



County Technical Assistance Service
INSTITUTE for PUBLIC SERVICE

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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

Hotel/Motel Tax

Private Acts of 1992 Chapter 171

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

- (1) "Clerk" means the county clerk of Lawrence 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 Lawrence 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, governmental entity other than the United States or any of its agencies, 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 Lawrence 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 an amount not to exceed 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, designated and used for deposit to the general fund and such funds as are dedicated by the county legislative body of Lawrence County for economic and community development shall be funded by this tax and such funds shall be administered directly by the county legislative body of Lawrence County for such purposes.

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 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 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.

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 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. 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 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 Lawrence County 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 Lawrence County. 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 12, 1992.

Litigation Tax

Private Acts of 1981 Chapter 186

SECTION 1. There is hereby imposed a litigation tax on the privilege of litigating a civil and criminal action in the amount of ten dollars (\$10.00) to be assessed and taxed as part of the cost of the cause of action on all such actions disposed of in the circuit, criminal, chancery or general sessions court of Lawrence County.

SECTION 2. The litigation taxes provided in Section 1 shall be collected by the clerks of the various courts in which the actions are disposed of; and such clerks shall pay over the revenue generated by such litigation taxes to the county trustee every quarter and such revenue is to be paid by the tenth (10th) of the month immediately following the end of the quarter in which such collections were made by the clerks.

SECTION 3. The proceeds of this act shall become a part of the general fund and are subject to appropriations by the county legislative body of Lawrence County.

SECTION 4. The litigation taxes collected under this act shall be considered suspended when the court having jurisdiction over the cause of action suspends the costs of such cause of action.

SECTION 5. As used in this act, unless the context requires otherwise, "cause of action" or "action" includes all ex parte hearings, advisory hearings and contested proceedings in the enumerated courts.

SECTION 6. 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 7. This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the county legislative body of Lawrence County. Its approval or nonapproval shall be proclaimed by the presiding officer of the Lawrence 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: July 23, 1981.

Motor Vehicle Tax

Private Acts of 1984 Chapter 178

SECTION 1. For the privilege of using the public roads in Lawrence County, there is levied on the privilege of operating motor-driven vehicles, except farm tractors, self-propelled farm machines not usually used on public highways and roads, and all government-owned motor-driven vehicles, an annual special privilege tax for the benefit of the county, in the amount of twenty-five dollars (\$25) for each motor-driven vehicle and fifteen dollars (\$15) for each motorcycle, motor-driven bicycle, or scooter.

This tax shall be paid by the owner of a motor-driven vehicle who resides in the county and operates the vehicle on the roads of Lawrence County.

As amended by: Private Acts of 1987, Chapter 21

SECTION 2. It shall be a misdemeanor for any owner of a vehicle taxable hereunder to operate such vehicle upon the streets, roads or highways of the county, unless the provisions of this Act are met. Provided further that nothing in this Act shall be construed as permitting the levy and collection of a tax against nonresidents of Lawrence County.

As amended by: Private Acts of 1987, Chapter 21

SECTION 3. Residence in the county shall constitute prima facie evidence of use of such resident of roads and highways of the county, without regard to whether such resident resides within the boundaries of a municipal corporation within the county. Any person establishing a new residence within the county shall be allowed thirty (30) days thereafter within which to comply with the provisions of this Act.

As amended by: Private Acts of 1987, Chapter 21

SECTION 4. The tax herein levied shall be collected by the county clerk of Lawrence County, who shall collect this tax at the same time he collects the state privilege tax levied upon the operation of a motor-driven vehicle over the public highways of this state. The clerk shall not issue to a county resident a state license for the operation of a vehicle taxable hereunder unless at the same time, the owner pays the

privilege tax levied hereunder.

SECTION 5. Payment of the tax shall be evidenced by a receipt, issued in duplicate by the clerk, the original of which shall be kept by the vehicle owner and by a decal or emblem also issued by the clerk, which shall be affixed on the lower right hand side of the vehicle windshield. Provided, however, that the privilege tax decal for motorcycles, motor-driven bicycle and scooters be placed on the top portion of the gasoline tank, but if such tank is not visible, then on any prominent and visible portion of that vehicle.

SECTION 6. The design of the decal or emblem shall be determined by the county clerk. The expense incident to the purchase of such decals and emblems 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 clerk shall be paid from the funds of the county clerk's office.

SECTION 7. When this tax is paid and the provisions of this Act complied with by the owner, he shall be entitled to operate the taxed, decal bearing, vehicle in the county for a period of one (1) year.

When a vehicle becomes taxable under this Act for less than one (1) year, the same proportionate reduction in cost shall be made, as is now made in the issuance of the privilege tax payable to the state and collected by the clerk, under the provisions of the general law, provided that such fee shall be rounded off to the nearest quarter dollar (\$.25).

