, by all production units operated, owned or controlled by the taxpayer during the period covered, the amount of tax, and such other information the trustee may require. The return shall be accompanied by a remittance covering the amount of tax due as computed by the taxpayer.

SECTION 5. The tax levied by this Act shall become delinquent on the first (1st) day of the second (2nd) month next succeeding the month in which such tax accrues. When any operator 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. Whenever a penalty is imposed there shall also be added to the amount of tax and penalty due interest thereon at the rate of eight percent (8%) per annum from the date due until paid. A further penalty of fifty percent (50%) of the amount due may be added if the nonpayment of the tax is an intent to evade payment. If the nonpayment of the tax is an intent to evade payment, the person liable for such payment may be restrained and enjoined from severing minerals from a production unit from which minerals have been severed and upon which tax is due.

SECTION 6. All revenues collected under this Act by the trustee shall be deposited in the general fund of Decatur County for general county purposes, or such other fund as may be designated by the resolution of the Decatur County legislative body.

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 Decatur County legislative body. Its approval or nonapproval shall be proclaimed by the presiding officer of the Decatur County legislative body and certified by him 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 a law, the public welfare requiring it. For all other purposes, it shall become effective on the first (1st) day of the month following the month wherein this Act receives approval as provided in Section 8.

Passed: March 12, 1987.

Motor Vehicle Tax

Private Acts of 2004 Chapter 120

SECTION 1. For the privilege of using the public roads and highways in Decatur 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 thirty dollars (\$30.00) for each such motor-driven vehicle, the owner of which resides within the county. This tax applied to, is a levy upon, and shall be paid on each motor-driven vehicle, the owner of which resides within the county.

SECTION 2. The tax herein levied shall be paid to and collected by the county clerk of Decatur County, who is authorized by Tennessee Code Annotated, Section 67-4-103, to collect such privilege taxes. The county clerk shall collect this tax at the same time the clerk 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 Tennessee Code Annotated, Section 8-21-701(55), for receiving and paying over county revenue, from the amount of taxes collected and paid over to the county trustee.

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 Tennessee Code Annotated, Section 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 the tax was paid and on which any required decal or emblem has been affixed, as herein provided, to operate or allow to be operated the 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 Tennessee Code Annotated, Section 55-4-104, for state registration fees.

In the event a wheel tax decal or emblem is sold by the clerk for a period of more or less than twelve months, the tax imposed shall be proportionate to the annual tax fixed for the vehicle and modified in no other manner, except that the proportional 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 require 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 the 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 the applicant 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 applicant pays into the hands of the clerk the sum of five dollars (\$5.00), the clerk will then issue to such applicant a duplicate receipt, canceling the original receipt previously delivered to him by the applicant, and will deliver to the applicant 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 applicant to operate or allow to be operated the vehicle upon the streets, roads and highways of the county for 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 five dollars (\$5.00), may issue and deliver to the applicant a duplicate decal or emblem.

SECTION 6. Pursuant to Tennessee Code Annotated, Sections 5-8-102 and 55-4-105, a person violating the provisions of this act commits a misdemeanor and shall, upon conviction, be subject to the penalties provided for in those general law provisions.

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 Decatur 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 10, 2004.

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

1. Acts of 1907, Chapter 602, established guidelines to be followed over the State when the value of property was being assessed, and in Section 9, a salary range for Tax Assessors was fixed which paid according to the population of the county in which the Tax Assessor served.
2. Private Acts of 1911, Chapter 411, amended Acts of 1907, Chapter 602, which concerned the Tax Assessors of the State by setting the annual salaries of the Tax Assessors for several different counties in the State, all identified through the use of population figures attributed to the 1910 Federal Census. According to our information Decatur County would pay its Tax Assessor \$400 a year out of the regular county funds.
3. Private Acts of 1917, Chapter 644, although listed as being applicable to Decatur County, does not apply to Decatur County but to Dekalb County.
4. Private Acts of 1945, Chapter 498, stated that the annual salary of the Tax Assessor of Decatur County would hereafter be increased from \$600 to \$1,200 and it was the intention of this statute to accomplish that result.
5. Private Acts of 1953, Chapter 279, provided that the Tax Assessor of Decatur County would be compensated at the rate of \$1,800 per year, payable in equal monthly installments out of the regular county treasury.

Taxation

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

1. Acts of 1845-46, Chapter 189, stated that the Sheriff, or the Revenue Collector, of Henderson County would collect and pay over to the Trustee of Decatur County all the taxes levied for county purposes on property and polls in that part of Henderson County which has since become a part of Decatur County.
2. Acts of 1870-71, Chapter 50, authorized the counties and the cities of the State of Tennessee to levy taxes for county and municipal purposes provided they observed the following, (1) that all taxable property be taxed according to its value upon the principles established in regard to State taxation, and (2) that the credit of no county or city, would be given or loaned, to any person, firm, or corporation, unless the issue be first decided by the majority of the Quarterly County Court to be submitted to a referendum of the people and the people vote by a three-fourth's majority to approve the same. Some of the counties, not Decatur, voted to exempt themselves from the requirement of approval by a three-fourth's vote of the people for the next ten years stating that a simple majority vote in the affirmative would be sufficient.
3. Private Acts of 1927, Chapter 227, amended Acts of 1907, Chapter 602, Section 48, by striking

out the word "March" and inserting in its place the word "May". Decatur, and several other counties, exempted themselves from the terms of this act. The effect of the amendment was to change the date from March to May when the delinquent taxes would begin to require the payment of interest and penalty.

4. Private Acts of 1975, Chapter 172, established a vehicle privilege tax for Decatur County. This Act was repealed by Private Acts of 1987, Chapter 33.

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