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The Local Sales Tax Handbook for Local Officials

The University of Tennessee's County Technical Assistance Service

Municipal Technical Advisory Service

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THE LOCAL SALES TAX

Handbook for Local Officials

- WHAT THE LAW SAYS
- HOW TO USE IT

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PREPARED FOR

The Tennessee County Services Association and the
Tennessee Municipal League

by

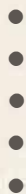
The University of Tennessee's
County Technical Assistance Service
and
Municipal Technical Advisory Service
Agencies of UT's Institute for Public Service

(Revised July 1978)

CONTENTS

1	The Tennessee Law	4
2	Estimating Local Sales Tax Collections	6
3	Sample Resolution or Ordinance for First Levy	8
4	Sample Resolution or Ordinance for Levying Additional Tax	9
5	Sample Ballot for First Levy	10
6	Sample Ballot for Additional Levy	11

1



THE TENNESSEE LAW

Voters have a choice of how to finance local government needs

WHO CAN HAVE IT

Any county by resolution of its quarterly court, or any city or town by ordinance of its governing body, can levy the local sales tax at a rate up to one-half of the rate of the state sales tax. This would mean a local tax of 2.25 per cent is authorized on most sales.

ON WHAT

The local tax covers the same items as the state tax, with these exceptions: (1) Electric power or energy; (2) natural or artificial gas; and (3) coal and fuel oil. The local tax on any single article of personal property (such as an auto, truck, tractor, etc.) cannot exceed \$5.00 at a one per cent (1%) rate or \$7.50 at a rate higher than one per cent (1%). Also, industrial and farm machinery and water sold to or used by manufacturers at the state tax rate of one per cent (1%), is taxed locally 1/3% whenever the local tax rate is one per cent (1%) or lower and 1/2% when the local tax rate exceeds one per cent (1%).

HOW IT IS ADOPTED

The local sales tax is levied as a fraction of the state sales tax rates. Actually two fractions, stated in the alternative, are required in the local sales tax levy in order to make the local sales tax the same regardless of whether the state rate of 4.5 per cent is made permanent or reverts to 3 per cent.

For instance, to levy a local option sales tax of 1 per cent, the tax would be levied at a rate of:

“two-ninths* of the rates levied in the Retailers’ Sales Tax Act, chapter 30, title 67, TCA, as amended, so long as the general state rate continues at 4.5 per cent, and at one-third** of the state rates if and when the general state rate is reduced to 3 per cent.”

The following fractions would be used to levy the tax at the higher level indicated:

“*one-third.....**one-half.....” for a 1.5 per cent local tax.

“*four-ninths.....**two-thirds.....” for 2 per cent.

“*one-half.....**three-fourths....” for 2.25 per cent.

With respect to industrial and farm machinery the local sales tax is imposed at the rate of one-third of 1 per cent whenever the rate of the local tax does not exceed 1 per cent, and at the rate of one-half of 1 per cent whenever the rate of local tax exceeds 1 per cent.

It is strongly recommended that a copy of the ordinance or resolution be sent to the Department of Revenue immediately after first reading. This will allow the Department to check the ordinance or resolution for validity.

If the county has levied the tax at the maximum rate, no city in the county can levy a local sales tax. If a county has a sales tax of less than the maximum, a city can levy a tax equal to the difference between the

county rate and the maximum. (Example: County has a tax of 1 per cent. City also could levy a municipal tax of 1 or 1.25 per cent, making the total combined rate inside the city no more than one-half of the state rate or 2.25 per cent on most items.)

If the city levies a tax, and the county has not levied it, the city ordinance is suspended for 40 days. If during this period the county court adopts a resolution to levy a tax at least equal to the rate in the ordinance, the ordinance is suspended still further until a county-wide referendum is held.

If the county-wide tax is approved, the ordinance is dead. But if the county tax is not approved, the city ordinance becomes effective and a referendum is held inside the city. If the vote is favorable, the city tax is in effect.

