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Private Acts of 1987 Chapter 35

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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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.

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