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Chapter XII - 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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Table of Contents

Chapter XII - Taxation 3
Assessor of Property 3
Private Acts of 1955 Chapter 138 3
Hotel/Motel Tax 3
Private Acts of 2004 Chapter 110 3
Motor Vehicle Tax 5
Private Acts of 2004 Chapter 83 5
Taxation - Historical Notes 6

Chapter XII - Taxation

Assessor of Property

Private Acts of 1955 Chapter 138

SECTION 1. That the Quarterly County Courts of counties of this State with a population of not less than 9,175 and not more than 9,200, according to the Federal Census of 1950 or any subsequent Federal Census, are authorized to defray part of the traveling expenses of the County Tax Assessor of such county, in an amount up to but not exceeding Five Hundred (\$500.00) Dollars per annum. Said traveling expenses shall be paid from the general county fund as a general expense of the county.

As amended by: Private Acts of 1961, Chapter 308..

SECTION 2. That this Act shall have no effect unless the same shall have been approved by a two-thirds vote of the Quarterly County Court of each such county within the population classification hereinabove described on or before its next regular meeting occurring more than thirty (30) days after its approval by the Chief Executive of this State. Its approval or nonapproval shall be proclaimed by the presiding officer of the Quarterly County Court and shall be certified by him to the Secretary of State.

SECTION 3. That this Act shall take effect from and after its passage, the public welfare requiring it.
Passed: February 25, 1955.

Hotel/Motel Tax

Private Acts of 2004 Chapter 110

SECTION 1. For the purposes of this act:

(a) "Clerk" means the county clerk of Stewart County, Tennessee or such other officer as the county legislative body may direct.

(b) "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.

(c) "County" means Stewart County, Tennessee.

(d) "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. (e) "Occupancy" means the use or possession, or the right to the use or possession, of any room, lodgings or accommodations in any hotel.

(f) "Operator" means the person operating the hotel whether as owner, lessee or otherwise, and shall include governmental entities.

(g) "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. (h) "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 Stewart 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. The tax imposed is a privilege tax upon the transient occupying such room or other accommodation and is to be collected and distributed as herein provided. 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. 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. 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 (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 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. 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. 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 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. The 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, Tennessee Code Annotated, or otherwise provided by law for the county clerks. Upon any claim of illegal assessment and collection, the taxpayer has 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 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. 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 the fund of the county to be used for such purposes 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 county legislative body of Stewart County. Its approval or nonapproval shall be proclaimed by the 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, it shall take effect on the first day of the month following approval as provided in Section 13, the public welfare requiring it.

Passed: April 15, 2004.

Motor Vehicle Tax

Private Acts of 2004 Chapter 83

SECTION 1. For the privilege of using the public roads and highways in Stewart County, Tennessee, there is levied upon motor-driven vehicles, and upon the privilege of the operation thereof, except motorcycles, motor-driven bicycles and scooters, farm tractors, self-propelled farm machines not usually used for the operation upon public highways or roads, and motordriven vehicles owned by any governmental agency or governmental instrumentality, and except for other exemptions provided by general law, a special privilege tax for the benefit of such county, which tax shall be in the amount of thirty-five (\$35.00) dollars for each such motordriven vehicle, the owner of which resides within Stewart County. This tax applies to, is a levy

upon, and shall be paid on each motor-driven vehicle, the owner of which resides within Stewart County.

SECTION 2. The tax herein levied shall be paid to and collected by the county clerk of Stewart County, who is authorized by Tennessee Code Annotated § 67-4-103 to collect such privilege taxes. The county clerk shall collect this tax at the same time the clerk collects state privilege tax levied upon the operation of a motor-driven vehicle over the public highways of this state. The county clerk shall deduct a fee of five percent (5%), or such higher or lower fee as may from time to time be authorized under Tennessee Code Annotated § 8-21-701(55) for receiving any paying over county revenue, from the amounts of taxes collected and paid over to the county trustee.

SECTION 3. Payment of the privilege tax imposed hereunder shall be evidenced by a receipt, issued in duplicate by the county clerk, the original of which shall be kept by the owner of the motor-driven vehicle and, if required by the county legislative body by resolution pursuant to Tennessee Code Annotated § 55-4-103, by a decal or emblem also issued by the county clerk, which shall be displayed in the manner required by resolution of the county legislative body. The design of the decal or emblem shall be determined by the county clerk.. The expense incident to the purchase of such decals herein required, as well as the expense of obtaining proper receipts and other records necessary for the performance of the duties herein incumbent upon the county clerk, shall be paid from the general fund of the county.

SECTION 4. The privilege tax or wheel tax herein levied, when paid, together with full, complete, and explicit performance of and compliance with all provisions of this act by the owner, shall entitle the owner of the motor-driven vehicle for which the tax was paid and on which and required decal or emblem has been affixed, as herein provided, to operate or allow to be operated the owner's vehicle over the streets, roads, and highways of the county for a period of one (1) year, which shall run concurrently with the period established by Tennessee Code Annotated § 55-4-104 for state registration fees. In the event a wheel tax decal or emblem is sold by the clerk for a period of more or less than a twelve-month period, the tax imposed shall be proportionate to the annual tax fixed for the vehicle and modified in no other manner, except that the proportional tax shall be rounded off to the nearest quarter of a dollar.

