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# Chapter XI - Taxation

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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,

The University of Tennessee  
County Technical Assistance Service  
226 Anne Dallas Dudley Boulevard, Suite 400  
Nashville, Tennessee 37219  
615.532.3555 phone  
615.532.3699 fax  
[www.ctas.tennessee.edu](http://www.ctas.tennessee.edu)

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# Chapter XI - Taxation

## Gasoline Tax Apportionment

### Private Acts of 1945 Chapter 601

**SECTION 1.** That out of the Two-Cent Gasoline Tax fund now received by DeKalb County from the State of Tennessee that one-twelfth of said Fund paid to the Trustee of said County for the year 1945 shall be paid by said Trustee to the Governing Bodies of Smithville and Alexandria, two Municipalities in said County, on the following basis to-wit: Smithville, eighty (80%) per cent of one-twelfth (1/12) and Alexandria, twenty (20%) percent of the one-twelfth (1/12).

**SECTION 2.** That for the year 1945 and for each year thereafter the Trustee of the County will take as a basis of arriving at the one-twelfth (1/12) of the Gasoline Fund going to the said Municipalities the sum received by the County from the State for the preceding year and shall set up on the books of the Trustee's Office one-twelfth (1/12) of said sum for the year 1945 and for each year thereafter and pay the same as herein provided to the governing Bodies of Smithville and Alexandria.

**SECTION 3.** That the Governing Bodies of said Municipalities shall each year lay out and designate the streets, roads and bridges within said Municipalities where said Fund shall be expended and the Governing Bodies of said Municipalities will cause to be made a record of all funds received under the provisions of this Act, same to be opened to inspection to any party interested.

**SECTION 4.** That the Trustee of DeKalb County will make the division of this fund as herein provided and pay the same over to the Municipalities on or before June 1st of each year, first payment shall be made on or before June 1, 1945.

**SECTION 5.** That this Act shall take effect from and after its passage, the public welfare requiring it.

Passed: March 2, 1945.

## Tax Assessor

### Duties

### Private Acts of 1949 Chapter 667

**SECTION 1.** That it shall be the duty of the Tax Assessor of DeKalb County, Tennessee, to keep an accurate account of all real estate transfers placed on record in the County Register's office, and make the records in his office conform and comply with the real estate transfers as reflected in the Register's office. It being the intent and purpose of this Act that the records in the Tax Assessor's office shall at all times be current with realty transfers of property in said County. It shall be the further duty of the said Tax Assessor to check the records of the realty transfers in the County Register's office at least twice a month.

That the tax books and records of the Tax Assessor shall at all times be kept and remain in the County Trustee's office in order that the same may be available for inspection by the public.

That for the period beginning January 10th and until the 1st day of May of each year, it shall be the further duty of the Tax Assessor or his designated representatives to be present at the County Trustee's office during regular office hours on each Saturday during this period in order that he may be contacted or consulted by any property owners of said County.

**SECTION 2.** That for the additional duties imposed hereunder said Tax Assessor shall receive the sum of \$500.00 per annum, payable in equal quarterly installments out of the General Fund of the County. This compensation shall be in addition to the compensation which he now receives as Tax Assessor. However, it being the further intent and purpose of the Legislature that should said Tax Assessor fail or refuse to comply with the provisions of this Act, he shall forfeit all compensation as provided for hereunder.

**SECTION 3.** That this Act shall take effect from and after April 15, 1949, the public welfare requiring it.

Passed: April 7, 1949.

### Private Acts of 1961 Chapter 29

**SECTION 1.** That the County Register of the County of DeKalb, State of Tennessee, shall not record any deed conveying real estate, in said County unless same bears the stamp of the Tax Assessor of said County, certifying that said Tax Assessor has copied the names of the vendor and vendees in said deed of conveyance for the purpose of making proper corrections on his roll of assessments.

**SECTION 2.** That it shall be the duty of the Tax Assessor of DeKalb County to be available during office hours. It shall be the further duty of the Tax Assessor to stamp or to cause to be stamped all deeds presented to him, with a stamp showing that he has copied the name of the vendor and vendee in said deed or conveyance for the purpose of making proper corrections on his roll of assessments. It shall be the duty of the Tax Assessor to correct his tax rolls in all such cases so that the tax rolls of DeKalb County will be kept up to date and will show the correct owners of real estate to the end that property may be assessed in the name of the true owners thereof. Failure of the Tax Assessor of DeKalb County to comply with the provisions of this Act shall constitute misconduct in office and subject him to removal from office under Tennessee Code Annotated, Section 8-2701, et sequa.

**SECTION 3.** That this Act shall have no effect unless the same shall have been approved by a two-thirds vote of the Quarterly County Court of DeKalb County, Tennessee. Its approval or disapproval shall be proclaimed by the Judge of the Quarterly County Court of DeKalb County, Tennessee, and shall be certified by him to the Secretary of State.

