MTAS
Municipal Technical Advisory Service
In cooperation with the Tennessee Municipal League

TECHNICAL bulletin

October 26, 2006

HOTEL-MOTEL TAX IN TENNESSEE CITIES

Ron Darden, Municipal Management Consultant

If there are hotel or motel lodgings in your city, you might want to consider a hotel-motel tax to enhance city revenues. The proceeds from the hotel-motel tax can be used for purposes authorized in your enacting ordinance, private act, or general law. Many cities designate and use the tax proceeds for tourism development.

GENERAL

"Hotel" is defined as any structure or space, or any portion thereof, that is occupied or intended or designed for occupancy by transients for dwelling, lodging, or sleeping purposes. It 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 consideration. T.C.A. § 67-4-1401

Tennessee general laws provide for levying a hotel-motel tax in home rule cities and metropolitan governments. Private act chartered cities and most general law chartered cities (mayor-aldermen, manager-council, and modified- manager council chartered cities) must be authorized by private act to levy the tax. There are exceptions for certain general law cities, which may levy the tax by ordinance passed by a two-thirds vote of the governing body. (See "Exceptions.")

This report discusses how cities levy the hotel-motel tax, limitations on levy of the tax, exceptions, collecting the tax, and estimating proceeds from the tax; and it provides a list of Tennessee city and county hotel-motel tax rates.

LEVYING THE TAX AND LIMITATIONS

In home rule chartered cities:

- The tax is levied by ordinance with approval by a two-thirds vote of the legislative body at two consecutively scheduled meetings or upon the approval of a majority of the voters in a municipal referendum that is held by the county election commission upon a petition of 10 percent of the qualified voters who voted in the municipality in the last gubernatorial election.
- The tax levy is limited to 5 percent.
- The tax levy is not preempted by, and is in addition to, any county tax. See T.C.A. § 67-4-1402.

In private act chartered cities and most general law cities (mayor-aldermanic, city manager-commission, and modified manager-council charters):

- The tax is levied by private acts of the Tennessee General Assembly. The private act must be ratified by a two-thirds vote of the municipality's legislative body or approved by a majority of those voting in a referendum held for that purpose, the method to be prescribed by the private act.

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- Generally, there is no limit on the tax. However, after May 12, 1988, if a county has levied a hotel-motel tax, the city cannot levy such a tax in any amount. Conversely, if the city has levied a hotel-motel tax, the county may not levy such a tax within the city in any amount.

Note: MTAS legal consultants advise that general law charters may be supplemented with private acts as long as the act is not inconsistent with state general laws and the general law charters.

EXCEPTIONS

T.C.A. § 67-4-1425 provides that after May 12, 1988, a city located in a county that has levied a hotel-motel tax cannot levy a city hotel-motel tax under authority of a private act. The provisions of this section do not apply in any county, excluding any county with a metropolitan form of government, that:

- Contains or borders a county that contains an airport designated as a regular commercial service airport in the international civil aviation organization (ICAO) regional air navigation plan; and
- Contains a government-owned convention center of at least 50,000 square feet with an attached, adjoining, or adjacent hotel or motel facility; or
- Contains an airport with regularly scheduled commercial passenger service, and the creating municipality of the metropolitan airport authority for the airport is not located within such county. The tax levied on occupancy of hotels by cities located within such a county may be used only for tourism as defined by T.C.A. § 7-4-101(8);
- Provided, however, that a municipality located in any county to which this subsection applies shall not be authorized to levy a privilege tax upon the privilege of occupancy in any hotel of each transient in an amount exceeding 5 percent of the consideration charged by the operator;
- Provided, further, that if a municipality located in such county is incorporated under the general law, then the municipality is authorized to levy a privilege tax by ordinance adopted by a two-thirds vote of its governing body upon the privilege of occupancy in any hotel of each transient in an amount not to exceed 5 percent of the consideration charged by the operator. Such ordinance shall set forth the manner of collection and administration of such privilege tax.
- The provisions of this section do not apply in any county having a population of not less than 80,000 nor more than 83,000, in any county having a population of not less than 35,050 nor more than 35,070, nor in any county having a population of not less 118,400 nor more than 118,700 according to the 1990 federal census or any subsequent federal census. The provisions of this section shall not apply in any county having a population of not less than 25,575 nor more than 25,850 according to the 2000 federal census or any subsequent federal census.
- The provisions of this section do not apply to any city that has constructed a qualifying project or projects under the Convention Center and Tourism Development Financing Act of 1998.

