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Hotel - Motel Tax

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

Hotel - Motel Tax	3
Public Acts of 1980 Chaper 905	3

Hotel - Motel Tax

Public Acts of 1980 Chapter 905

COMPILER'S NOTE: The following act is a public act of special application and is not codified in Tennessee Code Annotated.

WHEREAS, In order to provide supplemental funding necessary to construct a sports arena-coliseum type facility the county government is committed to provide the sum of three million dollars (\$3,000,000) as a partial contribution to the cost of constructing such facility, if and when such funds are needed, such funds to be raised by the sale of bonds at the appropriate time; and

WHEREAS, It is the legislative intent that the funds necessary to pay the debt service on such bonded indebtedness be obtained through the passage of a privilege tax on the occupancy of hotel-motel rooms of up to four percent (4%) equally applied throughout the county, and that any additional funds raised thereby be utilized for the promotion of tourism at the discretion of the county legislative body; now, therefore,

As amended by: Public Acts of 1988, Chapter 918

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

- (a) "Person" means any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, receiver, trustee, syndicate, or any other group or combination acting as a unit.
- (b) "Hotel" means any structure, or any portion of any structure, 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 [sic] 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 ninety (90) 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) "Operator" means the person operating the hotel whether as owner, lessee or otherwise.
- (g) "Revenues" means revenues derived from the tax authorized by this act and any interest earned from the temporary investment of such revenues.

As amended by: Public Acts of 1983, Chapter 444

SECTION 2. The legislative body of any county having a population of not less than two hundred fifty-four thousand (254,000) and not more than two hundred fifty-five thousand (255,000) according to the 1970 federal census of population or any subsequent federal census is authorized to levy a privilege tax upon the privilege of occupancy in any hotel of each transient in an amount not to exceed four percent (4%) 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 by this Act.

As amended by: Public Acts of 1988, Chapter 918

SECTION 3. Such tax shall be added by each operator to each invoice prepared by the operator for the occupancy in his hotel and be given directly or transmitted to the transient and shall be collected by such operator from the transient and remitted to the county.

When a person has maintained occupancy for ninety (90) continuous days, he shall receive from the operator a refund or credit for the tax previously collected from or charged to him, and the operator shall receive credit for the amount of such tax if previously paid or reported to the county.

SECTION 4. The tax hereby levied shall be remitted by all operators who lease, rent or charge for occupancy within a hotel in the county to the county trustee or such other officer as may by resolution of the county legislative body be charged with the duty of collection thereof, such tax to be remitted to such officer no 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 whether prior to occupancy or after 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 for such tax shall be that of the operator.

SECTION 5. The Trustee or other authorized collector of the tax authorized by this Act shall be responsible for the collection of such tax. A monthly tax return under oath shall be filed with the trustee by the operator with such number of copies thereof as the trustee 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 trustee and approved by the county legislative body prior to use. The county auditor shall cause an annual audit to be made of each operator in the county. The county auditor may audit such operator or may accept an independent audit prepared by accountants licensed to do business in this state. The county auditor shall report on the audits made or filed with the county trustee's office 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.

As amended by: Public Acts of 1988, Chapter 918

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 trustee on or before the due dates are 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, a penalty of two percent (2%) for each month or fraction thereof such taxes are delinquent. Such interest and penalty shall become a part of the tax. 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 declared to be unlawful and shall be punishable upon conviction by a fine not in excess of fifty dollars (\$50.00).

As amended by: Public Acts of 1983, Chapter 444

SECTION 8. It shall be the duty of every operator liable for the collection and payment to the county of the 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 may have been liable for the collection of and payment to the county, which records the county trustee shall have the right to inspect at all reasonable times.

SECTION 9. The county trustee in administering and enforcing the provisions of this act shall have as additional powers, those powers and duties with respect to collection and enforcement of taxes as provided in Title 67 of Tennessee Code Annotated or otherwise provided by law for the county clerks.

