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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

Private Acts of 1957 Chapter 29

SECTION 1. That in counties of this State with a population of not less than 17,500, nor more than 17,600, by the Federal Census of 1950, or any subsequent Federal Census, the Quarterly County Court shall appropriate to the County Tax Assessor a sum not in excess of \$3,200 in any calendar year for the purpose of providing him clerical and stenographic assistance and to be expended for his expenses in the discharge of his official duty, provided, however, that no more than \$300 per month shall be expended by him in any calendar month.

Such sums as he may expend for the above mentioned purposes shall be paid to him upon his sworn statement that he has expended the sums set out, which sworn statement shall be filed in the office of the County Court Clerk in counties to which this Act applies, shall be a public record and open for inspection by any taxpayer.

As amended by: Private Acts of 1961, Chapter 142

SECTION 2. That this Act shall be void and of no effect unless within 6 months from the date of final legislative action thereon the same shall be approved and ratified by a two-thirds majority of the Quarterly County Court.

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

Passed: February 4, 1957.

Hotel/Motel Tax

Private Acts of 2012 Chapter 57

SECTION 1. For the purposes of this act:

- (1) "Clerk" means the county clerk of Overton County, Tennessee or such other officer as the county legislative body may direct;
- (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 Overton 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, campground, 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, and shall include governmental entities;
- (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, governmental unit other than the United States or any of its agencies, or any other group or combination acting as a unit; and
- (8) "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 Overton County is authorized to levy a privilege tax upon the

privilege of occupancy in any hotel of each transient, in an 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. (a) Such tax shall be added by each operator to each invoice prepared by the operators 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.

(b) 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 two percent (2%) 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.

(a) 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.

(b) 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.**

(a) The clerk in administering and enforcing the provisions of the act shall have as additional powers, those powers and duties with respect to collecting taxes as provided in Tennessee Code Annotated, Title 67, or otherwise provided by law for the county clerks.

(b) Upon any claim of illegal assessment and collection, the taxpayer has 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 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.

(c) 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 county fund to be used solely for the purpose of tourism development specified by resolutions 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 Overton 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.

Passed: April 16, 2012.

Litigation Tax

Private Acts of 1967-68 Chapter 200

SECTION 1. There is hereby imposed a litigation tax in the amount of two dollars (\$2.00) in each case, upon all original civil and criminal suits or cases filed in the Circuit, Criminal, Chancery, Probate, and General Sessions Courts in Overton County, said tax to be collected by the clerks of the respective courts and taxed as a part of the costs in each case.

SECTION 2. When any part of the costs in any case has been collected, after the payment of any state litigation tax accrued thereon, the amount necessary for the payment of the tax hereby imposed shall be next applied thereto, before applying any of the amount collected as costs to any other funds or items of costs.

SECTION 3. On or before the last day of each month the clerks of the respective courts shall pay to the county trustee all amounts collected hereunder in the preceding calendar month.

SECTION 4. The one-half (1/2) the sum paid the said trustee shall be earmarked for the office of sheriff and paid over to the office of sheriff upon the fifteenth (15th) day of the month, or as soon as is practicable. The proceeds so paid shall be utilized by the sheriff for the operation of his department, including compensation for deputies. The sheriff shall account for the sums so paid in the same manner as he is required to account for other monies coming into his hands.

SECTION 5. One-half (1/2) of the sum paid the said trustee shall be placed in a fund designated the "Overton County Capital Improvement Fund" and the monies in said fund shall be expended only for improvements on the jail, improvements on the courthouse and grounds, and construction of a new courthouse, either for one or more purposes or for all; provided however, that any portion of monies in said fund or future monies going to said fund may be pledged for the payment of bonds to be issued for any of said purposes; provided further, that the monies herein designated to the "Overton County Capital Improvement Fund" shall be expended or pledged for any of the purposes hereinabove designated upon the adoption of a resolution of the quarterly county court to that effect and with the approval of the

county judge.

SECTION 6. This act shall have no effect unless it is approved by a two-thirds ($\frac{2}{3}$) vote of the quarterly county court of Overton County at its next regular meeting following the passage of this act. Its approval or non-approval shall be proclaimed by the presiding officer of the quarterly county court of Overton County and certified by him to the secretary of state.