SECTION 8. For his services in collecting the tax, and in issuing the receipt therefor and delivering the decal or emblem to the owner, the clerk shall be entitled to a fee of one dollar (\$1.00) for each vehicle, motorcycle, motor-driven scooter and bicycle, provided that this fee shall be deducted from the amount of wheel tax paid. The clerk will faithfully account for, make proper reports of, and pay over to the county trustee at monthly intervals, all funds received by him for the payment of the tax.

SECTION 9. In the event any vehicle for which the wheel tax has been paid and the emblem or decal issued and placed thereon, becomes unusable to the extent that it can no longer be operated over public roads; or in the event that the owner transfers the title to such vehicle, and completely removes therefrom and destroys the decal or emblem, and the owner makes proper application to the clerk for the issuance of a duplicate decal or emblem to be used by him on another vehicle for the unexpired term for which the original decal or emblem was issued, and the clerk is satisfied that the applicant is entitled to the issuance of such a duplicate decal or emblem, and the owner pays into the hands of the clerk the sum of three dollars (\$3.00) the clerk will then issue to such owner a duplicate receipt, cancelling the original receipt delivered to him by the owner, and will deliver to the owner a duplicate decal or emblem, which shall be affixed to the vehicle for which it is issued, as herein provided, and such duplicate decal or emblem shall entitle the owner to operate or allow to be operated the vehicle upon the county roads for the remainder of the period for which the original decal or emblem was issued. Likewise, in the event a decal 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 clerk, showing such circumstances and facts to be true, then the clerk, upon receipt of three dollars (\$3.00) may issue and deliver to the owner a duplicate decal or emblem.

SECTION 10. Any person violating the provisions of this Act, upon conviction, shall be fined not less than twenty-five dollars (\$25.00) nor more than fifty dollars (\$50.00).

SECTION 11. The proceeds of this tax shall be placed in a special fund for the exclusive purpose of paying bonds issued by the Lawrence County School Building Program of 1984, and as the bonds are periodically retired any excess shall be allocated to the Debt Service Fund of Lawrence County.

SECTION 12. The tax levied in this Act shall be collected beginning the first day of the first month following its approval.

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 Lawrence County. Its approval or rejection shall be proclaimed by the presiding officer of the county legislative body and certified by him to the Secretary of State. If there is a petition of ten percent (10%) of the qualified voters who voted in the county in the last gubernatorial election which is filed with the county election commission within thirty (30) days of final approval of such resolution by the county legislative body, then the county election commission shall call an election on the question of whether or not the tax should be levied in accordance with the provisions of this Act. The local governing body shall direct the county election commission to call such election to be held in a regular election or in a special election for the purpose of approving or rejecting such tax levy. The ballots used in such election shall have printed on them the substance of this act and the voters shall vote for or against its approval. The votes cast on the question shall be canvassed and the results proclaimed by the county election commissioners and certified by them to the local governing body. The qualifications 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.

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 become effective, upon approval as provided in Section 13.

Passed: March 29, 1984.

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

1. Private Acts of 1919, Chapter 284, fixed the compensation of the Tax Assessor of Lawrence County at \$1,200 per year which would be paid out of the county treasury on the warrant of the County Judge, or Chairman, on May 1 of each year. All conflicts with this Act were repealed.
2. Private Acts of 1921, Chapter 939, established the annual compensation of the Tax Assessor of Lawrence County at \$1,500 payable from the funds in the county treasury on the warrant of the County Judge, or Chairman. The Assessor would be paid monthly.
3. Private Acts of 1927, Chapter 54, stated that hereafter in Lawrence County the salary of the Tax Assessor would be \$2,400 per year which sum was appropriated out of the county treasury and issued in equal monthly installments. The Tax Assessor was given the authority to appoint one or more Deputy Tax Assessors at \$600 per annum, or less, to be paid out of the regular funds of the County each month on the certification of the Tax Assessor.
4. Private Acts of 1933, Chapter 700, expressly repealed Section 2 of Private Acts of 1927, Chapter 54, it being the intention of the Legislature to remove the provision which allowed the Tax Assessor to appoint one or more Deputies to assist him.
5. Private Acts of 1935, Chapter 758, expressly repealed Private Acts of 1933, Chapter 700, which would in effect restore the privilege of hiring Deputies to the Tax Assessor within the financial limits prescribed in 1927 Act.
6. Private Acts of 1947, Chapter 674, amended Private Acts of 1927, Chapter 54, by raising the annual salary of the Tax Assessor of Lawrence County from \$2,400 to \$3,000.
7. Private Acts of 1949, Chapter 335, set the annual salary of the Lawrence County Tax Assessor at \$3,000 payable in equal monthly installments out of the regular county treasury. The Tax Assessor was given the authority to appoint one or more Deputy Tax Assessors and the sum of \$1,200 was separately appropriated for that particular purpose.
8. Private Acts of 1955, Chapter 383, amended Private Acts of 1949, Chapter 335, by authorizing the County Tax Assessor to draw the sum of \$600 per annum to defray travel expenses incidental to his position which sum would be paid out of the ordinary funds of the county in monthly installments, and were in satisfaction of all claims to travel expense. This Act was repealed by Private Acts of 1963, Chapter 169.
9. Private Acts of 1963, Chapter 169, amended Private Acts of 1949, Chapter 335, so as to raise the annual salary of the Tax Assessor from \$3,000 to \$6,000