As amended by: Public Acts of 1983, Chapter 444

Upon any claim of illegal assessment and collection, the taxpayer shall have the remedy provided in Tennessee Code Annotated, Title 67, Chapter 23, it being 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 county trustee shall also possess those powers and duties as provided in Tennessee Code Annotated, Section 67-2301, for the county clerks with respect to the adjustment and settlement with taxpayers all errors of county taxes collected by him under authority of this act and to direct the refunding of same. Notice of any tax paid under protest shall be given to the county trustee and the resolution authorizing levy of the tax shall designate a county officer against whom suit may be brought for recovery.

SECTION 10. (a) The county trustee is hereby charged with the duty of collection of the tax herein authorized and shall place the proceeds of such tax in a special account in the general fund.

(b) Revenues realized from such tax shall first be allocated to meet the remaining debt service payments of the sports arena-coliseum facility on the established schedule and then such revenues shall be allocated to the other projects in this act and its amendments.

(c) An interest earned from the temporary investment of revenues derived from the privilege tax shall be used for the purposes of this act. Any revenues in excess of the amount required for committed debt service shall be allocated by the county legislative body for tourism related activities.

(d) Any revenues in excess of the amount required for the debt service on the sports arena-coliseum shall be allocated in the amounts and for the purposes as follows:

(1) From the revenues derived from this tax, the county legislative body shall make one-time appropriations for the following projects:

(A) The sum of fifty thousand dollars (\$50,000) for the Provident Classic Golf Tournament;

(B) The sum of fifty thousand dollars (\$50,000) to the city of Chattanooga for physical improvements to the Hixson Greenway Project;

(2) A sum sufficient to the city of Chattanooga for a period of up to twenty (20) years for payment of the annual debt service on bonds in an amount up to two million five hundred thousand dollars (\$2,500,000) to fund the renovation of the Soldiers and Sailors Memorial Auditorium;

(3) A sum sufficient for payment of the annual debt service on bonds in an amount up to two million five hundred thousand dollars (\$2,500,000) to fund riverfront projects authorized by the county legislative body;

(4) A sum sufficient for payment of the annual debt service on bonds in the amount of one million dollars (\$1,000,000) to fund capital improvements to the Camp Jordan Park Project in East Ridge;

(5) A sum sufficient for payment of the annual debt service on bonds in the amount of one million dollars (\$1,000,000) to fund capital improvements to the Chattanooga-Hamilton County Bicentennial Library; this appropriation for capital improvements shall not be used to reduce the annual appropriation of the county and the city of Chattanooga for general operating revenue; and

(6) A sum sufficient to the city of Chattanooga for a period of up to twenty (20) years for payment of the annual debt service on bonds in the amount of five hundred thousand dollars (\$500,000) to fund the capital improvements to the Bessie Smith Preservation Hall/Afro-American Heritage Museum.

The projects shall be funded in fiscal year 1988-89 as revenues are available for payment of the debt service on the bonds or bond anticipation notes issued by the county or the city of Chattanooga for such purpose.

(e) The county legislative body shall appropriate annually at least eight hundred thousand dollars (\$800,000) from the revenues of this act for the purpose of promoting tourism. This appropriation may be appropriated by the county to the Chattanooga Convention and Visitors Bureau or to a similar agency performing the promotional purposes now performed by the Chattanooga Convention and Visitors Bureau.

(f) When all the outstanding indebtedness on such bonds have been paid and collected, the proceeds from the tax levied under this act shall be budgeted for tourism related activities by the county legislative body, including capital expenditures, all other expenditures allowed to counties relating to tourism related activities, including but not limited to the provision of Tennessee Code Annotated, Title 5, Chapter 9, Part 2.

(g) The county legislative body is hereby authorized to promulgate additional rules and regulations for the reasonable implementation of this act.

As amended by: Public Acts of 1988, Chapter 918

SECTION. 11.

(a) For the purpose of promoting tourism, Tennessee Code Annotated, Title 5, Chapter 9, Part 2, authorizes counties to establish tourist development agencies. The tourist development agency for any county to which this Act may apply shall consist of nine (9) members, seven (7) of such members to be appointed by the county executive and confirmed by the county legislative body, and one (1) member each to be appointed by the legislative body of Chattanooga and East Ridge respectively.

(b) An Agency, to be known as the "Tourist Development Agency", is hereby created and established for, and on behalf, of any county to which this act may apply. It is further declared that the tourist development agency is intended to qualify and be a prescribed agency as set out in Tennessee Code Annotated, Title 5, Chapter 9, Part 2.

