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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

Clerk

Private Acts of 1949 Chapter 438

SECTION 1. That in all counties of this State having a population of not more than 28,014, and not less than 27,785, that the County Tax Assessor have the power and authority to employ on behalf of the County a competent person to note all transfers subject to taxation, prepare the Assessor's books, prepare the tax books, and perform such other clerical work as may be required, and fix such clerk's compensation at a sum not to exceed One Hundred Fifty (\$150.00) Dollars monthly, which employment and amount of compensation shall be certified to the County Judge for payment by warrant upon the general funds of the County, or any other funds which the Court may order.

SECTION 2. That hereafter all instruments conveying lands, upon being probated shall be presented to the County Tax Assessor, who shall note, for taxation, such transfer upon the records of his office, and when so noted he shall show upon such instrument that the same has been duly entered on the records in his office.

SECTION 3. That hereafter no instrument conveying lands shall be noted for record, or recorded in the Registrar's office without same having first been noted for tax purposes in the Assessor's office.

SECTION 4. That this Act take effect from and after its passage, the public welfare requiring it.

Passed: March 31, 1949.

Stenographer

Private Acts of 1957 Chapter 120

SECTION 1. That in counties of this State having a population of not less than 31,600 nor more than 31,700 by the Federal Census of 1950 or any subsequent Federal Population Census the county tax assessor is authorized and empowered to employ a stenographer, and the salary of such stenographer shall be fixed at an amount not to exceed eighteen hundred dollars (\$1800.00) per annum payable in equal monthly installments from the general fund of the county.

SECTION 2. That this Act shall be of no effect unless the same shall have been approved by a two-thirds vote of the governing body of such county. Its approval or nonapproval shall be proclaimed by the presiding officer of the Quarterly County Court. The result shall be certified by him to the Secretary of State.

SECTION 3. That this Act take effect from and after its passage, the public welfare requiring it.

Passed: February 27, 1957.

Hotel/Motel Privilege Tax

Private Acts of 1992 Chapter 166

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

(1) "Clerk" means the county clerk of Roane 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 Roane 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 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.

(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 Roane County is authorized, by resolution of the county legislative body, 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. Such tax is a privilege tax upon the transient occupying such room and is to be collected as provided in this act.

SECTION 3. The proceeds received by the county from the tax shall be retained by the county, to be designated to the Industrial/Economic Fund.

SECTION 4. Such tax shall be added by each and every operator to each invoice prepared by the operator for the occupancy of the hotel and given directly or transmitted to the transient. Such tax shall be collected by such operator from the transient and remitted to the county clerk as provided in Section 5.

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 5. (a) The tax levied shall be remitted by all operators who lease, rent or charge for any rooms, lodgings, spaces or accommodations in hotels 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 date the operator is required to remit the State and Local Sales Taxes. The operator is 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 for remitting the tax levied by this act, the operator shall be allowed two percent (2%) of the amount of the tax due and remitted to the clerk in the form of a deduction in submitting the 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 2017, Chapter 8.

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 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 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. 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 is 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. 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 unlawful and shall be punishable by a civil penalty not in excess of fifty dollars (\$50.00).

SECTION 9. It is 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 necessary to determine the amount of tax due and payable to the county. The clerk has the right to inspect such records at all reasonable times.

SECTION 10. The clerk in administering and enforcing the provisions of this act has 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 services in administering and enforcing the provisions of this act, the clerk is entitled to retain as a commission five percent (5%) of the taxes collected.

Upon any claim of illegal assessment and collection, the taxpayer has the remedies provided in Tennessee Code Annotated, Title 67. It is 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.

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 11. The proceeds of the tax authorized by this act shall be allocated to and placed in the general fund of Roane County, or other specific fund designated in Section 3, to be used for the purposes stated in Section 3 of this act.

