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Technical Bulletins: Hotel/Motel Tax in Tennessee Municipalities

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MTAS

Municipal Technical Advisory Service

*In cooperation with the
Tennessee Municipal League*

TECHNICAL bulletin

11.02.05

HOTEL/MOTEL TAX IN TENNESSEE MUNICIPALITIES

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 the ordinance, private act, or general law authorizing or levying the tax. Many cities designate and use the tax proceeds for tourism development.

How Cities Levy The Tax

Home rule chartered cities have the authority to levy a hotel/motel tax of up to 5 percent, regardless of what the county has already enacted. The levy is by ordinance with a two-thirds vote of the municipal legislative body at two consecutive regularly scheduled meetings. Home rule chartered cities may also levy the tax by referendum. (See T.C.A. § 67-4-1402 and AGO No. 03-062, May 14, 2003.)

Other cities and counties generally must be authorized to adopt any hotel/motel tax by private act of the Tennessee General Assembly and ratification by the local governing body (or in a referendum). The limitations to the tax levied by private act since May 12, 1988, are found in T.C.A. § 67-4-1425. The amount of the tax is limited to 5 percent. The General Assembly adopted anti-stacking provisions in 1988 because of complaints about the cumulative effect of a tax levied by both a county and a city in that county. If a county already levies a 5 percent tax, the city may not levy any additional tax. In cities that levied

a hotel/motel tax prior to the county levy, the county may not levy any additional tax within the city. If a county has enacted only a 3 percent tax, for example, the city may levy a 2 percent tax. The combined rate cannot exceed 5 percent. The private act levying a hotel/motel tax must be ratified by a two-thirds vote of the legislative body. (See T.C.A. § 67-4-1425.)

General law chartered cities may levy a hotel/motel tax of up to 5 percent by private act unless the county has already enacted the tax. Such private act must be approved by a two-thirds vote of the council prior to levying the tax. (See T.C.A. § 67-4-1425.)

Amendments to increase the hotel/motel tax rate are approved by similar procedures. All private acts levying taxes on the privilege of occupancy of hotels and motels that were enacted prior to May 12, 1988, remain in full force and effect.

The provisions limiting the imposition and amount of the hotel/motel tax do not apply to any city that has constructed a qualified project or projects under the Convention Center and Tourism Development Financing Act of 1998, compiled in Title 7, Chapter 88 of the Tennessee statutes.

Home rule cities may enact a hotel/motel tax even if the county has one, and cities in Blount, Dickson, Shelby, and Williamson counties may

HOTEL/MOTEL TAX IN TENNESSEE MUNICIPALITIES**Ron Darden, Municipal Management Consultant**

enact a hotel/motel tax even if the county has one.

COLLECTING THE TAX

Once approved, the city's authorized collector of the tax, appointed by the legislative body, is responsible for collecting the tax and is required to place the proceeds of such tax in accounts for the purposes stated in the enacting ordinance or private act. The hotel/motel operator is required to file a monthly tax return, under oath, 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 for verification of the tax due. The form of such 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 a hotel or motel operator 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 such delinquent taxes from the due date at the rate of 12 percent per annum, and in addition, for the penalty of 1 percent for each month or fraction thereof 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: $\text{Number of rooms} \times \text{average room rate per night} \times \text{tax rate} \times 365 \text{ days} \times \text{percent of occupancy} = \text{annual revenue from hotel/motel tax}$.

The tax is limited to a 5 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,

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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. A sample adopting ordinance is provided in this bulletin to guide cities in levying a hotel/motel tax. Please contact your MTAS consultant if you need more information or assistance.

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

HOTEL/MOTEL TAX IN TENNESSEE MUNICIPALITIES

Ron Darden, Municipal Management Consultant

Municipalities with hotel/motel tax levies and rates

| MUNICIPALITY | PERCENT RATE | MUNICIPALITY | PERCENT RATE |
|---------------------|---------------------|---------------------|---------------------|
| Adamsville | 5 | La Vergne | 2.5 |
| Bartlett | 5 | Lebanon | 2 |
| Bristol | 5 | Manchester | 6 |
| Brownsville | 5 | McKenzie | 5 |
| Caryville | 5 | Memphis | 1.7 |
| Clinton | 3 | Monteagle | 3 |
| Collierville | 5 | Morristown | 3 |
| Dickson | 0.25 | Mountain City | 5 |
| Dyersburg | 5 | Murfreesboro | 2.5 |
| Franklin | 2 | Nashville/Davidson | 5 |
| Gatlinburg | 3 | Oak Ridge | 5 |
| Germantown | 5 | Pigeon Forge | 2.5 |
| Goodlettsville | 3 | Pittman Center | 3 |
| Gordonsville | 3 | Rogersville | 4 |
| Harriman | 5 | Samburg | 5 |
| Henderson | 5 | Selmer | 5 |
| Huntingdon | 5 | Sevierville | 2 |
| Jackson | 5 | Shelbyville | 7 |
| Jellico | 3 | Smyrna | 2.5 |
| Johnson City | 5 | South Fulton | 5 |
| Jonesborough | 5 | Spencer | 5 |
| Kimball | 5 | Tullahoma | 5 |
| Kingsport | 5 | Union City | 5 |
| Knoxville | 3 | Viola | 5 |
| Lake City | 5 | Winchester | 5 |

