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The Local Sales Tax Handbook for Local Officials

Municipal Technical Advisory Service

County Technical Assistance Service Agencies of the Institute for Public Service

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THE LOCAL SALES TAX



- WHAT THE LAW SAYS
- HOW TO USE IT

**Handbook for Local Officials
(Revised October 1984)**

A Publication of The University of Tennessee's Institute for Public Service
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PREPARED FOR
The Tennessee Municipal League and
The Tennessee County Services Association

by

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

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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 legislative body, 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 up to 2.75% is authorized.

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; (3) coal and fuel oil. Effective July 1, 1983, counties and cities were given the ability to increase the single article local sales tax cap by adopting a resolution or ordinance applying the local tax rate to the first \$667.00 of the purchase price during the 1983-84 fiscal year. Once this resolution or ordinance is adopted, the single item base automatically will increase to \$889.00 beginning July 1, 1984, and to \$1,100.00 beginning July 1, 1985. * If such a resolution or ordinance is not adopted, the maximum single item sales tax cap will remain \$5.00 if the local sales tax rate is 1% or less and \$7.50 if the local rate is greater than 1%.

The resolution or ordinance to increase the single article local sales tax cap must be passed at least twice, at two or more consecutive public meetings, not more than one of which may be held on any single day. Notice of the meetings must be published at least once in a newspaper of general circulation throughout the jurisdiction involved, not less than seven (7) days before the first of the meetings. No referendum is required in order to increase the sales tax cap. Effective May 15, 1984, municipalities located in counties which have not increased the single article local sales tax cap are authorized to increase the county's cap for purchases of single items made **within the municipality's corporate limits**. Municipalities raising the cap on the county's tax within their corporate limits should follow the procedure outlined in this paragraph. No referendum is required for increasing the county's cap within the corporate limits.

Industrial and farm machinery, and water sold to or used by manufacturers is taxed locally at $\frac{1}{3}\%$ when the local tax rate is 1% or less and at $\frac{1}{2}\%$ when the local rate exceeds 1%.

HOW IS IT ADOPTED?

The local sales tax is levied as a fraction of the state sales tax rate. For instance, to levy a local option sales tax of 1%, the tax would be levied at a rate of "two-elevenths of the rate levied in the Retailers' Sales Tax Act, Chapter 6, Parts 1--6, Title 67, T.C.A., as amended."

* Local sales taxes levied for the first time after July 1, 1983, will adopt the single item base on the sale or use of personal property as provided in T.C.A. § 67-6-702(a) (1).

These fractions would be used to levy the tax at the level indicated:

"one-twentysecond"	for a 0.25% local tax
"one-eleventh"	for a 0.5% local tax
"three-twentyseconds"	for a 0.75% local tax
"two-elevenths"	for a 1% local tax
"three-elevenths"	for a 1.5% local tax
"four-elevenths"	for a 2% local tax
"nine-twentyseconds"	for a 2.25% local tax
"five-elevenths"	for a 2.5% local tax
"one-half"	for a 2.75% local tax

Since the State Department of Revenue administers the sales tax and is usually the collector of the local tax, **every resolution or ordinance levying or increasing a local sales tax must be sent to the Department of Revenue** for review, immediately after its adoption (for cities after first reading). This will allow the Department to check the resolution or ordinance to assure the validity of the levy. If the resolution or ordinance is not drafted properly, the Department will refuse to collect the tax.

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%. City could levy a municipal tax up to 1.75%, making the total combined rate inside the city no more than one-half of the state rate or 2.75%.)

If the city levies a sales tax, and the county has not levied one, or the city levies an increase in its sales tax rate above the county rate, the city ordinance is suspended for 40 days. If, during this period, the county legislative body adopts a resolution to levy a tax at least equal to the rate in the ordinance, the ordinance remains suspended 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, if the county should later adopt a sales tax at a rate up to one-half the state tax, it would cancel 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 amount 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 not less than 45 days nor more than 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 legislative body 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 IS IT COLLECTED?

When the ordinance or resolution so provides, the State Department of Revenue will collect the local tax at the same time it collects the state sales tax. The Department of Revenue requires 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 (1.5% at present; 1.375% for 1985-86; 1.25% for 1986-87; and 1.125% for 1987-88 and subsequent fiscal years) 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 Department of Revenue recommends that the Commissioner of Revenue also be named in the resolution or ordinance as a party against whom suit for recovery is brought. The act 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 towns go to their general fund. 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.

