Technical Bulletins: Litigation Tax Collections and Refunds Clarified

MTAS
Litigation Tax Collections and Refunds Clarified

If you’re paying the Tennessee Department of Revenue a litigation tax on all court cases, you’re paying the department too much. A city does not collect the tax on all cases, so therefore does not pay the state on all cases.

Collections
The litigation tax of $13.75 is collected only in three situations. (Tennessee Code Annotated 67-4-603) They are:

1. When the city court renders a judgement against a defendant for violation of a municipal ordinance;
2. When a defendant is found guilty or pleads guilty to a state criminal violation; or
3. When a defendant submits to a fine for violation of a state criminal statute.

A litigation tax should not be collected for:

1. A defendant’s forfeiture of an appearance bond for failure to appear in court for either a municipal ordinance violation of a violation of criminal statute; or
2. When a municipal or state charges are dismissed in court against a defendant.

Refunds
If the tax is collected by a city in error and remitted to the Department in error, refunds will be issued from the state only:

1. For the purpose of refunding the individual defendants who overpaid the tax, and will be limited to amounts which the city demonstrates will actually be refunded to individual defendants. The city must refund the full amount of the litigation tax collected from the defendant; or
2. When the department is satisfied, based on an audit of city records, that the city’s own funds were used to pay the litigation tax rather than funds collected from individual defendants.

For example, both Cleveland and Smyrna received refunds after they realized they had misinterpreted the state law and were submitting the $13.75 tax on all moving traffic violations. Following an audit of city records, the Department of Revenue issued refunds. Cleveland received $233,000 and Smyrna received $326,000.

Now that the cities understand when the tax is to be submitted to the state and when it should not be, both cities are reporting a sizeable difference of what is paid out to the Department of Revenue each month. Cleveland has gone from paying an average of $6,500 per month to $175. And Smyrna reports a $8,000 difference.

For More Information
For further information about litigation tax collections and refunds, contact your MTAS legal consultant in Knoxville at (423) 974-0411; Nashville at (615) 256-8141; or Jackson at (901) 423-3710.
The Municipal Technical Advisory Service (MTAS) is a statewide agency of The University of Tennessee's Institute for Public Service. MTAS operates in cooperation with the Tennessee Municipal League in providing technical assistance services to officials of Tennessee's incorporated municipalities. Assistance is offered in areas such as accounting, administration, finance, public works, communications, ordinance codification, and wastewater management.

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