SECTION 5. In the event the following circumstances occur, the county clerk shall issue a duplicated decal or emblem to the owner of any motor-driven vehicle for which the wheel tax has been paid:

- (1) the motor-driven vehicle becomes unusable; or
- (2) the motor-driven vehicle is destroyed or damaged to the extent that it can no longer be operated over the public roads, streets, or highways of such county; or

- (3) the owner transfers the title to such vehicle; or
- (4) the owner completely removes from the motor vehicle and destroys the decal or emblem issued for and placed thereon; and
- (5) the owner makes proper application to the county clerk for the issuance of a duplicate decal or emblem to be used by the owner on another vehicle for the unexpired term for which the original decal or emblem was issued; and
- (6) the county clerk is satisfied that the applicant is entitled to the issuance of a duplicate decal or emblem; and
- (7) the owner pays into the hands of the county clerk the sum of three dollars and fifty cents (\$3.50). The county clerk shall then issue to such owner a duplicate receipt, canceling the original receipt delivered to the clerk by the owner, and shall deliver to the owner a duplicate decal or emblem, which shall be affixed to the motor-driven vehicle for which it is used, as herein provided. Such duplicate decal or emblem shall entitle the owner to operate or allow to be operated the vehicle upon the streets, roads, and highways of such county for the remainder of the period for which the original decal or emblem was issued. Likewise, in the event a decal or emblem becomes obliterated, erased, or defaced, or is destroyed under the provisions of this act, and is therefore illegible and unusable by the owner, upon proper application made by the owner and filed with the county clerk, showing such circumstances and facts to be true, then the county clerk, upon receipt from the owner of three dollars and fifty cents (\$3.50) may issue and deliver to the owner a duplicate decal or emblem.

SECTION 6. Any person violating the provisions of this act, or any part thereof, shall be subject to a civil penalty of a fifty dollar (\$50.00) fine for each violation of this act.

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 legislative body of Stewart County. Its approval or nonapproval shall be proclaimed by the presiding officer of the county legislative body of Stewart 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 become effective upon approval as provided in Section 8 within thirty (30) days of the 2nd reading of the county legislative body of Stewart County.

Passed: February 23, 2004.

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

1. Private Acts of 1911, Chapter 411, amended Acts of 1907, Chapter 602, a statewide act fixing the salaries of the tax assessors for most counties, by changing the annual salaries of some tax assessors and by setting the salary of other for the first time. In Stewart County, the annual salary of the tax assessor was fixed at \$700 a year.
2. Private Acts of 1927, Chapter 606, established the annual salary of the tax assessor of Stewart County at \$700 payable out of the regular county funds.
3. Private Acts of 1949, Chapter 439, stated that the annual compensation of the tax assessor for Stewart County shall be \$1,020 payable in equal monthly installments of \$85 on the warrant of the county judge, or chairman, on the first day of each month. The expressed purpose of this act is to fix the compensation of the tax assessor and to make no other change in the office, the duties, the manner of payment or otherwise.

Taxation

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

1. Public Acts of 1821 (2nd Sess.), Chapter 2, recited in the preamble that some citizens south and west of the reservation may be subjected to double taxation in some instances, especially those living in Stewart County, because the sheriff in that county was reporting some lands for sale. This act exonerates all those from having to pay a double tax, and the sheriff, or the tax collector,

is expressly prohibited from collecting the double tax. It remained lawful for the sheriff to collect the single legitimate tax since the double assessment would occur only in the year 1820, it appeared. The sheriff shall be given proper credit for these extra taxes by the county trustee and the state treasurer.

2. Private Acts of 1823 (1st Sess.), Chapter 144, was the enabling legislation for the quarterly county court of Stewart County to levy a tax sufficient to complete the public buildings in the said county but the same tax shall not exceed the state tax nor the county tax for that year, and may be continued from year to year until the said public buildings are completed and paid for.
3. Public Acts of 1870-71, Chapter 50, allowed the counties and the cities of Tennessee to levy taxes for county and municipal purposes in the following manner, (1) that all taxable property be taxed according to its true value on principles established in regard to state taxation, and (2) that the credit of no county, or city, can be loaned to any person, firm, or corporation, unless a majority of the Justices shall first agree to submit the question to the people in a referendum vote, and the people vote by a three-fourths majority for approval. Twenty-six counties, not including Stewart, exempted themselves from the three-fourths approval vote by the people, substituting a majority of those voting in its place.
4. Private Acts of 1929, Chapter 116, authorized and empowered the Stewart County Quarterly Court, identified by the use of the 1920 Federal Census, to levy a tax of not more than thirty cents per \$100 property valuation, at any quarter's session in 1929 but no later than the July session, which will be used for maintaining and caring for the insane of the said county. These taxes herein are cumulative and shall be paid and collected in addition to all other taxes

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