SECTION 7. This act shall take effect upon becoming a law, the public welfare requiring it.

Passed: May 24, 1967.

Wheel Tax

Private Acts of 1973 Chapter 119

SECTION 1. For the privilege of operating upon the public streets, roads and highways of Overton County, except state maintained roads and highways, any motor driven vehicle required to be registered under the provisions of Chapter 4 of Title 59, Tennessee Code Annotated, there is levied a special county privilege tax of ten dollars (\$10.00) on each such motor driven vehicle. The tax shall be in addition to all other taxes and fees required to be paid on motor driven vehicles.

SECTION 2. The tax shall apply to and shall be paid on each motor driven vehicle, the owner of which resides in Overton County. The tax shall be collected by the county court clerk of Overton County at the same time he collects the state registration fee for the operation of motor driven vehicles. The clerk shall not issue to any resident of Overton County a state registration tag for any motor driven vehicle unless at the same time such residents shall pay for such vehicle the tax imposed by this act.

SECTION 3. Payment of the tax imposed by this act shall be evidenced by license in the form of a sticker or decal to be affixed to the windshield or other appropriate prominent part of the motor driven vehicle for which the tax is paid. The design of the sticker or decal shall be determined by the county court clerk and procured by him and the expense incident thereto shall be paid out of the general funds of the county.

SECTION 4. Payment of the tax imposed herein shall entitle the owner of a motor driven vehicle for which the tax is paid to operate such vehicle from the first day of April of each year through the thirty-first day of March of the next succeeding year. In the case of motor vehicles registered after April 1 for any reason, a proportionate reduction shall be made in the amount of the tax as is made in the case of the state registration fees for motor vehicles registered after April 1.

SECTION 5. For his services in collecting the tax and issuing the licenses provided for herein, the county court clerk is entitled to a fee of fifty cents (50¢) to be collected from the person registering any motor driven vehicle to which this act applies, such fee to be in addition to the tax levied hereby and in addition to the clerks fee for issuing state registration tags.

SECTION 6. If any motor driven vehicle for which the privilege tax has been paid is sold, traded or otherwise changes ownership, or if the vehicle should be demolished or destroyed, or if the sticker or decal is defaced so as to be illegible, or is lost, upon proper application made to the clerk showing the circumstances stated to be true, the clerk shall issue a replacement license upon receipt of a privilege tax of fifty cents (50¢) plus a clerk's fee of fifty cents (50¢).

SECTION 7. The county court clerk shall faithfully account for, make proper reports of, and pay over to the county trustee at monthly intervals all funds paid to and received by him for the privilege tax imposed herein. The proceeds of the tax, when collected and paid into the hands of the trustee, shall be deposited in the general funds of the county and shall be used for the county's school building or expansion program.

SECTION 8. If any person violates this Act by operating upon the public streets, roads or highways of Overton County a motor driven vehicle required to be registered and for which the privilege tax imposed herein has not been paid, he shall be fined, upon conviction thereof, not less than twenty-five dollars (\$25.00) nor more than fifty dollars (\$50.00).

SECTION 9. This Act shall have no effect unless it is approved by a majority of the number of qualified voters of the county voting in an election on the question of whether or not the Act should be approved. The election may be held in connection with and at the same time as any other county wide referendum, but in no event later than December 1, 1973. The ballots used in the election shall have printed on them the title or substance of this Act and voters shall vote for or against its approval. The votes cast in the election shall be canvassed and the results proclaimed by the Overton County Commissioners of elections and certified by them to the Secretary of State as provided by law in the case of general elections. The qualification of voters voting on the question shall be the same as those required for participation in

general elections. All laws applicable to general elections shall apply to the determination of the approval or rejection of this Act. The costs of the election shall be paid by Overton County.

SECTION 10. For the purpose of approving or rejecting the provisions of this Act, as provided in Section 9, it shall take effect on becoming a law, the public welfare requiring it, but for all other purposes, it shall become effective only upon being approved as provided in Section 9 and the tax levied herein shall apply to the motor vehicle registration year commencing April 1, 1974 and thereafter.

