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Chapter XII - 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.

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

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Chapter XII - Taxation

Hotel - Motel Tax

Private Acts of 1988 Chapter 174

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

SECTION 2. Weakley 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. 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 and to be given directly or transmitted to the transient and shall be collected by such operator from the transient and remitted to Weakley 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 4.

- (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 by resolution be 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 the 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 5. 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 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 may audit each operator in the county 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 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 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 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 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 9. 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. 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 10. The proceeds of the tax authorized by this act shall be allocated to and placed in the general fund of Weakley County.

SECTION 11. 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 that end the provisions of this act are declared to be severable.

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 Weakley 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 13. 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: April 13, 1988.

Litigation Tax

Private Acts of 1978 Chapter 175

SECTION 1. That Weakley County is hereby authorized to establish, operate and maintain a County Governmental Library for the use of Courts and Judges thereof, State, County and Municipal officials, attorneys and the public.

SECTION 2. That the County Judge of Weakley County shall have general charge and custody of said library and may promulgate reasonable rules and regulations covering the operation and use of said Library. The Weakley County Judge is empowered to employ Librarians and assistants and to fix their salaries, and has full power to acquire by gift, loan, devise or purchase the books and furnishings necessary for said Library.

SECTION 3. For the purpose of financing the library and providing funds for the improvement of the jail,

courthouse grounds and facilities, there shall be taxed, as costs, in each criminal suit or case in any of the courts sitting in Weakley County a tax of two dollars (\$2.00).

SECTION 4. The litigation tax provided for herein shall be collected by the clerks of the courts in which criminal cases are filed. Each of said officials shall be accountable for the revenue and shall pay over to the county trustee on or before the fifteenth (15th) day of each month all county governmental library, jail facilities and courthouse improvement tax revenues collected in the preceding calendar month. The sum paid the county trustee shall be paid into the county general fund and used only for the purposes set out in this act. The county executive shall draw warrants on the county trustee for library, jail, and courthouse improvement expenditures, and the county trustee is hereby authorized and directed to make payment out of such fund upon the presentation of warrants so issued in compliance with the provisions of this act. As amended by: Private Acts of 1997, Chapter 50.

SECTION 5. That if any clause, sentence, paragraph, section or part of this act shall be held or declared to be unconstitutional and void, it shall not affect the remaining parts of this Act, it being hereby declared to be the legislative intent to have passed the remainder of this act notwithstanding the part so held to be invalid, if any.

SECTION 6. That this Act shall have no effect unless the same shall have been approved by two-thirds of the Quarterly County Court of Weakley County on or before July 1, 1978. Upon such approval this Act shall become effective immediately, the Public Welfare requiring it. The approval or lack of approval by July 1, 1978, of this act shall be proclaimed by the presiding officer of the Quarterly Court of Weakley County and shall be certified by him to the Secretary of State as promptly as is reasonably possible.

SECTION 7. That this Act shall take effect upon becoming a law, the public welfare requiring it. Passed: February 1, 1978.

Severance Tax

Private Acts of 1982 Chapter 270

SECTION 1. A severance tax is hereby levied in Weakley County on sand, gravel, clay, and all other minerals that are severed from the earth for private commercial purposes. However, the tax shall not be levied on any mineral taxed under the provisions of Tennessee Code Annotated, Sections 67-5901 through 67-5905. The measure of the tax shall be fifteen (15 cents) per ton on all minerals severed from the ground in Weakley County that are subject to the tax levied by this act. The owner shall become liable for payment of the severance tax at the time the mineral is severed from the earth and transported from the mine. The tax is levied upon the severance of the mineral regardless of the place of processing or sale of the mineral or the fact that delivery may be made outside the county. The tax shall accrue at the time the sand, gravel, clay or other mineral is severed from the earth and in its natural or unprocessed state and transported from the mine. The tax levied shall be a lien upon all subject minerals severed in the county and any other property owned by the miner. Such lien shall be entitled to preference over all judgments, encumbrances or liens whatsoever created.

SECTION 2. 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 is severed from the soil. For the purpose of ascertaining the amount of tax payable it shall be the duty of all miners to transmit to the Weakley 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 Weakley County and transported from the mine, 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 3. 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 ten percent (10%) 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 due to 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 the tax is due.

SECTION 4. All revenues collected under this Act by the Trustee shall be deposited in the general fund of Weakley County for general county purposes, or such other fund as may be designated by resolution of the Board of County Commissioners of Weakley County.

SECTION 5. 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 6. This Act shall have no effect unless it is approved by a two-thirds (2/3) vote of the Board of County Commissioners of Weakley County. Its approval or nonapproval shall be proclaimed by the presiding officer of the Board of County Commissioners and certified by him to the Secretary of State.

SECTION 7. 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 day of the month following the month wherein this Act receives approval as provided in Section 6.

Passed: March 11, 1982.

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

1. Private Acts of 1929, Chapter 170, required the Tax Assessor to keep an office open at the Court House, or some other convenient place, with himself or a Deputy being present, during reasonable business hours each day. All the tax books would be made up and issued from this office. All persons conveying interests in real estate were required to notify the Tax Assessor within 30 days and no instrument of conveyance could be lawfully registered until and unless it was accompanied by a certificate from the Tax Assessor acknowledging the above. No charge would be made for the certificate. The authority to appoint one or more deputies was granted to the Tax Assessor whose compensation would be \$3,000 a year, payable monthly, but the Assessor must pay all the Deputies appointed from this amount. This Act was repealed by Private Acts of 1975, Chapter 97.
2. Private Acts of 1953, Chapter 364, stated that the compensation of the Tax Assessor in Weakley County is hereby fixed at the sum of \$4,320 per year, payable in equal monthly installments out of the county treasury.
3. Private Acts of 1961, Chapter 259, would have fixed the annual salary of the Tax Assessor of Weakley County at \$5,500 but the Act was rejected by the Quarterly Court of the County and thus never become an operative law.