A county or municipality may adopt a local sales tax for a specific period of time when the expiration date for the tax is included in the adopting resolution or ordinance.

2

ESTIMATING YOUR LOCAL COUNTY (CITY) SALES

To estimate the increase in revenues for a county or a city from an increase in an existing county-wide local option sales tax rate, use this chart. For cities, the amount the city received from the county's tax for the city's general fund should be inserted in Column 3.

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 adopting a city-only sales tax in counties with a local option sales tax, distributed according to the statutory formula (See Page 6), 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 Year	(4) X Factor =	(5) Estimated Increase In Revenues From The Additional Tax
2.25%	2.75%	\$ _____	X .2222	\$ _____
2.25%	2.50%	\$ _____	X .1111	\$ _____
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	\$ _____

ESTIMATING LOCAL SALES TAX INCREASE DUE TO RAISING CAP

The amount of increase in local sales tax revenue resulting from raising the existing cap on taxable purchases depends on the volume of single item purchases that exceed \$500 per item (i.e. automobiles, appliances, personal services, etc.) and the current local sales tax rate within the taxing jurisdiction. The rate of increase will vary significantly among the several counties and municipalities. As a general rule, it is estimated that raising the cap will increase revenue by approximately two per cent (2%) beginning July 1, 1984; and three per cent (3%) beginning July 1, 1985.

3

SAMPLE ORDINANCE for levying local sales tax for first time

Be it ordained by the _____ (here insert proper clause):

Section 1. As authorized by Sections 67-6-701-- 67-6-712, *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 6, parts 1--6, Title 67, T.C.A. as the same may be amended, which are exercised in _____ (city). The tax is levied on all such privileges at a rate of * _____ except as limited or modified by statute. Penalties and interest for delinquencies shall be the same as provided in T.C.A. § 67-6-516.

Section 2. If a majority of those voting in the election required by T.C.A. § 67-6-706 vote for the ordinance, collection of the tax levied by this 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, that determination being evidenced by Local Option Sales and Use Tax Rules and **Regulations** heretofore promulgated by the Department of Revenue, the Department shall collect the 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 the 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 the 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 the 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 State Commissioner of Revenue and the _____ (specify city officer).

Section 5. A certified copy of this ordinance shall be transmitted to the Department of Revenue by the City Recorder forthwith and shall be published one time in a newspaper of general circulation in _____ (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.

4

SAMPLE RESOLUTION OR ORDINANCE for levying an additional sales and use tax

Be it resolved (ordained) by the Board of County Commissioners (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 Sections 67-6-701—67-6-712, *Tennessee Code Annotated*, adopted by the County (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 * _____ except as limited or modified by statute.

Section 2. If a majority of those voting in the election required by T.C.A. § 67-6-706 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 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 the 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 the 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 State Commissioner of Revenue and the _____ (specify county or city officer).

Section 6. A certified copy of this resolution (or ordinance) shall be transmitted to the Department of Revenue by the County 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 tax being levied • for first time •

Shall an ordinance passed by the (city governing body) of _____
(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 6, Parts 1--6, Title
67, *Tennessee Code Annotated*, as the same may be amended, which are exer-
cised within _____ (city), to be levied and collected as provid-
ed in the Act and at the rate of * _____, except as limited or
modified by statute, become operative?

For the Ordinance _____
Against the Ordinance _____

*See ordinance

6

SAMPLE BALLOT for election to increase county or city sales tax

Shall a resolution (or ordinance) passed by the Board of County Commissioners (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 6, Parts 1--6, 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 the Act at an amended rate of * _____, except as limited or modified by statute, become operative?

For the Resolution (or Ordinance) _____

Against the Resolution (or Ordinance) _____

*See resolution or ordinance

7

SAMPLE RESOLUTION OR ORDINANCE for raising the limit on the sale or use of single article of personal property

Be it resolved (ordained) by the Board of County Commissioners (or city governing body) of _____ County (or city), Tennessee, meeting in _____ session on the _____ day of _____, 198____, and in _____ session on the _____ day of _____, 198____ that:

Section 1. The maximum local option sales tax collectible on the sale or use of a single item of personal property as authorized in the resolution (or ordinance) of the county (city) legislative body which levied the local option sales tax for _____ County (or city), of record in Minute Book _____ at page _____, is hereby removed.

