



February 05, 2025

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 1986 Chapter 143

SECTION 1. In Hardin County, no conveyance divesting and vesting title to real estate shall be registered in the office of the County Register until such conveyance shall have been first submitted to the County Tax Assessor for his information as provided in this Act.

To facilitate the maintenance of records at the Office of Assessor of Property of the value of properties in Hardin County, such instruments shall be submitted to the Tax Assessor of Hardin County together with an affidavit of the value of the property or interest conveyed, or the consideration therefor, whichever is greater. Such amount shall then be entered upon the records of the Tax Assessor of Hardin County. Any person swearing falsely as to the consideration for said conveyance shall be guilty of perjury.

Upon the conveyance being submitted to the Tax Assessor, that official shall enter upon the permanent records of his office a description sufficient to enable the land to be identified, the consideration paid therefor, and shall note such change of ownership upon the permanent records of his office. The Tax Assessor shall endorse upon said conveyance that the instrument has been submitted to him.

Nothing herein shall be construed as requiring the submission of mortgages or deeds of trust to the County Tax Assessor.

After such conveyance has been submitted to the County Tax Assessor pursuant to the preceding provisions, it shall then be eligible for registration in the Office of the County Register of Hardin County. The County Register shall not accept the conveyances for registration to which this act applies which fail to bear the notation of the County Tax Assessor showing that the instrument has been submitted to him.

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

SECTION 3. 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 upon being approved as provided in Section 2.

Passed: March 31, 1986.

Hotel/Motel Tax

Private Acts of 1988 Chapter 201

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, governmental entity, 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 Hardin County, Tennessee.
- (g) "Operator" means the person operating the hotel whether as owned lessee (sic) or otherwise.
- (h) "Clerk" means the County Clerk of Hardin County, Tennessee.

SECTION 2. Hardin 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 Hardin 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 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.

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 of 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.

For his or her services in administering and enforcing the provisions of this act, the County Clerk shall be entitled to retain as a commission five percent (5%) of the taxes so collected.

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 Hardin 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 Hardin 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 12, the public welfare requiring it.

Passed: April 25, 1988.

Litigation Tax

Private Acts of 1982 Chapter 201

SECTION 1. There is levied a privilege tax on litigation in the amount of five dollars and twenty-five cents (\$5.25) upon all original civil suits and cases filed in Circuit, Chancery and General Sessions Courts in Hardin County.

SECTION 2. There is levied a privilege tax on litigation of seven dollars and fifty cents (\$7.50) in all criminal cases instituted in the Circuit Court in Hardin County.

SECTION 3. The term "case" shall include ex parte as well as adversary or contested proceedings.

SECTION 4. The privilege tax on litigation shall be collected by the clerks of the respective courts and taxed as a part of the costs in each suit or case. Such clerks shall be accountable for and shall pay over the revenue to the county Trustee quarterly, not later than the tenth (10th) of the month immediately following the end of the quarter in which such collections are made.

SECTION 5. The county Trustee shall deposit the amounts collected in the Hardin County General Fund.

SECTION 6. Chapter 201 of the Private Acts of 1970 is repealed in its entirety.

SECTION 7. 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 8. This Act shall have no effect unless it is approved by a two-thirds (2/3) vote of the county legislative body of Hardin County before September 6, 1982. Its approval or nonapproval shall be proclaimed by the presiding officer of the legislative body of Hardin County and certified by him to the Secretary of State.

SECTION 9. 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 upon being approved as provided in Section 8.

Passed: February 18, 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 Hardin County Assessor. Also referenced below are acts which repeal prior law without providing new substantive provisions.

1. Private Acts of 1911, Chapter 411, set the salaries for many county tax assessors across the State. In Hardin County, the salary was set at \$800 a year for the Tax Assessor.
2. Private Acts of 1913, Chapter 179, amended Private Acts of 1911, Chapter 411, above, so that the Tax Assessor of Hardin County would be paid his \$800 yearly salary out of the county treasury, on a quarterly basis.
3. Private Acts of 1921, Chapter 802, authorized the Quarterly County Court of Hardin County to appropriate a sum not to exceed \$250 to pay to J. R. Freeman for extra services performed by him in assessing property in Hardin County during the year 1920.
4. Private Acts of 1953, Chapter 182, provided that no conveyance, vesting or divesting title to real estate, would be registered in the County Register's Office until the County conveyance has been submitted to the County Trustee, and then to the County Tax Assessor for their information. The Tax Assessor would endorse on the conveyance that it had been submitted to him and he would enter upon his records a description sufficient to identify the land, the consideration being paid, and the change in ownership. The Tax Assessor was to require the parties to make an affidavit stating the true consideration for the conveyance if it was set forth in the deed. This act was expressly repealed by Private Acts of 1975, Chapter 9.
5. Private Acts of 1953, Chapter 217, fixed the compensation of the Tax Assessor of Hardin County at \$2,400 per year to be paid out of the county treasury on the warrant of the County Judge, or Chairman, in equal monthly payments.
6. Private Acts of 1961, Chapter 192, amended Private Acts of 1953, Chapter 217, above, by raising the salary of the Tax Assessor to \$4,800 from the \$2,400 fixed in that act, but the raise would not become effective until the expiration of the term of the current Tax Assessor.
7. Private Acts of 1975, Chapter 9, repealed Private Acts of 1953, Chapter 182, above, which had required the Tax Assessor's endorsement on a deed before it could be recorded with the County Register.

Taxation

The following is a listing of acts pertaining to taxation in Hardin County which are no longer effective.

1. Private Acts of 1821, Chapter 101, required the Sheriff of Hardin County to advertise in a newspaper published in Nashville all land being sold for taxes.
2. Private Acts of 1825, Chapter 136, required the Sheriff of Hardin County to advertise tax sales of land in a public newspaper published in the Town of Jackson.
3. Acts of 1841-42, Chapter 156, required tax collectors in Hardin County to make their returns to the comptroller in Jackson.
4. Public Acts of 1857-58, Chapter 41, allowed A. M. Craven, tax collector in Hardin County, until the next October 1 to make a payment of one-half the state tax for 1857, but the provision of the act was not to be construed as relieving the collector's sureties in any way.
5. Public Acts of 1870-71, Chapter 50, authorized the counties and the cities of the State to levy taxes for county and municipal purposes under the following conditions: (1) that all property be taxed according to its value upon the principles established for state taxation, and (2) that the credit of no county or city be loaned to any person, firm, or corporation, unless the issue was first approved by a majority vote of the Quarterly County Court and submitted to the people and approved in a referendum by a three-fourths vote. Several of the counties were exempted from the three-fourths affirmative vote requirement for the ten years following passage of the act. Hardin County was not exempted.
6. Acts of 1905, Chapter 312, authorized the County Court of Hardin County to levy a special "Courthouse Tax" of up to fifteen cents per \$100 valuation on property and up to ten cents per poll in order to fund an issuance of time warrants for the building of a courthouse.
7. Private Acts of 1933, Chapter 669, authorized Hardin County to levy a tax sufficient to fund the payment of interest on outstanding and unpaid warrants in the aggregate amount of \$200,000.
8. Private Acts of 1970, Chapter 201, empowered Hardin County to collect a litigation tax of \$2.00 as a part of the costs of all civil and criminal actions filed in the Court of General Sessions, the Circuit Court, and the Chancery Court. The Clerks of the Court were to pay the tax into a separate fund

to be called Hardin County Capital Improvement Fund to be used for the construction and equipping of a new jail.

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