SECTION 12. 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 13. 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 14. This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the county legislative body of Roane County not later than November 15, 1992. Its approval or nonapproval shall be proclaimed by the presiding officer of the county legislative body and shall be certified by such presiding officer to the Secretary of State.

SECTION 15. 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 14.

Passed: March 16, 1992.

Severance Tax

Private Acts of 1982 Chapter 384

SECTION 1. Roane County, by resolution of its county legislative body, is authorized to levy a tax on all sand, gravel, limestone, phosphate rock, and all other mineral products severed from the ground within its jurisdiction. The tax shall be levied for the use and benefit of Roane County only, to be allocated to its Highway Department, and all revenues collected from the tax except deductions for administration and collection provided for herein, shall be allocated to the Roane County Highway Department.

Administration and collection of this tax shall be by the County Clerk of Roane County who shall have the power to promulgate all rules and regulations necessary and reasonable for the administration of the provisions of this Act.

SECTION 2. The rate of the tax shall be set by the county legislative body, but shall not exceed fifteen (15) cents per ton of sand, gravel, limestone, phosphate rock, or other mineral products severed from the ground in the county. Every interested owner shall become liable at the time the sand, gravel, limestone, phosphate rock, or other mineral products are weighed for sale.

The term "sand, gravel, limestone, phosphate rock, or other mineral product" shall mean sand, gravel, limestone, phosphate rock, or any other mineral severed from the earth in the process of producing a saleable product by whatever means of severance used. It shall not include, however, any mineral taxed under the provisions of Tennessee Code Annotated, Sections 67-5901 through 67-5905, Section 60-116 or

any lime or limestone used for agricultural purposes. The tax shall be levied upon the entire production in the county regardless of the place of sale or the fact that delivery may be made outside the county. The tax shall accrue at the time the sand, gravel, limestone, phosphate rock, or other mineral products are weighed for sale. The tax levied shall be a lien upon all sand, gravel, limestone, phosphate rock, and other mineral products severed in the county and upon all property from which it is severed, including but not limited to mineral rights of the producer, and such liens shall be entitled to preference over all judgments, encumbrances or lien whatsoever created.

As amended by: Private Acts of 2007, Chapter 25

SECTION 3. The tax levied by this Act shall be due and payable on the first day of the month succeeding the month in which the sand, gravel, limestone, phosphate rock, or other mineral products are weighed for sale. For the purpose of ascertaining the amount of tax payable, it shall be the duty of all operators in Roane County to transmit to the County Clerk on or before the fifteenth (15th) day of the month next succeeding the month in which the tax accrues a return upon forms provided by him. The return shall show the month or period covered, the total number of tons of each type of mineral, sand, gravel, limestone, phosphate rock, or other mineral products that are weighed for sale from each production unit operated, owned or controlled by the taxpayer during the period covered, the amount of the tax and such information as the County Clerk may require. The return shall be accompanied by a remittance covering the amount of tax due as computed by the taxpayer.

As amended by: Private Acts of 2007, Chapter 25.

SECTION 4. The tax levied by this Act shall become delinquent on the sixteenth (16th) day of the month next succeeding the month in which such tax accrues. When any operator shall fail to make any return and pay the full amount of the tax levied on or before such date there shall be imposed, in addition to other penalties provided herein, a specific penalty in the amount of ten percent (10%) of the tax due. Whenever a penalty is imposed there shall also be added to the amount of tax and penalty due interest thereon at the rate of eight percent (8%) per annum from the date due until paid. A further penalty of fifty percent (50%) of the amount due may be added if the nonpayment of the tax is due to an intent to evade payment. If the tax is delinquent for a period of sixty (60) days or if the nonpayment of the tax is due to an intent to evade payment, the person liable for such payment may be restrained and enjoined from severing sand, gravel, limestone, phosphate rock, or other mineral products that have been severed and weighed and sold and upon which the tax is due. Restraint proceedings shall be instituted in the name of the county by the District Attorney General for the county at the request of the Roane County Executive and County Clerk, or may be filed by the County Attorney when so requested.

