



Municipal Technical Advisory Service
INSTITUTE *for* PUBLIC SERVICE

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Local Option Sales Tax

Dear Reader:

The following document was created from the MTAS website ([mtas.tennessee.edu](http://www.mtas.tennessee.edu)). This website is maintained daily by MTAS staff and seeks to represent the most current information regarding issues relative to Tennessee municipal government.

We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with municipal government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other MTAS website material.

Sincerely,

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Local Option Sales Tax

Reference Number: MTAS-534

A municipality may levy a local sales tax, but the combined rate of the county's levy and that of the municipality may not exceed 2.75 percent. A county's levy supersedes the municipality's levy. Therefore, if the county levy is 2.75 percent, a municipality in that county may not levy a local sales tax. If the county levy is 2.25 percent, a municipality could levy an additional 0.5 percent. Regardless of the local levy amount, it must be approved by a majority vote in a referendum in the affected municipality. An ordinance calling for such a referendum may specify a period for which the tax shall be effective. T.C.A. §§ 67-6-701, *et seq.* A statewide uniform local sales tax rate of 2.5 percent applies to intrastate telecommunications services, and a uniform local rate of 1.5 percent applies to interstate and international telecommunication services except for services to businesses that are exempt. Revenues will be used for the same purposes as other local sales tax revenues. T.C.A. § 67-6-702.

Unlike the state sales tax, the local option tax is not applied to the full purchase cost of expensive items. The local tax now applies to the first \$1,600 of the purchase price. Because of this cap, the purchaser of an economy car and the buyer of a Rolls-Royce pay the same local option sales tax. T.C.A. § 67-6-702.

If a countywide local option sales tax is levied by referendum, then state law requires that half of any county levy be distributed on the same basis as the county property tax for schools (average daily attendance formula). The other half is distributed to the jurisdictions where collection took place. If it was collected in a city, it is distributed to that city. If it was collected outside the city, it is distributed to the county. However, an agreement between a county and a city may provide for a different distribution. One hundred percent of a city-only levy is general fund revenue subject to appropriation by the governing body, but it would terminate at the end of the city's current fiscal year if the county makes a levy at the same or higher rate. T.C.A. § 67-6-703, T.C.A. § 67-6-712.

The local option sales tax is a situs tax. That is, the geographic location where the sale is made or the service is delivered determines which jurisdiction receives the collected tax.^[1] A municipality receives the tax if the transaction occurs within its corporate limits. Municipalities could enhance their revenues by verifying the situs code for every business located within their corporate boundaries.

For a period of 15 years, a newly annexed area or newly incorporated city gives the county the same amount of local option sales tax and wholesale beer tax it was collecting on the date of incorporation. T.C.A. § 67-6-712.

Situs Reports: How to Get Your Fair Share

Reference Number: MTAS-544

Sales Tax Revenue: How to Get Your Fair Share

Sales tax is collected by businesses all across the state when they sell a taxable item. Taxable items include practically everything except professional services and labor. Technically, taxable items are tangible personal property, things you can touch and see. Periodically, businesses remit the sales tax to the state by completing a form that calculates the sales tax and sending that with a check to the department of revenue.

Sales tax consists of the state portion (currently 5.5 percent on food and 7 percent all other tangible personal property unless specifically exempted) and the city and county portion for a maximum total of 9.75 percent. The combined city and county local option portion may not exceed 2.75 percent. If your city and county tax is less than the maximum 2.75 percent, then raising it to the maximum should be a consideration for any local government seeking to increase sales tax revenue.

Cities receive a share of the state sales tax directly from the state every month based on population. This is often called a state "shared" revenue. It is also the largest of the state shared revenues, accounting for more than half of the population-based state shared revenues.

The local option portion of the sales tax is split with the county, city, and schools. The county initially receives all the local sales tax from the state and then allocates it. The county has no discretion on how to distribute the funds. Cities receive their share of local sales tax from their counties.

What Could Go Wrong?

Your local sales tax may be going to another Tennessee city or county. Conversely, your city may be receiving local sales tax revenue from another jurisdiction in error. The problem occurs on the front end when a business first applies for a Tennessee sales tax number (Sales and Use Tax Certificate of Registration). There is a place on the form for the address of the new business, but occasionally, the applicant uses an incorrect address for the business location. The application is entered into the state's computer system, and the address on the application dictates the location of the business, even if it is wrong.

This is significant because Tennessee local sales tax is determined at the point of sale. The point of sale is the business location listed on the application for a Sales and Use Tax Certificate of Registration. An incorrect business location results in the local sales tax going to an incorrect county or city.

What Can You Do?

The first thing you should do is contact the Tennessee Department of Revenue, which handles sales taxes. It maintains a list of every registered business in Tennessee. Every business is assigned a four-digit county/city code that determines location. This coding is based on the business address in the business application. The first two-digit number represents the county. Cities are assigned an additional unique two-digit number. Together, this four-digit number is called a situs code. A situs code report lists all registered businesses in your city, by county. ***A city in two counties will have two situs codes.***

City officials have a right to this confidential information as provided in T.C.A. § 67-1-1704. To obtain your situs report, send a request in writing from a local official to the Tennessee Department of Revenue. You should receive your situs report within two weeks. You will need to confirm that all businesses within the corporate limits are on your situs report. ***If your city is in two or more counties, you should request reports for both situs codes your city is assigned.***

Who to Contact

The Taxpayer Services Division of the Tennessee Department of Revenue (DOR) administers the sales and local sales tax. It processes the Sales and Use Tax Certificate of Registration received from businesses. The DOR assigns a situs code.

