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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

Assessor of Property

Private Acts of 1931 Chapter 738

SECTION 1. That this Act shall apply to any county in the State having a population of not less than 11,360 nor more than 11,375, according to the Federal Census of 1930, or any subsequent Federal Census.

SEC. 2. That in any county to which this Act applies, a tax assessor, shall be elected at the regular biennial August election, 1930, to serve for a period of four (4) years from and after September 1, 1932, and until his successor has been elected and qualified; and biennially after said first election, the qualified voters of such county shall elect a successor to serve for a like term of four (4) years. At the January term of the Quarterly County Court of such county prior to each election in August following, the Quarterly County Court by resolution shall fix the salary of the tax assessor for the four-year term beginning September 1, following at such sum as it may determine which shall be not less than Nine Hundred (\$900.00) Dollars per annum nor more than Twelve Hundred (\$1200.00) Dollars per annum, payable by the county at the time or times and in the manner now provided by law for the payment of other county officers, it being the purpose of this Act to have the salary of each tax assessor fixed at the January term of the Quarterly County Court prior to his election in August following, with no authority in said court to change said salary during the four-year term.

As amended by: Private Acts of 1945, Chapter 344.

SEC. 3. That in addition to other duties now prescribed by law for tax assessors generally, any tax assessor serving under this Act shall keep his office open in the county seat for the transaction of business and any deed presented for registration shall be presented to the tax assessor prior to registration so that the conveyance of the property covered by said deed may be noted and transferred on the tax assessor's books to the end that the property of the county shall be kept and assessed to the proper party and without a notation on said deed showing that the same has been presented to the tax assessor for transfer of the assessment on his books, such deed shall not be subject to registration.

SEC. 4. That this Act shall take effect from and after its passage, the public welfare requiring it.
Passed: July 2, 1931.

Hotel/Motel

Private Acts of 2010 Chapter 51

SECTION 1. For the purposes of this act:

- (1) "Clerk" means the county clerk of Union County, Tennessee or such other officer as the county legislative body may direct.
- (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 Union 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, campground, 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, and shall include governmental entities;
- (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; and

(8) "Transient" means any person who exercises occupancy or is entitled to occupancy for any rooms, lodgings, spaces, or accommodations in a hotel for a period of less than thirty (30) continuous days.

SECTION 2. The legislative body of Union County is authorized to levy a privilege tax upon the privilege of occupancy in any hotel of each transient, in the amount not to exceed five percent (5%) of the rate charged by the operator. The tax imposed is a privilege tax upon the transient occupying such room or other accommodation and is to be collected and distributed as provided in this act. The rate of the tax may be modified by the county legislative body up to the percentage limitation stated in this section. Such tax shall be in addition to all other taxes levied or authorized to be levied whether in the form of excise, license, or privilege taxes, and shall be in addition to all other fees and taxes now levied or authorized to be levied.

SECTION 3.

(a) Such tax shall be added by each operator to each invoice prepared by the operator for the occupancy of the hotel. Such invoice shall be given directly or transmitted to the transient, a copy thereof to be retained and filed by the operator as provided in Section 8.

(b) 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 4. 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 5.

(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 clerk not later than the twentieth 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 occupancy, whether prior to, during or after occupancy, as may be the custom of the operator. 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 county clerk for collecting the tax, the clerk shall be allowed five percent (5%) of the amount of the tax remitted by the operators.

(c) The clerk shall faithfully account for, make proper reports of, and pay over to the trustee of the county at monthly intervals, all funds paid to, and received by, such clerk for the privilege tax authorized by this act.

SECTION 6.

(a) The county clerk shall be responsible for the collection of the tax and shall place the proceeds of such tax in accounts as designated in Section 10 for the purposes stated therein. 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 per year and shall report on the audits made on a quarterly basis to the county legislative body.

(b) 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.

(a) Taxes collected by an operator which are not remitted to the clerk 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 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.

(b) Each occurrence of knowing refusal of an operator to collect or remit the tax or knowing refusal of a transient to pay the tax imposed is a separate violation of this act and may result in the imposition of a civil penalty, to be imposed separately for each violation, not to exceed fifty dollars (\$50.00) upon a finding of such knowing refusal by a court of competent jurisdiction. As used in this section, "each occurrence" means each day.

(c) Nothing in this section shall be construed to prevent the county clerk or other authorized collector of the tax from pursuing any civil remedy available to the collector by law, including issuing distress warrants and the seizure of assets, to collect any taxes due or delinquent under this act.

SECTION 8. It shall be the duty of every operator liable for the collection and payment to the county of any tax levied pursuant to this act to keep and preserve for a period of three (3) years all records necessary to determine the amount of such tax, which records the clerk shall have the right to inspect at all reasonable times.

SECTION 9.

(a) In administering and enforcing the provisions of the act, the clerk shall have as additional powers, those powers and duties with respect to collecting taxes as provided in Tennessee Code Annotated, Title 67 or otherwise provided by law for the county clerks.

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

(c) Notice of any tax paid under protest shall be given to the 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 deposited in a fund designated by the county legislative body to be used for tourist-related activities as specified by resolution of the county legislative body.

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 legislative body of Union County. Its approval or nonapproval shall be proclaimed by the presiding officer of the county legislative body and certified 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, it shall become effective as provided in Section 13.

Passed: April 7, 2010.

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

1. Private Acts of 1925, Chapter 84 provided the tax assessor of Union County a \$300 per year compensation in addition to all the fees of his office, same to be paid quarterly out of the county treasury.
2. Private Acts of 1945, Chapter 344 amended Private Acts of 1931, Chapter 738, published herein by changing in Section 2, the second paragraph the figures \$500 to \$900 and the figures \$700 to \$1,200, as shown.
3. Private Acts of 1953, Chapter 417 provided that the tax assessor of Union County would be compensated at the rate of \$1,200 per year payable in equal monthly installments.
4. Private Acts of 1959, Chapter 321, would have amended Private Acts of 1953, Chapter 417, above, by increasing the pay of the tax assessor from \$1,200 to \$1,800 per year effective at the beginning of the next term of office but this act was not approved by Union County and never became effective.

Taxation

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

1. Acts of 1853-54, Chapter 89, provided that the state and county taxes to be collected off of the new county of Union for the year 1854 shall be collected by the sheriff or tax collector, and the county taxes collected shall be applied to the use of Union County while the state taxes collected shall be paid into the state treasury.
2. Public Acts of 1870-71, Chapter 50, provided that all counties and cities may tax for county and corporate purposes under the following conditions: (1) all taxable property be taxed according to its value, (2) the credit of the county shall not be loaned to any person, firm, or corporation for any reason unless first approved by a majority of the justices of the county court and then by three-fourths of the people voting in a referendum for that purpose. Union County was among several counties exempting themselves from this legislation.
3. Private Acts of 1931, Chapter 612, authorized Union County to levy and collect a tax on all the personal and real property in said county and the ad valorem when an appropriate order is made by the quarterly county court authorizing the said tax levy which shall not exceed 30¢ per \$100 property valuation.

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