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Proper Fees for Recording or Filing

Dear Reader:

The following document was created from the CTAS website (ctas.tennessee.edu). This website is maintained by CTAS staff and seeks to represent the most current information regarding issues relative to Tennessee county government.

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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Proper Fees for Recording or Filing

Reference Number: CTAS-790

The register is not obligated to receive any deed or other document whereupon a fee attaches unless the fees accompany the document. T.C.A. §§ 8-13-111; 47-9-403. Registers are not allowed to receive any fees or other compensation for any service other than those expressly provided by law. T.C.A. § 8-21-101. In most cases, the fee must accompany the instrument, but T.C.A. § 12-2-106 requires registers to extend credit to the Commissioner of Finance and Administration for recording documents for the State of Tennessee and to submit a bill for the same. Also, the register must extend credit to the United States for recording fees related to notices of federal liens and certificates discharging the federal liens. T.C.A. § 66-21-201. If a question arises as to the proper fee to charge for the service of a register, the register may apply to a court to determine any question arising under the law. T.C.A. § 8-21-105.

The most basic statute relating to Register's fees is T.C.A. § 8-21-1001. Other fees are generally found with the statutes relating to the subject matter, e.g., UCC instruments or corporate charters.

The register must also adopt a policy setting out the procedure to be followed in cases where fees accompanying an instrument for recording exceed the required amount. T.C.A. § 8-13-111. The procedure must include one (1) or more of the following:

1. Establishing a credit, debit or a copy account for individual customers;
2. Contacting the person or entity tendering the instrument to get specific instructions regarding the excess fee;
3. Retaining as fees of the register's office a reasonable overage amount; or
4. Registering every eligible instrument and refunding excess fees, less a reasonable amount of the excess payments retained as fees of the office.

Standard Fees

Reference Number: CTAS-794

The standard fees which a register may charge are summarized as follows:

(1)	Military discharges (T.C.A. § 8-21-1001)	No charge
(2)	For each plat, map or survey (T.C.A. § 8-21-1001)	15.00
(3)	For each document (other than UCC military discharge, plat, map, survey, corporate charter), page size not to exceed 8 1/2 x 14" (T.C.A. § 8-21-1001)	10.00
(4)	For each instrument in a document in excess of one instrument (T.C.A. § 8-21-1001)	5.00
(5)	For each page in a document in excess of two pages (T.C.A. § 8-21-1001)	5.00
(6)	For a certified copy of a plat, map or survey (T.C.A. § 8-21-1001)	5.00
(7)	For a certified copy of a document other than a plat, map or survey, page size not to exceed 8 1/2 x 14," per page (T.C.A. § 8-21-1001)	1.00
(8)	For filing or recording a UCC record plus per page in excess of ten pages (T.C.A. § 47-9-525)	15.00 .50
(9)	For each additional name in a UCC record required to be indexed (T.C.A. § 47-9-525)	15.00
(10)	For a copy of any UCC record, per page (T.C.A. § 47-9-525)	1.00
(11)	For issuing each receipt for state taxes (T.C.A. § 67-4-409)	1.00
(12)	For recording any corporate charters or related documents plus fifty cents (50¢) per page in excess of five (T.C.A. § 48-11-303)	5.00 .50
(13)	For recording certificates of limited partnership plus \$.50 per page in excess of five (T.C.A. § 61-2-206)	5.00 .50
(14)	For recording limited liability company (LLC) documents plus per page in excess of five (T.C.A. § 48-204-101)	5.00 .50
(15)	For making a transcript, collation, and index regarding worn or mutilated records per 100 words (T.C.A. § 10-7-114)	1.00

A document is defined as the entire writing offered for registration, which may contain one or more

instruments. An instrument is defined as a legal writing that gives formal expression to or evidence of a complete legal act or agreement requiring a separate index entry. For example, a document that contains a deed and a release of a deed of trust contains two instruments, and a document that contains three assignments of a deed of trust contains three instruments.

Military discharges are recorded without any fee being charged (standard fee or computer fee). T.C.A. § 8-21-1001(a)(1). Op. Tenn. Atty. Gen. 98-192 (October 8, 1998).

Data Processing Fee

Reference Number: CTAS-791

A fee of \$2.00 per non-UCC instrument filed or recorded is collected in addition to the standard fees collected in all counties and this \$2.00 fee is earmarked for computerization of the office of register in all but three counties (Morgan, Scott and Sevier). Also, \$2.00 of the \$15.00 standard fee for filing or recording UCC records is earmarked for computerization of the register's office in all but the three counties noted above.

The law which imposed this fee superseded (put aside) the private acts that some counties had which allowed the register to charge additional fees in his or her particular county so that the total amount of fees collected across the state is now uniform. However, if a county under prior law (general law exception or private act) was authorized to charge an additional register's fee of \$1 or \$2 per document, and this fee was not earmarked for a particular purpose, the additional general law fee of \$2.00 is not earmarked for computerization in those counties (Morgan, Scott and Sevier have been so identified).

The fees earmarked for computerization must be accounted for separately from the other "standard" fees of the office. T.C.A. § 8-21-1001. In addition, as of 2010, upon approval by a two-thirds (2/3) vote of the county legislative body, registers in Marshall, Lincoln, Maury, Rutherford and Hamilton counties may utilize revenue from the data processing fee that is above what is necessary to purchase computer equipment and software, upgrades to computer equipment and software, and supplies, maintenance and services relating to computer equipment and software for other purposes directly related to the official functions of the office. After initial approval by the county legislative body, registers must obtain county legislative body approval prior to making each purchase using this revenue.

Electronic Filing Fee

Reference Number: CTAS-792

T.C.A. § 8-21-1001(j) permits registers, upon receiving county legislative body approval, to charge a \$2.00 filing fee for documents filed through the register's county electronic filing portal. Documents filed by federal, state and local governmental entities are exempt from this fee.

Partnership Fee Issues

Reference Number: CTAS-793

The *Revised Uniform Partnership Act of 2001* (RUPA), codified at T.C.A. § 61-1-101 et seq., created a new class of documents that have titles such as statement of partnership, statement of partnership authority, statement of denial of partnership, statement of dissociation, statement of dissolution, statement of merger and amendment or cancellation of any of these statements. The standard fees apply to the recording of these types of partnership documents. However, this act did not repeal the older law that provides for the recording of certificates of limited partnership and certificates of merger of limited partnerships and the fee for recording these certificates continues to be \$5.00 plus fifty cents per page for each page in excess of five pages. T.C.A. §§ 61-2-206, -211. This same special fee structure of \$5.00 plus fifty cents (50¢) per page for each page in excess of five (5) pages also applies to documents of limited liability companies as well as corporate charters and related documents. T.C.A. §§ 48-247-103, 48-11-303, 48-51-303.

UCC Fee Issues

Reference Number: CTAS-795

Confusion has existed in the past concerning the proper charge for UCC financing statements relating to fixtures which are recorded with deeds of trust instead of being filed with the other financing statements. The Attorney General has opined (Op. Tenn. Atty. Gen. No. 333, October 5, 1983) that the proper fee is the fee charged on other UCC financing statements, which is \$15.00. The UCC law provides that registers may charge an additional \$15.00 for each name required to be indexed. This is usually for additional debtors, but a name such as an individual or corporation d/b/a another name is to be treated as one

name. Where a husband and wife are both listed as a debtor on an initial financing statement, this is two names and a fee of \$30.00 should be charged. The key to determining whether the extra name should be charged is whether or not the additional name is required to be indexed under the new UCC law.

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