You can contact the DOR in writing at its main office at
Tennessee Department of Revenue
500 Deaderick Street
Nashville, Tennessee 37242

The phone number is (615) 253-0600 or (800) 342-1003 toll free.

Identify All Businesses in Your City

As stated above, you need to identify all the businesses in your city limits. These businesses generate local sales tax on every taxable sale. You should build an inventory of all the business in your town, that is, anyone with a Tennessee sales tax number (Sales and Use Tax Certificate of Registration). This will be very time consuming the first time, but subsequent annual checks will be much easier. In smaller cities, the city recorder may be aware of all the businesses in the city. With a short review, you may be able to account for them all. If your city levies a business tax, compare your business tax customers with the situs report. Property tax records and utility records also can help identify customers to compare against the situs report. The best way to maximize your city's local sales tax is to review the state's record of business locations (situs report) and correct any errors. After your review, you should make changes on the situs report and submit a copy to the DOR.

Making Corrections to the Situs Report

Make a list of all businesses that do not appear on your situs report. These are the businesses that are paying sales tax to some other city/county. To facilitate the DOR review, obtain that business's sales tax number and any other useful contact information. You should make these additions and corrections on the situs report itself. Before submitting your corrected situs report back to the DOR, make a copy for your records.

Show Me the Money

After receiving your requested changes, the DOR determines if a business is incorrectly coded, which would mean some other jurisdiction is getting your local sales tax. Then, the DOR will contact the jurisdiction that is incorrectly receiving the local sales tax and explain the error. Sometimes, there is disagreement, and you may need to submit proof of your corporate boundaries to the DOR. Basically, one jurisdiction received too much local sales tax while another received too little. The DOR will go back only one year from the notification date to make corrections. Any amounts beyond one year are lost (or

gained). Truly, time is money. If the amounts involved are small, the DOR will adjust the next month's local sales tax distribution. A large adjustment in one month could be harmful to a small city; therefore, larger amounts are adjusted over the following year.

Sample Tax Ballots

Reference Number: MTAS-539

SAMPLE BALLOT FOR ELECTION ON TAX BEING LEVIED FOR THE FIRST TIME

Shall an ordinance passed by the _____ (governing body) of _____ (city) on _____, 20____, 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 exercised within _____ (city), to be levied and collected as provided in the act and at the rate of _____, except as limited or modified by statute, become operative?
YES, for the Ordinance _____
NO, against the Ordinance _____

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 _____, 20____, 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 _____ (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?
YES, for the Resolution (or Ordinance) _____
NO, against the Resolution (or Ordinance) _____

Sample Ordinance for Levying Additional Sales and Use Tax

Reference Number: MTAS-538

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 Board of County Commissioners (or city governing body) of _____ County (or city), Tennessee, imposing a local sales and use tax as authorized under the provisions of *Tennessee Code Annotated*, Sections 67-6-701, *et seq.*, adopted by the county (or city governing body) at a regular (or special) meeting (for county court, specify term) of recording in Minute Book _____, page _____, is amended to levy a local sales and use tax at a rate of _____, not to exceed the maximum percentage as provided for in the "1963 Local Option Revenue Act," *Tennessee Code Annotated*, Section 67-6-702, as amended, 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 being collected for _____ County (or city), in accordance with rules and regulations promulgated by the Department.

Section 4. The _____ (*specify officer*) is 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 as provided by statute to cover the expense of the administration and collection of the tax as provided for in *Tennessee Code Annotated*, Section 67-6-710.

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.

Adopted this _____ day of _____, 20_____ .

Sample Ordinance for Levying Local Sales Tax

Reference Number: MTAS-537

SAMPLE ORDINANCE FOR LEVYING LOCAL SALES TAX FOR THE FIRST TIME

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

Section 1: As authorized by *Tennessee Code Annotated*, Sections 67-6-701, *et seq.*, as amended, there is levied a tax in the same manner and on the same privileges subject to the Retailer's 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 _____, not to exceed the maximum percentage as provided for in the "1963 Local Option Revenue Act," *Tennessee Code Annotated*, Section 67-6-702, as amended, 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. The state Department of Revenue 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 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 percentage as provided by statute to cover the expense of the administration and collection of the tax as provided for in *Tennessee Code Annotated*, Section 67-6-710.

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.

Adopted this _____ day of _____, 20__ .

DISCLAIMER: The letters and publications written by the MTAS consultants were written based upon the law at the time and/or a specific sets of facts. The laws referenced in the letters and publications may have changed and/or the technical advice provided may not be applicable to your city or circumstances. Always consult with your city attorney or an MTAS consultant before taking any action based on information contained in this website.

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