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- The provisions of this section shall not apply in any county having a population of not less than 25,575 nor more than 25,850 according to the 2000 federal census or any subsequent federal census

Note: Exceptions are listed in T.C.A. § 67-4-1425.

METROPOLITAN GOVERNMENT CHARTERS

The section providing for a hotel-motel tax in metropolitan governments is titled Metropolitan Government-Tourist Accommodation Tax. "Tourism" means the planning and conducting of programs of information and publicity designed to attract to the county tourists, visitors, and other interested people from outside the area and also to encourage and coordinate the efforts of other public and private organizations or groups of citizens to publicize the facilities and attractions of the area for the same purposes. "Tourism" also means the acquisition, construction, and remodeling of facilities useful in the attraction and promoting of tourist, convention, and recreational businesses.

- The tax is approved by ordinance of the metropolitan council.
- A 3 percent hotel-motel tax is authorized.
- An additional 1 percent is authorized for cities with a population of more than 100,000.
- An additional 1 percent is authorized when the metropolitan government enters into a binding contract with a general contractor for the construction of a convention center.
- A municipality with a population of 5,000 or more lying partly within a county with a metropolitan form of government and partly within an adjacent county may levy a privilege tax on the privilege of occupancy in any hotel of each transient in an amount, set by the governing body of such municipality and not exceeding 3 percent. T.C.A.§ 7-4-102 (c)

COLLECTING THE TAX

Provisions for collecting the tax are outlined in Tennessee statutes for home rule chartered cities, for those adopting the tax by private act, and for metropolitan governments.

The hotel/motel operator is required to file, under oath, a monthly tax return with the authorized collector with the number of copies of the return as the collector may reasonably require. The report shall include such facts and information as may be deemed reasonable to verify the tax due. The form of the report shall be developed by the authorized collector and shall be approved by the city legislative body prior to use. The collector is required to audit each operator in the city at least once per year and report on the audits made on a quarterly basis to the city legislative body. See T.C.A. § 67-4-1406.

Taxes collected by hotel or motel operators that are not remitted to the authorized collector on or before the due dates shall be delinquent. An operator shall be liable for interest on delinquent taxes from the due date at the rate of 12 percent per annum, and in addition, for the penalty

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of 1 percent for each month or fraction thereof that such taxes are delinquent. See T.C.A. § 67-4-1408.

It is the duty of every hotel and motel operator liable for collecting and paying to the city any tax imposed by the city to keep and preserve for a period of three years all records that may be necessary to determine the amount of such tax owed. The authorized collector shall have the right to inspect such records at all reasonable times. See T.C.A. § 67-4-1409.

ESTIMATING PROCEEDS FROM HOTEL/MOTEL TAX

If your city is eligible to adopt a hotel/motel occupancy tax, try to estimate the expected annual revenues to see if the results are worth the effort. The expected revenues depend largely upon the tourist or transient flow. One of the following methods may be helpful in estimating anticipated hotel/motel tax revenues:

- Estimate the gross receipts reported by each hotel and motel on its municipal business tax return and contained in confidential state sales tax reports. This information gives you a rough idea of each establishment's annual volume of business. Unfortunately, these returns usually combine room receipts with receipts from restaurants, bars, and gift shops.
- Determine the total number of hotel and motel rooms subject to the tax along with an average room rate per night, then estimate the overall percentage rate of occupancy, and use the following formula to arrive at an estimated annual tax yield:

  Number of rooms X average room rate per night X tax rate X 365 days X percent of occupancy = annual revenue from hotel/motel tax.