Passed: April 27, 1973.

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

1. Private Acts of 1911, Chapter 316, fixed the compensation of the tax assessor in Overton County at \$600 per annum which would be paid out of the county treasury on the warrant of the county judge, chairman, on the first day of July of each year. This act was repealed in Item 3.
2. Private Acts of 1911, Chapter 411, amended Acts of 1907, Chapter 602, by fixing the annual salary of the tax assessor in several of the counties in Tennessee, all of which were identified by the use of the 1910 Federal Census figures. In Overton County the annual salary of the tax assessor was fixed at \$600.
3. Private Acts of 1915, Chapter 604, expressly repealed Private Acts of 1911, Chapter 316, which set the annual salary of the Overton County Tax Assessor.
4. Private Acts of 1917, Chapter 30, reestablished the annual salary of the tax assessors of Overton County at \$600, payable monthly on the last day of each month, which amount would be paid out of the regular county funds, on the warrant of the county judge, or chairman.
5. Private Acts of 1917, Chapter 176, duplicated Private Acts of 1917, Chapter 30.
6. Private Acts of 1919, Chapter 175, amended Private Acts of 1917, Chapter 30, by raising the annual salary of the tax assessor of Overton County from \$600 to \$750 and by requiring the county judge, or chairman, to issue warrants to that effect in the amount of \$375 on January 1, and July 1 of each year.
7. Private Acts of 1921, Chapter 409, amended Private Acts of 1919, Chapter 175, by increasing the annual salary of the tax assessor of Overton County from \$750 to \$1,500, payable on the warrant of the county judge on the first Monday in April and on the first Monday in July.
8. Private Acts of 1925, Chapter 718, raised the compensation of the tax assessor of Overton County from \$1,500 to \$1,800 a year, as is now provided by law.
9. Private Acts of 1931, Chapter 599, amended Private Acts of 1925, Chapter 718, Section 1, by reducing the annual salary of the tax assessor of Overton County from \$1,800 to \$1,200, payable at the times specified, but on the reduced amount.
10. Private Acts of 1943, Chapter 396, fixed the annual compensation of the tax assessor of Overton County at \$2,000 a year which would become effective immediately upon the passage of this act.
11. Private Acts of 1961, Chapter 142, amended Private Acts of 1957, Chapter 29, by raising the amount of money available for clerical assistance to the tax assessor from \$2,000 to \$3,200, and the limitation upon the monthly rate of expenditure from \$200 to \$300.

Taxation

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

1. Private Acts of 1826, Chapter 146, recited that it had been reported to the general assembly that George Gordon conveyed 5,000 acres of land to the town of Monroe and the said land is not being claimed by adverse title and the commissioners of Monroe have commenced suit to regain the same, this act authorized the county court of Overton County to lay a tax for the purpose of defraying the expenses of the said suit and of employing counsel to pursue the same. VPublic Acts of 1870-71, Chapter 50, authorized the several counties and incorporated cities of the state to impose taxes for county and municipal purposes in the following manner, (1) that all taxable property shall be taxed according to its value on principles established for state taxation, and (2) that the credit of no county, or city, may be loaned to any person, firm, or corporation, unless a

majority of the members of the quarterly court first agreed to submit the issue to a referendum vote of the people where the same must pass by a three fourth's majority. Overton County was one of the 26 counties which exempted themselves from the requirement of the three-fourths vote, for the next ten years, substituting a majority vote for it.

2. Private Acts of 1967-68, Chapter 135, established a litigation tax in Overton County at \$1, as part of the costs in all civil and criminal cases in the general sessions court, criminal court, probate court, circuit court, and chancery court. The clerks of the respective courts would collect the tax and pay the same into the "Capital Improvement Fund" to be devoted to improvements for the jail, the courthouse and grounds, and to the construction of a new courthouse or to a combination of the above. Expenditures from the fund would be made by the county judge upon specific authorization by the county court. The right to issue bonds to implement and support the projects and purposes was also granted to the court. This act was not acted upon by the quarterly court and therefore never became an effective law.

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