Taxation

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

1. Acts of 1824 (Ex. Sess.), Chapter 66, directed the Tax Collector of Henry County to pay over the public building tax collected by him to the Commissioners of the town of Paris but all the land west of the County Line, or lying in Weakley and Obion Counties which were taxed for public buildings by the County Court were released.
2. Acts of 1824 (Ex. Sess.), Chapter 128, declared it to be lawful for the Quarterly Courts of Henry, Weakley, Obion, Dyer, Gibson, Carroll, Madison, Haywood, Tipton, and Hardeman Counties, a majority of the Justices being present, to levy a tax in the amount stipulated in the law to improve the navigation of the rivers in the Western District which flow into the Mississippi River, especially in the Obion and the Forked Deer Rivers.
3. Acts of 1826 (Ex. Sess.), Chapter 131, authorized the Weakley County Court to apply all present and future proceeds of the navigation tax towards building a road from Dresden to Mill's Point.
4. Acts of 1827, Chapter 222, was the authority for the County Court of Weakley County, a majority of the Justices being present, to levy a tax, not exceeding the State tax, on the taxable property and polls of the County which would be sufficient to defray and discharge the balance of the debt due for building the Court House of the County, which would be collected as other taxes were collected.
5. Acts of 1829, Chapter 194, provided that the County Courts of Weakley and Henry Counties appoint a Commission to examine and ascertain how much money the Sheriff of Henry County

collected from the inhabitants of Weakley County as a public building tax in the year 1823 and, further, it was the duty of the Trustee of Henry County to pay over this amount of the tax to the Commission appointed herein. The Commission had the authority to make any motion and to invoke any remedy necessary to achieve the desired result.

6. Acts of 1870-71, Chapter 50, was a general law which declared that counties and cities may impose taxes for county and municipal purposes in the following manner: (1) all taxable property shall be taxed according to its value upon the principles established in regard to state taxation, and (2) the credit of no county, or city, may be given, or loaned, to any person, firm, or corporation, unless a majority of the Quarterly County Court shall first agree to submit the question to the people by a referendum, and that three-fourths of the people voting in the referendum shall approve. Several counties excluded themselves from the three-fourths approval requirement for the next ten years, saying that a simply majority would suffice during that time.
7. Private Acts of 1929, Chapter 841, stated that the Quarterly Court of Weakley County was empowered and vested with the right to levy a special tax rate to meet the expenses of paupers, pauper coffins, expenses of the Western Hospital, lunacy inquests, Circuit Court expenses for jury service, jail expenses, boarding prisoners, salaries of officers, court employees, building and repairing bridges and levees. The Quarterly Court could also borrow money against the credit of the County for the repair and restoration of any public works in case of a flood, fire, or tornado, and to levy a tax to amortize such amounts. This Act was specifically repealed by Private Acts of 1975, Chapter 97.
8. Private Acts of 1931, Chapter 223, created the office of Delinquent Poll Tax Collector. The Collector would be appointed by the County Judge, or Chairman, to serve a term of two years. All poll taxes not paid to the County Trustee on or before May 1, 1931, and by March 1 every year thereafter, are declared to be delinquent taxes and shall be turned over to the Delinquent Poll Tax Collector for collection. He would be paid seventy cents, plus the regular fee for serving process, for each one. The Trustee shall make a list of unpaid poll taxes and give it to the Collector who shall likewise add any names who are in his own knowledge delinquent. This list was to serve as a summary judgment against those appearing on it. The Collector could only use the receipt book furnished to him by the Trustee and to do otherwise would be a misdemeanor. The Collector would pay over all the money collected to the Trustee of the County. The Collector had the right to inspect payrolls, records, and enter premises, to conduct hearings and issue subpoenas. This Act was repealed by Private Acts of 1931, Chapter 757.
9. Private Acts of 1931, Chapter 518, amended Private Acts of 1931, Chapter 223, Section 2, by providing that all poll taxes not paid by male citizens on or before May 1, 1931, and on or before March 1, thereafter following the years in which they become due, shall be turned over for collection to the Delinquent Poll Tax Collector, who must also report and proceed against all delinquents of whom he has knowledge.
10. Private Acts of 1937, Chapter 797, provided for the redemption of real estate sold for the payment of delinquent drainage assessments in Weakley County, provided such redemptions are made on or before January 1, 1940.
11. Private Acts of 1939, Chapter 426, Section 34, provided that the Quarterly Court of Weakley County may, in its discretion, when general tax levies are made, levy for road purposes to raise funds to repair and construct any road, bridge, or levee, it feels is necessary.
12. Private Acts of 1959, Chapter 287, levied a special tax on motor driven vehicles, except farm vehicles and bicycles, for the privilege of driving the same on the public roads, of \$5 per vehicle to be paid by the owner. Failure to comply was a misdemeanor. This Act was rejected by the County Court and never became operative.

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