However, the county later can adopt the tax at a rate up to one-half the state tax. This cancels out the city tax to the extent that the new county rate duplicates the city rate. In this event, the city will receive from the county tax the same amounts it would have gotten from its own tax until the end of the city's current fiscal year.

THE LOCAL REFERENDUM No local sales tax or any increase in the local sales tax can become effective until approved in an election in the city or county levying it. The county election commission will hold an election within 60 days after receiving a certified copy of the ordinance or resolution. If the majority vote is for the ordinance or resolution, it becomes operative on the day the election commission makes its official canvass. No tax can be collected until the first day of a month occurring at least 30 days after the operative date.

If the county court adopts a resolution to levy the tax at the same rate already in effect in a city, the election is open only to voters outside the city. If the county tax is at a higher rate than the city tax, city voters also participate in the election.

If a city ordinance or a county resolution is rejected in a local referendum, that city or county cannot hold another sales tax election for six months. *(Except that the waiting period shall be one year in counties with populations of not more than 750,000 nor less than 700,000 and not more than 278,000 nor less than 250,000 according to the 1970 and any subsequent federal census.)*

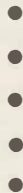
HOW IT IS COLLECTED When the ordinance or resolution so provides, the State Revenue Department will collect the local tax at the same time it collects the state sales tax. It is recommended that a certified copy of the resolution or ordinance be sent **immediately upon adoption** to the Department of Revenue if the tax is to be collected by that Department. The Department has promulgated Local Option Sales and Use Tax Rules and Regulations governing collection. The state will retain a reasonable amount (1 1/2 per cent at present) to cover its expenses. The ordinance or resolution will designate the county or municipal officer against whom suit may be brought for recovery if the tax is collected by the state. The Act also authorizes the county or city to make the collections, if it chooses to do so, but provision for state collection of the tax is recommended.

WHO GETS THE MONEY If the tax is effective only inside a city, the proceeds go to the city general fund. If the tax is levied by the county, the money is divided as follows:

1. One-half is expended and distributed in the same manner as the county property tax for schools, including division with any city or district schools on an average daily attendance basis.
2. (a) The other half is distributed on the basis of where the sale occurred. Collections in incorporated cities or town go to their general funds. Collections in unincorporated areas go to the county general fund. Or
 - (b) A county and city may by contract provide for some other division of the half not allocated to schools.

IS IT FOREVER? No. An ordinance or resolution levying the tax may be repealed in the same way it was adopted. Any election for the repeal of a county tax is open to voters of the entire county.

2



ESTIMATING YOUR LOCAL COUNTY (CITY) SALES

LOCAL SALES TAX PRESENTLY COLLECTED

To estimate the increase in revenues for a county from an increase in an existing county-wide local option sales tax rate, use this chart.

Municipalities with a city-only local option sales tax may use this same chart, inserting in the third column the amount of local sales tax collected in the city during the last fiscal year.

Municipalities in counties with a local option sales tax, collected according to the statutory formula (see Page 5), should multiply by 2 the amount of local sales tax it received from the county during the last full fiscal year, then use this figure in Column 3.

(1) Present Rate of Tax	(2) Proposed New Rate of Tax	(3) Local Sales Tax Collected in County During Last Fiscal Year	(4) X Factor =	(5) Estimated Increase In Revenues From The Additional Tax
2.00%	2.25%	\$ _____	X .125	\$ _____
1.75%	2.25%	\$ _____	X .2857	\$ _____
1.75%	2.00%	\$ _____	X .1429	\$ _____
1.5%	2.25%	\$ _____	X .5	\$ _____
1.5%	2.00%	\$ _____	X .3333	\$ _____
1.5%	1.75%	\$ _____	X .1667	\$ _____
1%	2.25%	\$ _____	X 1.25	\$ _____
1%	2%	\$ _____	X 1.00	\$ _____
1%	1.75%	\$ _____	X .75	\$ _____
1%	1.5%	\$ _____	X .5	\$ _____

NO LOCAL SALES TAX PRESENTLY COLLECTED

If the county is not presently collecting a local sales tax, multiply the total state sales tax collected in your county during the 1976-77 or 1977-78 fiscal year by the factor on the appropriate line of the chart below. The result will be the estimated amount of revenues that your county could expect to receive from the local option sales tax.