The tax is limited to a percent charge on the occupancy of a room in a hotel, motel, tourist camp, etc., by transients, defined as persons occupying the room for a period of "less than 30 continuous days."

An MTAS consultant can help your city prepare a private act or ordinance that includes essential provisions such as how the proceeds are to be used, who collects the tax, the due date, compensation to the hotel for collecting, interest and penalty for late payment, and record requirements.

This revenue source may help municipalities increase their tourist promotion activities or supplement general fund revenues. Below is a list of the 67 counties in Tennessee with a hotel/motel tax. If your city isn't located in one of these counties, or if you are a home rule city, you should consider a hotel/motel tax to enhance your general funds. Please contact your MTAS consultant if you need more information or assistance.

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Hotel-motel tax by county and city[1]

COUNTY	PERCENT RATE
Anderson	5
Benton	5
Blount	4
Bradley	5
Campbell	5
Carroll	0
Carter	5
Cheatham	5
Chester	4
Claiborne	3
Cocke	3
Crockett	5
Cumberland	5
Davidson	4
Decatur	5
DeKalb	5
Dickson	5
Fayette	5
Franklin	5
Gibson	4
Giles	5
Greene	7
Hamblen	5
Hamilton	4
Hardeman	5
Hardin	5
Haywood	5
Henderson	5
Henry	5
Hickman	5
Houston	5
Humphreys	5
Jefferson	8
Johnson	5
Knox	5
Lake	5
Lauderdale	5
Lawrence	5
Lewis	5
Lincoln	5
Loudon	5
Madison	5
Marion	5
Marshall	7
Maury	5
McMinn	5
Monroe	5
Montgomery	3
Moore	3
Obion	5
Perry	5
Putnam	6
Rhea	2
Roane	5
Robertson	5
Rutherford	3
Scott	5
Sequatchie	2
Shelby	5
Sumner	5
Tipton	5
Unicoi	5
Van Buren	7
Williamson	4
Wilson	3

[1]Forrister, B., & Buechler, B. (2005) *2005 Tennessee Tax Guide: A Comprehensive Survey of Major Tennessee State and Local Taxes*. Brentwood, TN: M. Lee Smith Publishers LLC. [With selected updates by MTAS.]

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Municipalities with hotel/motel tax levies and rates

MUNICIPALITY	PERCENT RATE
Adamsville	5
Bartlett	5
Bristol	5
Brownsville	2.5
Caryville	5
Clinton	3
Collierville	5
Dickson	2.5
Dyersburg	5
Franklin	4
Gatlinburg	3
Germantown	5
Goodlettsville	3
Gordonsville	3
Harriman	5
Henderson	5
Huntingdon	5
Jackson	5
Jellico	3
Johnson City	5
Jonesborough	5
Kimball	5
Kingsport	5
Knoxville	5
Lake City	5
La Vergne	2.5
Lebanon	5
Manchester	6
McKenzie	5
Memphis	1.7
Monteagle	5
Morristown	4
Mountain City	5
Murfreesboro	2.5
Nashville/Davidson	5
Oak Ridge	5
Pigeon Forge	2.5
Pittman Center	3
Rogersville	4
Samburg	5
Selmer	5
Sevierville	2
Shelbyville	7
Smyrna	2.5
South Fulton	5
Spencer	7
Tullahoma	5
Union City	5
Viola	0
Winchester	5

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The Municipal Technical Advisory Service (MTAS) is a statewide agency of The University of Tennessee Institute for Public Service. MTAS operates in cooperation with the Tennessee Municipal League to provide technical assistance services to officials of Tennessee's incorporated municipalities. Assistance is offered in areas such as accounting, administration, finance, public works, ordinance codification, and wastewater management.

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