Section 2. Beginning on the first day of the month occurring thirty (30) or more days after a certified copy of this resolution (or ordinance) is received by the Department of Revenue, the local sales tax at the present rate effective in _____ County (or city) shall apply to the first eight hundred eighty-nine dollars (\$889.00) on the sale or use of any single article of personal property; and beginning on July 1, 1985, to the first one thousand one hundred dollars (\$1,100.00) on the sale or use of any single article of personal property, as provided in T.C.A. § 67-6-702.

Section 3. Future increases in the base beginning on the dates specified in Section 2 shall be automatic and shall not require further action of the Board of County Commissioners (or city governing body) of _____ County (or city).

Section 4. Nothing herein contained shall be construed to increase the local option sales tax rate heretofore in effect in _____ County (or city).

Section 5. Notice of the meetings for the consideration of this Resolution (or ordinance) and that this matter is on the agenda of the meetings has been published at least once in a newspaper of general circulation in _____ County as required by T.C.A. § 67-6-702 (a) (2).

Section 6. A certified copy of this Resolution (or ordinance) shall be transmitted immediately upon adoption to the Department of Revenue of the State of Tennessee by the County Clerk (Recorder) and shall be spread upon the Commission (city governing body) record.

Section 7. The maximum tax on the sale or use of any single item authorized by this **Resolution** (or ordinance) and by T.C.A. § 67-6-702 shall be collected by the State Department of Revenue concurrently with the collection of the state tax and the _____ County (or city) sales tax and in the same manner as these taxes are collected in accordance with the rules and regulations promulgated by the Department.

Section 8. For purposes of collection, this Resolution (or ordinance) shall take effect on the first day of the month occurring thirty (30) or more days after a certified copy is received by the Department of Revenue; for all purposes it shall be effective upon passage by a majority vote of the Board of County Commissioners (city **governing** body) of _____ County (or city) at two consecutive public meetings as required by T.C.A. § 67-6-702.

Passed 1st reading _____, 198_____.

Passed 2nd reading _____, 198_____.*

*A third reading might be required by some municipal charters or ordinances.

8

SAMPLE ORDINANCE for increasing the limit on county sales tax collected on the sale of single items within the municipal corporate limits

BE IT ORDAINED _____ (here insert proper ordaining clause):

Section 1. The maximum local option sales tax collectible on the sale or use of a single item of personal property as authorized in the resolution of the county legislative body which levied the local option sales tax for _____ County, of record in Minute Book _____ at page _____, is hereby removed for purposes of the sale or use of any single article of personal property within the corporate limits.

Section 2. Beginning on the first day of the month occurring thirty (30) or more days after a certified copy of this Ordinance is received by the Department of Revenue, the local sales tax at the present rate effective in _____ County shall apply to the first eight hundred eighty-nine dollars (\$889.00) on the sale or use of any single article of personal property within the corporate limits if collection begins before July 1, 1985, and on and after July 1, 1985, to the first one thousand one hundred dollars (\$1,100.00). If collection begins on or after July 1, 1985, then the present rate shall apply to the first one thousand one hundred dollars (\$1,100.00) on the sale or use of any single article of personal property within the corporate limits.

Section 3. The increase in the base beginning on the date specified in Section 2 shall be automatic and shall not require further action of the governing body.

Section 4. Nothing herein contained shall be construed to increase the local option sales tax rate heretofore in effect in _____ County or _____ (name of city).

Section 5. Notice of the meetings for the consideration of this Ordinance and that this matter is on the agenda of the meetings has been published at least once in a newspaper of general circulation in the city.

Section 6. A certified copy of this Ordinance shall be transmitted immediately upon adoption to the Department of Revenue of the State of Tennessee by the Recorder.

Section 7. The maximum tax on the sale or use of any single item authorized by this Ordinance shall be collected by the State Department of Revenue concurrently with the collection of the state tax and the _____ County sales tax and in the same manner as these taxes are collected in accordance with the rules and regulations promulgated by the Department.

Section 8. For all purposes except collection of the tax on the increased base, this Ordinance shall take effect _____ (here insert proper effective date). For purposes of collection of the tax on the increased base, this Ordinance shall take effect on the first day of the month occurring thirty (30) or more days after a certified copy is received by the Department of Revenue.

Passed 1st reading _____, 1984.

Passed 2nd reading _____, 1984.

Passed 3rd reading _____, 1984.*

*If required.

FOR FURTHER INFORMATION AND ASSISTANCE:

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