**SECTION 4.** That this Act shall take effect from and after its passage, the public welfare requiring it.

Passed: February 7, 1961.

## Litigation Tax

### Private Acts of 1971 Chapter 162

**SECTION 1.** That a litigation tax of Five Dollars (\$5.00) shall be taxed as part of the costs in all civil and criminal actions in the General Sessions Court, the Circuit Court and the Chancery Court of DeKalb County, Tennessee.

As amended by: Private Acts of 1978, Chapter 239

**SECTION 2.** That the said Clerks of the said Courts will collect the said litigation tax and pay same into a separate fund, which is to be designated as the "Court House and Jail Maintenance Repair Fund", to be used exclusively for the purpose of maintenance and repair of the Court House and Jail.

**SECTION 3.** That all expenditures made from the said Fund are to be made by the Purchasing Agent, upon the authorization of the Quarterly County Court.

**SECTION 4.** That this Act shall have no effect unless the same shall have been approved by a two-thirds (2/3) vote of the County Court of DeKalb County, Tennessee, on or before the next regular meeting of such 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 body having jurisdiction to approve or the reverse, and shall be certified by him to the Secretary of State.

**SECTION 5.** That this Act shall take effect from and after its passage, the public welfare requiring it.

Passed: May 17, 1971.

## Hotel/Motel Tax

### Private Acts of 1995 Chapter 118

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

- (1) "Clerk" means the County Clerk of DeKalb County, Tennessee.
- (2) "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.
- (3) "County" means DeKalb County, Tennessee.

(4) "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.

(5) "Occupancy" means the use or possession, or the right to the use or possession, of any room, lodgings or accommodations in any hotel.

(6) "Operator" means the person operating the hotel whether as owner, lessee or otherwise.

(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) "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.

As amended by: Private Acts of 1996, Chapter 142.

**SECTION 2.** The legislative body of DeKalb 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 consideration charged by the operator. Such tax is a privilege tax upon the transient occupying such room and is to be collected as provided in this act.

**SECTION 3.** The proceeds received by the county from the tax shall be designated and used for the General Fund.

**SECTION 4.** Such tax shall be added by each and every operator to each invoice prepared by the operator for the occupancy of the hotel and given directly or transmitted to the transient. Such tax shall be collected by such operator from the transient and remitted to the county clerk as provided in Section 5.

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 or charged 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, lodgings, spaces or accommodations in hotels within the county to the clerk or such other officer as may by resolution be charged with the duty of collection thereof, such tax to be remitted to such officer 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 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 for remitting the tax levied by this act, the operator shall be allowed two percent (2%) of the amount of the tax due and remitted to the clerk in the form of a deduction in submitting the 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 such tax and shall place the proceeds of such tax in accounts for the purposes 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 a year and shall report on the audits made on a quarterly basis to the County Legislative Body.

The County Legislative Body is 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 clerk on or before the due dates are delinquent. An operator is 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. 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 unlawful and shall be punishable by a civil penalty not in excess of fifty dollars (\$50.00).

**SECTION 9.** It is 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 necessary to determine the amount of tax due and payable to the county. The clerk has the right to inspect such records at all reasonable times.

**SECTION 10.** The clerk in administering and enforcing the provisions of this act has 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 services in administering and enforcing the provisions of this act, the clerk is entitled to retain as a commission five percent (5%) of the taxes collected.

Upon any claim of illegal assessment and collection, the taxpayer has the remedies provided in Tennessee Code Annotated, Title 67. It is 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 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 authority of this act shall be refunded by the clerk.

**SECTION 11.** The proceeds of the tax authorized by this act shall be allocated to and placed in the General Fund of DeKalb County to be used for the purposes stated in Section 3 of this act.

**SECTION 12.** 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 13.** 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 14.** This act shall have no effect unless it is approved by a two thirds (2/3) vote of the County Legislative Body of DeKalb County. Its approval or nonapproval shall be proclaimed by the presiding officer of the County Legislative Body and shall be certified by such presiding officer to the Secretary of State.

**SECTION 15.** 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 14.

Passed: May 18, 1995.

## Taxation - Historical Notes

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

1. Private Acts of 1857-58, Chapter 129, Section 8, required citizens of DeKalb County in a section removed by this Act from Putnam County to list and pay taxes in Putnam County for the next five years. This was repealed by Acts of 1859-60, Chapter 121.
2. Private Acts of 1921, Chapter 218, set the salary of the Tax Assessor at \$1,000 per year.
3. Private Acts of 1925, Chapter 791, amended Acts of 1907, Chapter 602, which provided for more equitable assessment of taxes, by making it applicable to DeKalb County.
4. Private Acts of 1989, Chapter 74, authorized the county legislative body to levy a hotel-motel tax. This act did not receive local approval and therefore did not become law.

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