



State-Shared Taxes

Dear Reader:

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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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Table of Contents

State-Shared Taxes	3
State-Shared Taxes and Appropriations for the Coming Fiscal Year	5

State-Shared Taxes

Reference Number: MTAS-136

State Sales Tax

The state sales and use tax is 7 percent (except for food, on which the rate is 4 percent), plus an additional 2.75 percent on the portion of the purchase price of single articles subject to local sales taxes from \$1,600.01 through \$3,200. The 0.5 percent increase adopted in 1992 is earmarked for K-12 education. The 2002 increase from 6 percent to 7 percent on non-food items accrues to the state general fund. Cities receive 4.6030 percent of the remaining 5.5 percent state tax after deductions, including funds to support MTAS. A city's share is calculated by computing the city population as a portion of all city residents in the state. T.C.A. § 67-6-103.

A city that elects Tennessee river resort status under T.C.A. § 67-6-103(a)(3)(F) will receive 4.6030 percent of the taxes actually collected within the city rather than its normal allocation.

T.C.A. § 67-6-221 levies a 7.5 percent sales tax on interstate telecommunications services sold to businesses. Revenues from 0.5 percent of this tax are distributed to municipalities and counties based on population and must be used for the same purposes as local sales tax revenues.

Sales Tax Holiday

Sales of clothing, school supplies, and school art supplies costing \$100 or less per item and computers costing \$1,500 or less per item will be exempt from state and local sales taxes beginning on the last Friday in July and lasting through the following Sunday. Municipalities are substantially held harmless for local sales tax losses. T.C.A. §§ 67-6-393, 67-6-710.

Sales Tax by Out-of-State Dealers

Out-of-state dealers with no physical presence in Tennessee who meet the threshold of \$500,000 must begin collecting Tennessee sales tax by October 1, 2019, or the first day of the third month in which it meets the threshold. Public Chapter 491 requires these dealers to collect and report local sales tax based on the local jurisdiction where the sale is shipped or delivered. See Tennessee Department of Revenue Notices 19-04 [1] and 19-05 [2] for further information.

State Beer Tax

The state levies a \$4.29 per barrel tax on the manufacture, sale, and transportation of beer. T.C.A. § 57-5-201. Cities are allocated 10.05 percent of this money on a per capita basis without regard to legal beer sales in the community. Another 10.05 percent of the revenue is allocated to counties. T.C.A. § 57-5-205. MTAS-1877 [3] has more detailed analysis on state beer tax.

State Mixed-Drink Tax

In addition to a state privilege tax, the state levies a 15 percent gross receipts tax on all alcoholic beverages sold for consumption on the premises. T.C.A. § 57-4-301(c). The tax is earmarked for education and local government. Distributions to cities and counties depend on several factors, including which local governments operate their own school systems. Interim laws are now in place through June 30, 2020. T.C.A. § 57-4-306. MTAS-1857 [4] has more detailed analysis on state mixed drink tax.

Excise Tax on Banks

Generally, the excise tax on banks is 3 percent of net earnings (excluding interest from state bonds) minus 7 percent of ad valorem taxes, with a complicated formula for determining a minimum tax based on a bank's capital stock. Local tax rates determine the payment allocation between the county and the city, so a city must levy a property tax to receive any funds. Another formula is prescribed for allocating such revenue if a bank has branches in more than one city and/or county. T.C.A. § 67-4-2017. See MTAS-1883 [5].

Hall Income Tax

Chapter No. 181 enacted in 2017 will eliminate this tax over a five-year period. Three-eighths of the 5 percent state tax on certain dividend and interest income paid by taxpayers is remitted by the state to the city in which the taxpayers live. Payment is made for all such taxpayers no later than the following July 31 based on taxes collected in that city in the preceding fiscal year. T.C.A. § 67-2-119. See MTAS-1876 [6].

Like the local option sales tax, the Hall income tax is a situs-based tax. Cities should check situs codes and review situs reports to assure that all revenue due to the city is actually received.

Tax Information

Certain information and data that taxpayers report to the state are open to city officials whose "official duties require such inspection or disclosure for tax administration purposes". T.C.A. § 67-1-1704. Any person who divulges or uses this information and data for any purpose other than collecting municipal revenues may be convicted of a felony that carries a maximum \$5,000 fine, up to five years imprisonment, or both. T.C.A. § 67-1-1709.

Litigation Tax – Municipal

A municipality may levy a privilege tax on litigation in all cases in municipal court. The tax must be established by ordinance or resolution and may not exceed the state litigation tax. The tax is collected upon all judgments against the defendant in municipal court. T.C.A. § 67-4-601; Op. Tenn. Atty. Gen. No. 81-598, Nov. 9, 1981; T.C.A. § 16-18-305. See MTAS-319 [7].

Litigation Tax – State

The state litigation tax of \$13.75, like the municipal litigation tax, is collected on all judgments against the defendant in municipal court. The tax applies in all civil suits and to all criminal charges, upon conviction or by order, instituted in city courts except that the tax for violation of an ordinance on using a public parking space is one dollar. When the municipal court is exercising general sessions jurisdiction, the litigation tax will be levied and collected in the same manner as a general sessions court. See MTAS-305 [8].