All such penalties and interest imposed by this Act shall be payable to and collectible by the County Clerk in the same manner as if they were a part of the tax imposed and shall be retained by the County Clerk's Office to help defray the expenses of administration and collection.

Any person required by this Act to make a return, pay a tax, keep records, or furnish information deemed necessary by the County Clerk for the computation, assessment, or collection of the tax imposed by this Act, who fails to make the return, pay the tax, keep the records, or furnish the information at the time required by law or regulation is, in addition to other penalties provided by law, guilty of a misdemeanor, and upon conviction is punishable by a fine of not more than one thousand dollars (\$1,000), or by imprisonment for not more than one (1) year or both.

Any person who willfully or fraudulently makes and signs a return which he does not believe to be true and correct as to every material fact is guilty of a felony and subject to the penalties prescribed for perjury under the law of this state. For the purposes of this section the word "person" also includes an officer or employee of a corporation or a member or employee of a partnership who is under duty to perform the act in respect to which the violation occurs.

As amended by: Private Acts of 2007, Chapter 25

SECTION 5. When any person shall fail to file any form, statement, report or return required to be filed with the County Clerk, after being given written notice of such failure, the County Clerk is authorized to determine the tax liability of such person from whatever source of information may be available for him. An assessment made by the County Clerk pursuant to this authority shall be binding as if made upon the sworn statement, report or return of the person liable for the payment of such tax; and any person against whom such an assessment is lawfully made, shall thereafter be estopped to dispute the accuracy thereof except upon filing a true and accurate return, together with such supporting evidence as the County Clerk may require indicating precisely the amount of the alleged inaccuracy.

SECTION 6. All revenues collected from the severance of sand, gravel, limestone, phosphate rock, or other mineral products in Roane County less an amount to cover the expenses of administration and collection and all of the penalties and interest, collected, which shall be retained by the Office of the County Clerk, and credited to its current service revenue to cover the expense of administration and

collection, shall be remitted quarterly to the County Trustee of Roane County, not later than the tenth (10th) day of the month following the end of the calendar quarter. These revenues shall become a part of the highway fund of Roane County, subject to appropriations by the county Legislative body for the use and benefit of the County Road Department.

Any adjustment of taxes, penalties, or interest which is necessary to adjust any error in collection or disbursement may be made at a subsequent collection or disbursement.

SECTION 7. Any tax levied by authority of this Act shall not apply to any mineral products severed pursuant to any written contract entered into prior to the ratification of this Act that defines a precise cost per measure of material by the Roane County Legislative body.

SECTION 8. This Act shall have no effect unless it is approved by two-thirds (2/3) vote of the county legislative body of Roane County. Its approval or nonapproval shall be proclaimed by the presiding officer of the county legislative body 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: May 6, 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 Roane County Assessor. Also referenced below are acts which repeal prior law without providing new substantive provisions.