(c) The nine (9) tourist development agency members shall be appointed for a term of four (4) years; provided, however, in making the initial appointments, the county executive shall appoint two (2) members for a term of four (4) years, two (2) members for a term of three (3) years and three (3) members for a term of two (2) years; the City of Chattanooga shall appoint one (1) member for a term of four (4) years; the City of East Ridge shall appoint one (1) member for a term of three (3) years. Vacancies shall be filled in the same manner as appointments. Members shall serve without compensation except for reimbursement to them for necessary and reasonable expenses as shall be determined by the county.

(d) The county executive shall appoint: one (1) member designed by the county legislative body; one (1) member designated by members of the Tennessee General Assembly representing district lying within the county; one (1) member representing the restaurant industry, the convention industry, the lodging industry, and the attractions industry; one (1) member representing an arts or cultural organization or a foundation having office within the county and that has been granted federal tax exemption by the Internal Revenue Service; and three (3) private citizens. The member to be appointed by the legislative

body of Chattanooga shall be a resident of the city of Chattanooga and the member to be appointed by the legislative body of the city of East Ridge shall be a resident of the city of East Ridge. All members shall be duly qualified electors of the county.

As amended by: Public Acts of 1983, Chapter 444

SECTION 12. The tourist development agency shall:

- (1) Collect, compile and distribute literature as to the facilities, advantages and attractions of the county, the historic, recreational and scenic points and places of interest within the county and the transportation and highway facilities of the county;
- (2) Plan and conduct a program of information and publicity designed to attract to the county tourist, visitors and other interested persons from outside the county, and also encourage and coordinate the efforts of other public and private organizations or groups of citizens to publicize the facilities and attractions of the county for the same purposes;
- (3) Publicize the material and economic advantages of the county which render it a desirable place for business and residence;
- (4) Carry on such educational program as is necessary to familiarize the people of the county and the state with the scenic, historical, industrial, recreational, and agricultural advantages or needs of the county.

As amended by: Public Acts of 1983, Chapter 444

SECTION 13.

(a)

(1) The county legislative body is authorized to make appropriations from the hotel-motel occupancy privilege tax to the tourism development agency for the purpose of promoting tourism and tourist related activities for such county pursuant to Tennessee Code Annotated, Title 5, Chapter 9, Part 2, and Section 12 of this Act. Any appropriations from these revenues for the promotion of tourism in any fiscal year is conditional upon satisfaction of the debt service requirement of the bonds authorized by this Act in such fiscal year. Not less than seventy-five percent (75%) of the funds appropriated for tourism shall be utilized for those sorts of programs and projects provided for in Section 12 of this Act.

(2) The tourist development agency shall submit a line item annual budget to the county legislative body, and such budget shall be approved by such legislative body prior to the appropriation of any funds to such tourist development agency. Funds appropriated to the tourist development agency shall only be utilized for those items, projects, functions or activities in the budget as approved by the county legislative body, and the tourist development agency is not authorized to use such appropriated funds for any other purpose without the approval of such legislative body.

(b) The county finance administrator shall report to the tourist development agency the amount of collections from the hotel-motel occupancy privilege tax levied in this Act through April 30th of each year. Any agencies within the county, including municipalities and county government, may submit projects with projected funding to the tourist development agency by April 30th of each calendar year. The tourist development agency will allocate the revenues of the hotel-motel occupancy privilege tax within fifteen (15) days of April 30th of each calendar year so as to enable these agencies and governments to include the revenue in their respective budgets for the fiscal year beginning July 1st of each calendar year.

(c) The county legislative body is hereby authorized to promulgate additional rules and regulations for the reasonable implementation of this Act.

As amended by: Public Acts of 1983, Chapter 444

SECTION 14. 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 15. This Act shall have no effect unless it is approved by a two-thirds (2/3) vote of the county legislative body of any county to which it may apply. Its approval or nonapproval shall be proclaimed by the presiding officer of the county legislative body and shall be certified by him to the Secretary of State.

SECTION 16. 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: April 17, 1980.

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