(Sample Ordinance)

Ordinance Number _____

AN ORDINANCE LEVYING A PRIVILEGE TAX UPON THE OCCUPANCY IN ANY HOTEL OR MOTEL OR ANY PLACE IN WHICH ROOMS, LODGINGS OR ACCOMMODATIONS ARE FURNISHED TO TRANSIENTS FOR A CONSIDERATION.

Whereas, Tennessee Code Annotated (T.C.A.) 67-4-1401 authorizes the levy by ordinance of a hotel/motel tax by any city with home rule in accordance with the Tennessee Constitution, Article XI, Section 9; now,

Therefore, Be It Ordained by the Board of Mayor and Aldermen of the City of _____, Tennessee, as follows:

Section 1. Definitions.

As used in this ordinance,

- (1) "Consideration" means the consideration charged, whether or not received, for the occupancy in a hotel valued in money, goods, labor or otherwise, including all receipts, cash, credits, property and services of any kind or nature without any deduction therefrom whatsoever;
- (2) "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 cabin, motel or any place in which rooms, lodgings or accommodations are furnished to transients for a consideration;
- (3) "Occupancy" means the use or possession, or the right to use or possession, of any room, lodgings or accommodations in any hotel;
- (4) "Operator" means the person operating the hotel whether as owner, lessee or otherwise;
- (5) "Persons" means any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, estate, trust, business trust, receiver, trustee, syndicate or any other group or combination acting as a unit; and
- (6) "Transient" means any person who exercises occupancy or is entitled to occupancy of any rooms, lodgings or accommodations in a hotel for a period of less than thirty (30) continuous days.

Section 2. Permit Required. No person will conduct, keep, manage, operate or cause to be conducted, kept, managed or operated, either as owner, lessor, agent or attorney, any hotel in the city without having obtained a permit from the city administrator or his designee to do so.

Section 3. Fee. The fee for each hotel permit will be twenty-five dollars (\$25.00).

Section 4. Not Transferable. No permit issued under this ordinance shall be transferred or assigned.

Section 5. Duration. Hotel permits shall be issued annually and shall expire on the last day of December of each year.

Section 6. Register Required; Availability for Inspection. Every person to whom a permit is issued under this ordinance shall at all times keep a standard hotel register, in which shall be inscribed the names of all guests renting or occupying rooms in his hotel. Such register shall be signed in every case by the persons renting a room or by someone under his direction, and after registration is made and the name of the guest is inscribed as herein provided, the manager shall write the number of the room which guest is to occupy, together with the time such room is rented, before such person is permitted to occupy such room. The register shall be open to inspection at all times to the city administrator or his designee.

Section 7. Rooms to be Numbered. Each sleeping room and apartment in every hotel in the city shall be numbered in a plain and conspicuous manner. The number of each room shall be placed on the outside of the door of such room, and no two (2) doors shall bear the same number.

Section 8. Privilege Tax Levied; Use.

(A) Pursuant to the provisions of T.C.A. § 67-4-1401 through T.C.A. § 67-4-1325, there is hereby levied a privilege of occupancy in any hotel of each transient. From and after the operative date of this ordinance the rate of the levy shall be 5% of the consideration charged by the operator. This privilege tax shall be collected pursuant to and subject to the provisions of these statutory provisions. The city _____ shall be designated as the authorized collector to administer and enforce this ordinance and these statutory provisions.

(B) The proceeds received from this tax shall be available for the city's general fund. Proceeds of this tax may not be used to provide a subsidy in any form to any hotel or motel.

Section 9. Payment of the Tax. Payment of the tax by the motel to the city shall be no later than the 20th day of each month for the preceding month.

Section 10. Compensation to the Hotel. The hotel may deduct 2% from the amount paid to the city.

Section 11. Interest and penalty for late payment. The hotel operator is responsible for paying interest on delinquent taxes, 12% per annum, plus a penalty of 1% per month.

Section 12. Records Requirement. The hotel operator must keep records for three years, with the right of inspection by the city.

Section 13. This ordinance shall take effect upon final passage the public welfare requiring it.

Passed first reading _____

Passed second reading _____

Passed third and final reading _____

Mayor

Attest: City Recorder

City Attorney as to form



11.02.05

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