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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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Chapter XI - Taxation

Hotel/Motel Tax

Private Acts of 1992 Chapter 145

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

- (1) "Clerk" means the county clerk of White 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 White 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 entity 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.

SECTION 2. The legislative body of White County is authorized, by resolution of the county legislative body, to levy a privilege tax upon the privilege of occupancy in any hotel of each transient in an amount not to exceed five percent (5%) of the rate 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 retained by the county and deposited into the general fund of the county, to be designated and used for such purposes as specified by resolution of the county legislative body.

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 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 as may be 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 an 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 at shall be refunded by the clerk.

SECTION 11. 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 12. 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 13. This act shall have no effect unless it is approved by a two thirds (2/3) vote of the county legislative body of White 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 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 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 13.

Passed: February 13, 1992.

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 White County Assessor.

1. Private Acts of 1927, Chapter 480, stated that the Tax Assessor, and his deputies, shall receive their compensation in White County as follows: fifty cents for each person assessed with real and personal estate, exceeding \$1,000; fifty cents for each person assessed with personal estate only, exceeding \$1,000; thirty cents for any person assessed with real estate only, and 30 cents for each additional parcel; and the schedule ranged all the way down to ten cents for each person assessed only with a poll tax.
2. Private Acts of 1945, Chapter 54, stated that the salary of the Tax Assessor of White County shall

be \$1,500 per annum, payable monthly out of the County Treasury, on the warrant of the County Judge, or Chairman.

Taxation

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

1. Acts of 1809, Chapter 23, granted Robert Armstrong, the collector of the public tax in White County, until January 1, 1811, to finish and make up his collection. He may collect from the citizens of Jackson and Franklin Counties when they are liable to pay. The County Court will give him proper credit when he is due to receive it, and any judgments obtained against him are hereby superseded.
2. Private Acts of 1943, Chapter 239, required the owners of the electric properties located in Sparta to pay to the city, as taxes, the same amount on their real and personal property which a private utility would pay under normal circumstances. The Tax Assessor shall assess them at the same time and in the same manner as he assesses other properties. Taxes would be paid under the provisions of this Act only so long as the governing body of that city does not levy a property tax against them.
3. Private Acts of 1967-68, Chapter 72, provided a litigation tax of two dollars (\$2.00) to be taxed as part of the costs in all civil and criminal actions in the court of general sessions, the circuit court, the criminal court and the chancery court of White County, Tennessee. This tax was to be placed in a separate fund which was designated to the White County Capital Improvement Fund to be spent exclusively for improvements on the jail and courthouse and grounds, construction of a new courthouse, construction of a new jail. This act was repealed by Private Acts of 1993, Chapter 13.
4. Private Acts of 1980, Chapter 213, provided for a severance tax, by resolution of the county legislative body, on all sand, gravel, limestone, phosphate rock, and all other mineral products severed from the ground. The tax was allocated to the county. This act was repealed by Private Acts of 1991, Chapter 12.
5. Private Acts of 1982, Chapter 293, amended Private Acts of 1980, Chapter 213. This act was repealed by Private Acts of 1991, Chapter 12.
6. Private Acts of 1992, Chapter 159, amended Private Acts of 1967-68, Chapter 72, by raising the litigation tax to the maximum amount allowable by law. This act was repealed by Private Acts of 1993, Chapter 13.

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