



July 03, 2024

Private Acts of 1985 Chapter 72

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,

The University of Tennessee
County Technical Assistance Service
226 Anne Dallas Dudley Boulevard, Suite 400
Nashville, Tennessee 37219
615.532.3555 phone
615.532.3699 fax
www.ctas.tennessee.edu

Table of Contents

Private Acts of 1985 Chapter 72	3
----------------------------------------------	----------

Private Acts of 1985 Chapter 72

SECTION 1. Putnam 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 Putnam County only and all revenues collected from the tax, except deductions for administration and collection provided for herein, shall be allocated to Putnam County.

Administration and collection of this tax shall be by the Department of Revenue of the State of Tennessee. The Department shall collect and administer this tax in the same manner and according to the same procedure as is currently used by the Department for the collection and administration of other such local severance taxes. The County Executive is authorized to contract with the Department of Revenue for the collection of said tax, and to provide in the contract for the deduction from said tax collected a reasonable amount or percentage, not to exceed three percent (3%) of the tax collected, to cover the expense of the administration and collection of the tax. The Department of Revenue may promulgate all rules and regulations necessary and reasonable for the administration of the provisions of this chapter.

All administrative provisions of all laws contained in all the other chapters of Tennessee Code Annotated, Title 67 relating to collection by the Commissioner of all taxes, licenses, fees and penalties and interest therefor, including but not limited to Chapter 60 thereof, and any amendments thereto, and all other requirements and duties imposed upon taxpayers therein, shall apply to all persons liable for taxes under the provisions of this chapter; and the Commissioner shall exercise the power and authority and perform all the duties with respect to taxpayers under this chapter as are provided in all the other chapters of Title 67, except where there is conflict, and then the provisions of this chapter shall control. Putnam County, by Resolution of its county legislative body, may terminate collection by the Department of Revenue at any time after sixty (60) days from the passage of such Resolution. If such is terminated, the County Clerk shall assume the collection and administration of such tax as provided herein.

SECTION 2. The rate of the tax shall be set by the county legislative body, but shall not exceed twenty-five cents (25¢) 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 product is severed from the earth.

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 67-7-101 through 67-7-110, Section 60-1-301 or any lime or limestone used for agricultural purposes. The tax is 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 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 liens whatsoever created.

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 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 required return shall not be filed and payment of the full amount of the tax levied shall not be made 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 ten percent (10%) 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 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 Putnam County Clerk or the Department of Revenue.

All such penalties and interest imposed by this Act shall be payable to and collectible by the Department of Revenue or the County Clerk in the same manner as if they were a part of the tax imposed and shall be retained by the Department of Revenue or the County Clerk's office in an amount necessary to 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 Department of Revenue or 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 (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 the 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.

SECTION 5. When any person shall fail to file any form, statement, report, or return required to be filed with the Department of Revenue or the County Clerk, after being given written notice of same, the Department of Revenue or the County Clerk is authorized to determine the tax liability of such person from whatever source of information may be available to him. An assessment made 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 may be required to indicate 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 Putnam County, less an amount to cover the expenses of administration and collection, shall be remitted quarterly to the County Trustee of Putnam 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 road fund of Putnam County, subject to appropriation by the county legislative body.

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

SECTION 8. 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 7.

Passed: May 15, 1985.

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