City Tag or Wheel Tax

The terms "tag tax" and "wheel tax" commonly are used to describe the regulatory fee levied by some cities on motor vehicles using city streets. T.C.A. § 6-55-501 provides that "no tax (for the privilege of driving any motor vehicle upon streets) under any guise or shape shall hereafter be assessed, levied, or collected by any municipality." However, T.C.A. § 6-55-502 somewhat equivocally provides that the law shall not "abridge [a city's] right to require city automobile tags." The same section also authorizes cities to operate automobile safety lanes and inspection stations. Cities are prohibited from imposing a wheel tax on vehicle owners living outside the city. T.C.A. § 7-51-702.

State vehicle license plates must be stamped in a way that will provide space to display a municipal wheel tax sticker. This provision supersedes any local requirement respecting the display of such stickers. T.C.A. § 55-4-103(b). A city may contract with the county clerk of the county in which it is wholly or partially located to collect its motor vehicle regulatory fees when motorists obtain their state licenses from the clerk. T.C.A. § 7-51-703.

Refuse Collection Fees

Many cities have a long history of charging for collecting garbage and other refuse. Some charge only for pickups from businesses. The Solid Waste Management Act of 1991 explicitly authorizes cities to charge solid waste disposal fees, which may be collected through electric utility bills. T.C.A. § 68-211-835. Cities that fund waste disposal by special assessment are allowed to bill homeowners on their property tax notices. T.C.A. § 67-5-103.

A municipality may not collect amounts owed for solid waste disposal charges, or make refunds of overpayments, if the payment is more than 36 months past the date the payment was first due. T.C.A. § 28-3-304.

Stormwater Management Fees

T.C.A. §§ 68-221-1101, *et seq.*, allow municipalities to levy fees for the privilege of discharging stormwater. Persons who do not discharge stormwater through the stormwater or flood control facilities of a municipality, including owners and operators of agricultural land, are exempt from stormwater fees.

Local Population Counts

Most state-shared taxes are distributed on the basis of population data certified by the Tennessee State Planning Office as of July 1 each year. A rapidly growing city may take, at its expense, four city-wide censuses between federal decade counts to keep its revenue current. After the local census is certified by the State Planning Office, the new population count is used to compute state-shared revenues the following July. T.C.A. § 67-6-103(b)(3), T.C.A. § 54-4-203(b). Special censuses that count newly annexed residents of a city are not subject to the four-per-decade limit. T.C.A. § 6-51-114.

State-Shared Taxes and Appropriations for the Coming Fiscal Year

Reference Number: MTAS-545

The Tennessee Department of Revenue makes payments of state-shared revenues to all Tennessee municipalities based on population. MTAS tracks the monthly revenues reported by the Department of Revenue and uses those along with estimates to forecast what cities may expect to receive in the coming fiscal year.

The first column in the chart below shows an updated estimate for the 2019-20 fiscal year (\$142.50). The second column takes what is estimated through June, uses available market data for 2020-21 and makes a conservative estimate of state-shared revenues for the 2020-21 fiscal year (\$145.00). This estimate is preliminary, especially since only a few months of actual data are available at this time. This is to be used as a tool in estimating projected revenue for the 2020-21 fiscal year. It is but one tool, and a multi-year trend analysis should also be prepared to assist in determining the appropriate estimate for the FY 2020-21 budget.

NOTE** The IMPROVE Act of 2017 provided for additional gas and motor taxes. For FY 2019-20 the Act provided for an additional 1 cent of gas tax and 3 cents of diesel tax. Through November 2019 state sales tax shows a state-wide increase of slightly more than 6.50 percent over the prior year. State beer tax, the special petroleum tax and the TVA in-lieu-of tax remain essentially unchanged. Gasoline and motor fuel taxes have increased about 6.8% percent over the prior year due primarily to the IMPROVE Act. Also note that state sales tax is trending at an average increase of about 5% through November. MTAS will review monthly actual revenue and will update the estimate if it changes significantly.

	Updated Estimate 2019-2020	Initial Estimate 2020- 2021
General Fund	Per Capita Amount	Per Capita Amount
State Sales Tax	\$90.00	\$92.25
State Beer Tax	.50	.50
Special Petroleum Products Tax (City Streets and Transportation Revenue)	2.00	2.00
Gross Receipts Tax (TVA in lieu of taxes)	12.00	12.00
Total General Fund Revenue	\$104.50	\$106.75
State Street Aid Funds		
Gasoline and Motor Fuel Taxes	\$38.00	\$38.25
Total Per Capita (General and State Street Aid Funds)	\$142.50	\$145.00

Links:

- [1] <https://www.tn.gov/content/dam/tn/revenue/documents/notices/sales/sales19-04.pdf>
- [2] <https://www.tn.gov/content/dam/tn/revenue/documents/notices/sales/sales19-05.pdf>
- [3] <http://www.mtas.tennessee.edu/node/143248>
- [4] <http://www.mtas.tennessee.edu/node/143230>
- [5] <http://www.mtas.tennessee.edu/node/143254>

[6] <http://www.mtas.tennessee.edu/node/143247>

[7] <http://www.mtas.tennessee.edu/reference/litigation-tax>

[8] <http://www.mtas.tennessee.edu/reference/litigation-taxes>

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