1. Acts of 1907, Chapter 602, was a general state law the ninth section of which regulated Tax Assessors, making their terms four years, providing a method for filling vacancies, abolishing District Tax Assessors, and allowing the county court to fix the amount of the salary and the performance bond.
2. Private Acts of 1921, Chapter 794, fixed the annual salary of the Tax Assessor in Roane County (identified by the 1920 Federal Census figures) at \$1500 which would be paid out of the County Treasury on the warrant of the County Judge on July 1 of each year. The amount specified would constitute all the salary of the Tax Assessor and all the Deputy Tax Assessors.
3. Private Acts of 1925, Chapter 312, set the salary of the Tax Assessor in Roane County at \$2,500 per year payable out of the general county funds by the Trustee upon the warrant of the County Judge.
4. Private Acts of 1933, Chapter 309, provided that the Tax Assessor of Roane County would be paid \$1,800 a year as compensation for his services, the same to be paid out of the County Treasury on the warrant of the County Judge. This Act was repealed by the one following.
5. Private Acts of 1937, Chapter 69, repealed Private Acts of 1933, Chapter 309, in full and in Section 2 established the annual salary of the Tax Assessor of Roane County at \$2,500 which would be paid in equal monthly installments out of regular county funds on a warrant from the County Judge.
6. Private Acts of 1947, Chapter 174, fixed the salary of the Tax Assessor of Roane County, at \$3,000 per year, payable out of the County Treasury on the warrant of the County Judge, or Chairman, on the first day of each month which amount would be the salary of the Assessor and all the assistants he might employ.
7. Private Acts of 1953, Chapter 425, provided that the compensation of the Tax Assessor in Roane County would be \$5,000 per year, payable out of the county treasury on the warrant of the County Judge or Chairman, on the first day of each month, which amount would include the salary of the Assessor, and that of any and all Deputies he might employ but would not affect the salary of the Clerk heretofore authorized by law.
8. Private Acts of 1965, Chapter 279, amended Private Acts of 1953, Chapter 425, Item 7, above, by adding a provision at the end of Section 1 which placed the Assessor of Property in charge of any mechanical billing equipment the county might purchase and the mailing of all the tax statements in the county for which he was to be paid an additional sum of \$2,500 each year above the salary now being paid to him under the law. (The salary of the Assessor of Property in each county is now regulated under the general law of the State as well as the employment of Deputies.)

9. Private Acts of 1967-68, Chapter 91, was the legal authority for the Tax Assessor of Roane County to appoint some suitable person to serve as Deputy Assessor under the direction of the Assessor and perform such duties as were assigned to him. The compensation was set at \$5,000 per year, payable in equal monthly installments, out of the general fund of the county. According to our records this act was never acted on by the Quarterly Court of Roane County and, if so, never became effective according to the provisions of the Home Rule Amendment to the Tennessee Constitution.

Taxation

The following is a listing of acts pertaining to taxation in Roane County which are no longer effective. Also referenced below are acts which repeal prior law without providing new substantive provisions and those that never received local ratification.

1. Acts of 1809, Chapter 114, stated in the introduction that it would be conducive to good business to have a court house in Roane County and to promote the safety of the citizens with a prison and stocks. This Act named John Purris, Matthew Nelson, Thomas Brown, Merewither Smith, and Samuel Elkridge, as Commissioners to supervise the project. The Commissioners were required to purchase at least one acre of the most desirable land available in the city upon which the structure would be built. The county court was authorized to levy a tax within the scale provided in the Act in order to finance the program.
2. Acts of 1868-69, Chapter 35, stated that Sam Burnett, the Tax Collector for Roane County, failed to collect the State tax from some of the people as was authorized by an 1865 Act and Burnett was not required to pay to the Treasury the taxes for that year and the money remained in the hands of the administrator of Burnett's estate, he being now deceased, this Act authorized the court to call Burnett's administrator before it and settle accounts with him concerning these taxes, being satisfied first that the names of those who paid would be recorded, and to direct the administrator to pay the same within thirty days to the Trustee who would then transmit them to the State. Failure to do so could result in a prosecution by the District Attorney for the tax money and for contempt of court in failing to execute its orders.
3. Acts of 1869-70 (Ex. Sess.), Chapter 77, declared it to be the duty of the Tax Collector of the counties of Monroe, Roane, and Blount to furnish the Tax Collector of the newly formed county of Christiana the tax rolls on those residents of the portions of those three counties which were taken to make up Christiana County.
4. Acts of 1870-71 (2nd Ex. Sess.), Chapter 50, alleged that the counties and cities of Tennessee could impose taxes for county and municipal purposes in the following manner and upon the conditions (1) that all taxable property would be taxed according to its value upon the principles established for state taxation, and (2) the credit of no county or city, would be given, or loaned, to any person, firm, or corporation unless the majority of the county court, or city council, would first agree, and upon a referendum election in which the proposal was approved by a three-fourths majority of the voters in the election. Several counties including Roane County, exempted themselves from the condition of the three-fourth's ratification or approval, substituting a simple majority in its place for the next ten ensuing years.
5. Private Acts of 1921, Chapter 739, was the legislative authority for the Quarterly County Court of Roane County to levy a tax of 60 cents per \$100 property valuation on all taxable property to be used for the support and maintenance of the public schools of the county.
6. Private Acts of 1927, Chapter 123, stated that all counties within the State which had Roane County's population according to the 1920 Census, could levy through the Quarterly Court, in addition to all other taxes now levied, a special tax, not to exceed 7 cents per \$100 property valuation for the purpose of paying the salaries of the Sheriff, the County Judge, the Tax Assessor, the Superintendent of Education, the Circuit Court Clerk, the County Agent, and the County Demonstrator. This tax, authorized herein, would be collected and disbursed as other taxes were.
7. Private Acts of 1929, Chapter 219, amended Private Acts of 1927, Chapter 123, Item 6, above, by increasing the tax rate provided in that law, the proceeds of which were to be used to pay the annual salaries of several county officials from seven cents to fifteen cents per \$100, all other terms and conditions to remain the same.
8. Private Acts of 1931, Chapter 223, created the office of Delinquent Poll Tax Collector in all counties with not less than 22,193 and not more than 30,000 who would be appointed for two years by the County Judge. All poll taxes not paid by or before May 1 of this year and by March 1 of the year thereafter were declared delinquent. The Trustee was directed to compose a list of the residents of the county who were delinquent in the payment of their poll taxes and deliver the