Motor Vehicle

The private act listed below is no longer in effect in Lawrence County.

1. Private Acts of 1976, Chapter 224, levied a wheel tax of \$10 on each motor vehicle and horsedrawn vehicle, except farm tractors, in Lawrence County. The County Court Clerk would collect the tax and issue decals, or emblems signifying payment of the same, at the time state licenses were sold for which a fee of fifty cents would be paid to the clerk. Provisions were included for the transfer of the decal from one vehicle to another. The proceeds would be used to pave the county's rural roads. This Act had to be approved in a referendum before becoming effective but the Quarterly Court rejected the law which rendered it null and void under the provisions of the Home Rule Amendment to the State Constitution and an election was not necessary.

Taxation

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

1. Acts of 1870-71, Chapter 50, stated that the counties and cities of Tennessee could impose taxes for county and municipal purposes in the following manner and upon these conditions (1) that all taxable property would be taxes 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 a majority of the Justices first agree, or a majority of the Councilmen in the city, and then upon the approval in a referendum election of a three fourth's majority of the voters. Several counties, not including Lawrence County, exempted themselves from the requirement of the three-fourth's majority for the next ten years, substituting a simple majority as being sufficient in its place.
2. Private Acts of 1931, Chapter 223, created the office of Delinquent Poll Tax Collector in the certain counties who would be appointed by the County Judge, or Chairman, for a two year period. All poll taxes not paid to the Trustee by May 1, 1931, and on or before March 1 thereafter following the due year were declared to be delinquent. The Trustee would compile a list and deliver the same to the collector who would be paid 70 cents for each poll tax collected plus the fees under the law for collecting delinquent poll tax. The appearance of one's name on the list was sufficient to cause a distress warrant to issue. The Collector was allowed to use only those receipt books provided by the Trustee. The Collector must be sworn into office and bonded and could examine the books and records of any firm, or individual, issue subpoenas for witnesses and administer oaths. This Act was repealed by Private Acts of 1931, Chapter 757.
3. Private Acts of 1931, Chapter 492, imposed a privilege tax on any dry cleaning or pressing firms, or on one which cleans and blocks hats, which maintain an agency or a branch in Lawrence County. It was the responsibility of the County Court Clerk to collect the tax under the same rules and regulations applicable to such privileges.
4. Private Acts of 1931, Chapter 518, amended Private Acts of 1931, Chapter 223, by requiring the Collector to proceed against eligible male citizens only.
5. Private Acts of 1931, Chapter 623, was the authority for Lawrence County acting through its Quarterly Court to levy a special tax of no more than thirty cents per \$100 to provide the funds with which to pay jurors, salaries, compensation and expenses of county officials and employees, the cost of criminal cases, the care and keeping of the poor and lunatics, and their burials, to purchase books and supplies for the Clerks of the various Courts and to pay for a variety of other services listed in the Act. This tax would be levied in addition to all other taxes when it was for the same purpose. The Quarterly Court would spread upon the minutes of the Court a list of purposes itemized for which said funds would be spent.
6. Private Acts of 1971, Chapter 125, levied a litigation tax of \$4 as part of the costs in all civil and criminal actions in either the General Sessions Court or the Circuit Court in Lawrence County, which the Clerk of the respective Court would collect and pay to the Trustee to be placed into a separate fund to be called the Jail and Court House Fund to be used for the repair, remodeling, or construction of a new Jail, or Court House. The County Judge was authorized to transfer from this fund to the debt service fund to pay interest and principal on debts incurred in carrying out the purposes of this Act. All the expenditures would be made by the County Judge pursuant to the appropriations of the Quarterly Court. Collections were to start one month after the authorization for the sale of bonds, but this Act was never acted on at the local level and consequently never became an active law in Lawrence County.
7. Private Acts of 1977, Chapter 130, amended Section 67-1304 (now 67-5-2002) Tennessee Code Annotated, so as to remove Lawrence County from the code provisions which required the County Trustee to publish a delinquent tax list, annually in a local newspaper of general circulation.

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