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Technical Bulletins: Hotel/Motel Tax in Tennessee Municipalities

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Hotel/Motel Tax in Tennessee Municipalities

by C. Richard Phebus

If there are hotel/motel transient lodgings (rentals for less than 30 continuous days) in your city, you might want to consider a hotel/motel tax to enhance municipal revenues.

The proceeds from the hotel/motel tax can be used for most general purposes, ranging from economic and tourist development to retirement of outstanding debt.

Tennessee Code Annotated (TCA) 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. Other cities and counties, since May 12, 1988, must adopt any hotel/motel tax by a private act of the Tennessee General Assembly and ratification by the local governing body.

Forty-eight counties have a hotel/motel tax ranging from 1.5 percent to 5 percent of the price of lodgings. If your city had not adopted home rule and is in any of these counties, you may be pre-empted from levying or increasing this tax. The limitations to the tax levied by private act are found in TCA 67-4-1425:

1. A city may only levy a tax on occupancy of hotels within its municipal boundaries.

2. A city can't levy a hotel tax if the county in which the city is located levied such a tax already.

3. A county may only levy a tax on hotels within its boundaries but outside the boundaries of any municipality which already has levied such a tax before the county.

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. While an exact revenue figure may not be possible beforehand, one of the following methods may be helpful to estimate annual revenues.

One way to estimate income is to examine the gross receipts reported by each hotel and motel on its municipal business tax return and contained in confidential state sales tax reports. This would give you an idea of each establishment's annual volume of business. Unfortunately, these returns usually combine room receipts with receipts from the restaurants, bars, and gift shops.

Another approach is to determine the total number of hotel/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:

\[
\text{annual revenue from hotel/motel tax} = \text{# of rooms} \times \text{average room rate per night} \times \text{tax rate} \times 365 \text{ days} \times \% \text{ of occupancy}
\]

This formula might have to be applied to each individual establishment, or groups of similar establishments, rather than to try for city-wide averages.

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What To Include In Your Private Act

The more important elements to include in a hotel/motel occupancy tax private act are:

- the rate of tax,
- the definition of the type of accommodation subject to the tax, and
- how revenues obtained from the tax will be used.

Tennessee private acts adopted in recent years customarily set the rate “not to exceed ___ percent” (usually 3 to 5 percent). The tax is levied 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.”

The revenues from the hotel/motel tax most frequently are earmarked for tourism. For example, revenues could be distributed one-third for direct promotion of tourism; one-third for tourist-related activities; and one-third for the city’s general fund. At least one of Tennessee’s larger cities adopted the tax so that “an additional source of revenues [shall] be available for the general fund.”

The following statement usually is added: “Proceeds of this tax may not be used to provide a subsidy in any form to any hotel or motel.”

The authorizing legislation also may provide for the appointment of tourist commissions to promote tourist, convention, and recreational activities. Other provisions of hotel/motel occupancy acts include:

- collection of the tax by the hotel operator.
- prohibiting offers to absorb the tax. Such a provision could read: “no operator of a hotel shall advertise or state in any manner, whether directly or indirectly, that the tax, or any part thereof, will be assumed or absorbed by the operator, or that it will be added to the rent, or that, if added, any part will be refunded.”
- payment of the tax by the hotel to the city. It generally should be no later than the 20th day of each month for the preceding month.

• compensation to the hotel. Usually 2 percent is allowed to be deducted by the hotel from the amount to be paid to the city.

• interest and penalty for late payment. The hotel operator is responsible for paying interest on delinquent taxes (usually 12 percent per annum), plus a penalty of .5 or 1 percent per month.

• records requirements. The hotel operator must keep records for three years, with the right of inspection by the city.

Ordinances And Tax Forms

A municipality usually adopts a hotel/motel occupancy tax ordinance to implement the private act. Copies of existing ordinances and forms used for reporting tax collections may be obtained from your MTAS consultant.

This revenue source may help municipalities increase their tourist promotion activities, or supplement general fund revenues. A list of the 48 counties in Tennessee with a hotel/motel tax is below. If your city isn’t located in one of these counties, you should consider a hotel/motel tax to enhance your general funds. Please contact your MTAS consultant if you need more information.

<table>
<thead>
<tr>
<th>County</th>
<th>Percent Rate</th>
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<tbody>
<tr>
<td>Anderson</td>
<td>5</td>
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<tr>
<td>Blount</td>
<td>3</td>
</tr>
<tr>
<td>Bradley</td>
<td>4</td>
</tr>
<tr>
<td>Carter</td>
<td>3</td>
</tr>
<tr>
<td>Claiborne</td>
<td>3</td>
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<tr>
<td>Cocke</td>
<td>3</td>
</tr>
<tr>
<td>Cumberland</td>
<td>5</td>
</tr>
<tr>
<td>Davidson</td>
<td>4</td>
</tr>
<tr>
<td>Decatur</td>
<td>5</td>
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<tr>
<td>Dickson</td>
<td>5</td>
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<tr>
<td>Fayette</td>
<td>5</td>
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<tr>
<td>Franklin</td>
<td>5</td>
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<td>Gibson</td>
<td>4</td>
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<tr>
<td>Greene</td>
<td>2</td>
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<td>Hamilton</td>
<td>4</td>
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<td>Hardeman</td>
<td>5</td>
</tr>
<tr>
<td>Hardin</td>
<td>5</td>
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</tbody>
</table>

For further information, contact Dick Phebus in Martin at (901) 587-7055, or your local MTAS management consultant in Knoxville at (615) 974-0411; Nashville at (615) 256-8141; or Jackson at (901) 423-3710.

For more information on hotel/motel tax, contact Dick Phebus in Martin at (901) 587-7055, or your local MTAS management consultant in Knoxville at (615) 974-0411; Nashville at (615) 256-8141; or Jackson at (901) 423-3710.
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Tennessee County Percent Rate

Anderson 5
Blount 3
Bradley 4
Carter 3
Claiborne 3
Cocke 3
Cumberland 5
Davidson 4
Decatur 5
Dickson 5
Fayette 5
Franklin 5
Gibson 4
Greene 2
Hamilton 4
Hardeman 5
Hardin 5

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