same to the Delinquent Poll Tax Collector. The Collector would receive 70 cents for each delinquent tax collected plus the fees authorized by law for the service of process. The appearance of one's name on the Trustees list was tantamount to a summary judgment at law for which execution could issue. The Collector could use only the receipt books furnished to him by the Trustee. The Delinquent Poll Tax Collector had the power and authority to examine public and private records, payrolls, rosters, and such. He could conduct hearings and subpoena witnesses as courts could do, and render judgment upon proof. The Collector had to be sworn into office and bonded to secure proper performance of his duties.

9. Private Acts of 1931, Chapter 518, amended Private Acts of 1931, Chapter 223, in Section 2, by adding a provision that all poll taxes not paid by May 1, 1931, and thereafter by March 1 of the year following the year when due, were delinquent and the collective processes prescribed in the amended act could be invoked. The Delinquent Poll Tax Collector was required to proceed against anyone he knew to be delinquent in the payment of Poll Taxes whether the name appeared on the Trustee's list, or not.
10. Private Acts of 1931, Chapter 612, authorized Roane County, and several other counties all identified by 1930 Federal Census figures, to levy and collect a tax on all real and personal property in the counties and on all ad valorem in the said counties, when an appropriate order to do so is made by the court but the rate would not exceed thirty cents on the \$100 of taxable property in the counties for county purposes.
11. Private Acts of 1931, Chapter 757, expressly repealed Private Acts 1931, Chapter 223, as amended, in its entirety.
12. Private Acts of 1988, Chapter 132, authorized the county legislative body to levy a hotel/motel occupancy tax at a rate of five percent (5%) of the consideration charged. The tax proceeds were earmarked for education. This act failed to receive local ratification.
13. Private Acts of 1989, Chapter 69, authorized the county legislative body to levy a hotel/motel tax at a rate of five percent (5%) of the consideration charged. The tax proceeds were designated for tourism and industrial and economic development. This act failed to receive local ratification.
14. Private Acts of 1989, Chapter 120, authorized the county legislative body to levy a hotel/motel tax at a rate of (5%) of the consideration charged. The tax proceeds were designated for tourism and industrial and economic development. This act failed to receive local ratification.

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