Municipalities wishing to compute estimated revenue from a city-only tax should first contact the Sales Tax Division, State Department of Revenue, Nashville, to determine whether figures are available on sales tax collections inside the city limits. If they are, insert this figure in Column 3 (instead of the county total) in the table below.

If the Department of Revenue does not have city-only figures, use the county figure. City officials must then estimate, based on local knowledge, what percentage of total county sales take place in their city. Apply this percentage to the estimated revenue for the county at large (Column 4) to arrive at an estimate for the city only.

(1)	(2)	(3)	(5)
Proposed Local Sales Tax Rate	Factor X	Total State Sales Tax Collected In Your County =	Estimated Revenues From Local Sales Tax
2.25%	.3150 X	\$ _____	= \$ _____
2.00%	.2800 X	\$ _____	= \$ _____
1.75%	.2450 X	\$ _____	= \$ _____
1.5%	.2100 X	\$ _____	= \$ _____
1%	.1400 X	\$ _____	= \$ _____

NOTE: The above calculations are only estimates and not actual yields since the factors are based on state averages which may differ from county to county. Cities and counties may contact their respective technical assistance service (MTAS or CTAS) for aid in computing estimated revenue.

3

SAMPLE RESOLUTION OR ORDINANCE for levying local sales tax for first time

Be it resolved (ordained) by the Quarterly County Court (or city governing body) of _____ County (or city), Tennessee:

Section 1. As authorized by sections 67-3049—67-3056, Tennessee Code Annotated, as amended, there is levied a tax in the same manner and on the same privileges subject to the Retailers' Sales Tax Act under chapter 30, title 67, TCA, as the same may be amended, which are exercised in _____ (county or city). The tax is levied on all such privileges at a rate of* _____

Provided with respect to industrial and farm machinery as defined in Section 67-3002, sub-paragraphs (n) and (p) TCA, and with respect to water sold to or used by manufacturers, the tax thereon is imposed at the rate of ** _____ of 1%. Provided further, the tax shall not exceed \$*** _____ on the sale or use of any single article of personal property, and there is excepted from the tax levied by this resolution (or ordinance) the sale, purchase, use, consumption or distribution of electric power or energy, or natural or artificial gas, or coal and fuel oil, so long as such exception is required by State law. Penalties and interest for delinquencies shall be the same as provided in section 67-3026, TCA.

Section 2. If a majority of those voting in the election required by section 67-3053, TCA vote for the resolution (or ordinance), collection of the tax levied by this resolution (or ordinance) shall begin on the first day of the month occurring 30 or more days after the county election commission makes its official canvass of the election returns.

Section 3. It having been determined by the Department of Revenue of the State of Tennessee that it is feasible for this tax to be collected by that Department, said determination being evidenced by Local Option Sales and Use Tax Rules and Regulations heretofore promulgated by the Department of Revenue, the Department shall collect such tax concurrently with the collection of the state tax in the same manner as the state tax is collected in accordance with rules and regulations promulgated by said Department. The _____ (specify officer) is hereby authorized to contract with the Department of Revenue for the collection of the tax by the Department, and to provide in said contract that the Department may deduct from the tax collected a reasonable amount or percentage to cover the expense of the administration and collection of said tax.

Section 4. In the event the tax is collected by the Department of Revenue, suits for the recovery of any tax illegally assessed or collected shall be brought against the _____ (specify officer).

Section 5. A certified copy of this resolution (or ordinance) shall be transmitted to the said Department of Revenue by the County Court Clerk (or City Recorder) forthwith and shall be published one time in a newspaper of general circulation in _____ (county or city) prior to the election called for in Section 2 hereof.

*See Page 4 of this handbook for an explanation of how to express the rate.

