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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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Private Acts of 1990 Chapter 226

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

- (1) "Clerk" means the county clerk of Robertson County, Tennessee.
- (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 Robertson 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, 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 use or possession, of any room, lodgings or accommodations in a hotel.
- (6) "Operator" means the person operating the hotel whether as owner, lessee or otherwise, including any governmental entity operating a hotel, whether as owner or otherwise.
- (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, or any other group or combination acting as a unit.
- (8) "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.

SECTION 2. The legislative body of Robertson County is authorized to levy a privilege tax upon the privilege of occupancy in any hotel of each transient, by resolution of the county legislative body, in an amount up to seven percent (7%) 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 in this act.

The privilege tax levied by this act, as may be amended, shall be in addition to all other taxes levied or authorized to be levied whether in the form of excise or privilege taxes, and shall be in addition to all other fees and taxes now levied or authorized to be levied.

As amended by: Private Acts of 2010, Chapter 67

SECTION 3.

(a) The proceeds of the tax authorized by this act received by the county shall be deposited in the general fund of Robertson County for distribution to the Industrial Development Board of Robertson County to be used by the Industrial Development Board for industrial and economic development and tourism promotion in Robertson County and, pursuant to subsection (b), for grants to municipalities in the county to be expended as provided in subsection (b).

(b)

(1) Upon submission of an annual budget, no later than July 1, by a municipality to the Industrial Development Board, showing the manner in which funds will be expended by the municipality for industrial and economic development or tourism promotion which provide benefit to Robertson County, grants shall be made by the Industrial Development Board to each such municipality in the county in the amount of thirty percent (30%) of the net proceeds of the tax collected within the boundaries of each such municipality.

(2) Grants shall only be made in accordance with this subsection (b) to those municipalities who submit the annual budget in accordance with this subsection.

As amended by: Private Acts of 2010, Chapter 67

SECTION 4. 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, shall be given directly or transmitted to the transient and shall be collected by such operator from the transient and remitted to the Robertson County Clerk.

As amended by: Private Acts of 2010, Chapter 67

SECTION 5.

(a) The tax levied shall be remitted by all operators who lease, rent or charge for any rooms or spaces in hotels, as this term is defined in Section 1, subdivision (4), within the county to the clerk or such other officer as may by resolution be charged with the duty of collection thereof, such 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 tax from the transient at the time of the presentation of the invoice for such 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 and remitting the tax levied by this act, 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.

As amended by: Private Acts of 2010, Chapter 67

SECTION 6. The clerk, or other authorized collector of the tax, shall be responsible for the collection of such 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 county clerk shall faithfully account for, make 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. The clerk shall audit each operator in the county at least once a 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.

As amended by: Private Acts of 2010, Chapter 67

SECTION 7. 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 8. 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 shall be 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. 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 be punishable by a civil penalty not in excess of fifty dollars (\$50.00).

SECTION 9. 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 five (5) 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 clerk shall have the right to inspect at all reasonable times.

As amended by: Private Acts of 2010, Chapter 67

SECTION 10. 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 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 clerk shall be entitled to retain as a commission five percent (5%) of the taxes collected. Upon any claim of illegal assessment and collection, the taxpayer shall have 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 under the authority of 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 authority of this act shall be refunded by the clerk.

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 Robertson County. Its approval or nonapproval shall be proclaimed by the presiding officer of the county legislative body and shall be certified 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, this act shall take effect upon being approved as provided in Section 13.

Passed: April 12, 1990.

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