**One-third if the local tax rate doesn't exceed 1 per cent or one-half if the local rate is more than 1 per cent.

***\$5.00 at a 1 per cent rate or \$7.50 for a rate of 1.5 per cent or higher.

4

SAMPLE RESOLUTION OR ORDINANCE

for levying an additional sales and use tax

Be it resolved (ordained) by the Quarterly County Court (or city governing body) of _____ County (or city), Tennessee: _____

Section 1. The resolution (or ordinance) of the Quarterly County Court (or city governing body) of _____ County (or city), Tennessee, imposing a local sales and use tax as authorized under the provisions of Section 67-3049—67-3056, of the Tennessee Code Annotated, adopted by the Court (or city governing body) at a regular (or special) meeting (for county court, specify term) of record in Minute Book _____, page _____, is amended to levy a local sales and use tax at a rate of *

and on farm and industrial machinery and on water sold to or used by manufacturers at the rate of one-half of 1%, and to increase the maximum tax on the sale or use of any single item to \$7.50.

Section 2. If a majority of those voting in the election required by Section 67-3053, TCA, vote for the increase in the tax imposed by this resolution (or ordinance), collection of the **increased** tax levied by this resolution (or ordinance) shall begin on the first day of the month occurring 30 or more days after the county election commission makes its official canvass of the election returns.

Section 3. The Department of Revenue of the State of Tennessee shall collect the additional tax imposed by this resolution (or ordinance) concurrent with the collection of the state tax and the local tax now being collected for _____ County (or city), in accordance with rules and regulations promulgated by the said Department.

Section 4. The _____ (specify officer) is hereby authorized to contract with the Department of Revenue for the collection of the additional tax imposed by this resolution (or ordinance), and to provide in said contract that the Department may deduct from the tax collected a reasonable amount of percentage to cover the expense of the administration and collection of said tax.

Section 5. In the event the tax is collected by the Department of Revenue, suits for the recovery of any tax illegally assessed or collected shall be brought against the _____ (specify officer).

Section 6. A certified copy of this resolution (or ordinance) shall be transmitted to the said Department of Revenue by the County Court Clerk (or City Recorder) forthwith and shall be published one time in a newspaper of general circulation in _____ County (or city) prior to the election called for in Section 2 hereof.

*See Page 4 of this handbook for an explanation of how to express the rate.

5

- **SAMPLE BALLOT**
- **for election on county or city tax**
- **being levied for first time**

Shall a resolution (or ordinance) passed by the Quarterly County Court (or city governing body of _____ (county or city) on _____, 19____, numbered _____ and published in _____, a newspaper of general circulation in _____ County, which levied a tax on the same privileges subject to the Retailers' Sales Tax Act under Chapter 30, Title 67, Tennessee Code Annotated, as the same may be amended, which are exercised within _____ (county or city), to be levied and collected as provided in said Act and at the rate of * _____; except the rate on farm and industrial machinery and water sold to or used by manufacturers shall be * _____ of 1% which provided that the tax shall not exceed *\$ _____ on any single article of personal property, and excepted from the tax electric power or energy, natural or artificial gas, coal and fuel oil; and which provided for collection by the Department of Revenue of the State of Tennessee, become operative?

For the Resolution (or Ordinance) _____

Against the Resolution (or Ordinance) _____

6

• **SAMPLE BALLOT** • **for election to increase county or** • **city sales tax** •

Shall a resolution (or ordinance) passed by the Quarterly County Court (or city governing body) of _____ (county or city) on _____, 19_____, numbered _____ and published in _____, a newspaper of general circulation in _____ County, which levied an additional tax on the same privileges subject to the Retailers' Sales Tax Act under Chapter 30, Title 67, Tennessee Code Annotated, as the same may be amended, which are exercised within _____ (name of county or city), to be levied and collected as provided in said Act at an amended rate of * _____

except the rate on farm and industrial machinery and water sold to or used by manufacturers which is levied at the rate of one-half of 1%; which increases the maximum tax to \$7.50 on the sale or use of a single article of personal property; and which provided for collection of the additional tax by the Department of Revenue of the State of Tennessee, become operative?

For the Resolution (or Ordinance) _____

Against the Resolution (or Ordinance) _____

*See resolution or ordinance



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