

TITLE 5

MUNICIPAL FINANCE AND TAXATION¹

CHAPTER

1. MISCELLANEOUS.
2. WHOLESALE BEER TAX.
3. BUSINESS TAX ACT.
4. PURCHASING.
5. HOTEL/MOTEL OCCUPANCY TAX.

CHAPTER 1

MISCELLANEOUS

SECTION

- 5-101. Official depositories for city funds.
- 5-102. Fiscal year of the city.
- 5-103. Collateral for city funds.

5-101. Official depositories for city funds.² The following financial institutions are hereby designated as official depositories for city accounts and investments: Trustmark National Bank, Regions Bank, First Citizens National Bank, Suntrust Bank, Bank of Bartlett, and First Tennessee Bank. (1989 Code, § 6-101, as replaced by Ord. #03-23, Feb. 2003, and amended by Ord. #08-124, Nov. 2008)

5-102. Fiscal year of the city. The fiscal year of the city shall begin on July 1 and end on June 30, as allowed by § 6-22-121 of the city charter.³ (1989 Code, § 6-102)

5-103. Collateral for city funds. Collateral for city funds shall comply with Tennessee Code Annotated, §§ 6-56-106 and 9-4-105.

¹Charter reference
Finance and taxation: title 6, chapter 22.

²Charter reference
Tennessee Code Annotated, § 6-22-120 prescribes depositories for city funds.

³Charter reference
Tennessee Code Annotated, § 6-22-121 provides that the fiscal year of the city shall begin on July 1 unless otherwise provided by ordinance.

CHAPTER 2**WHOLESALE BEER TAX****SECTION**

5-201. To be collected.

5-201. To be collected. The recorder is hereby directed to take appropriate action to assure payment to the city of the wholesale beer tax levied by the "Wholesale Beer Tax Act," as set out in Tennessee Code Annotated, title 57, chapter 6.¹ (1989 Code, § 6-201)

¹State law reference

Tennessee Code Annotated, title 57, chapter 6 provides for a tax of 17% on the sale of beer at wholesale. Every wholesaler is required to remit to each municipality the amount of the net tax on beer wholesale sales to retailers and other persons within the corporate limits of the municipality.

CHAPTER 3

BUSINESS TAX ACT

SECTION

5-301. Tax levied.

5-302. Business license required.

5-303. Violations.

5-304. Applicability.

5-301. Tax levied. Except as otherwise specifically provided in this code, there is hereby levied on all vocations, occupations, and businesses declared by the general laws of the state to be privileges taxable by municipalities, an annual privilege tax in the maximum amount allowed by said state laws. The taxes provided for in the State's "Business Tax Act" (Tennessee Code Annotated, title 67, chapter 58) are hereby expressly enacted, ordained, and levied on the businesses, business activities, vocations, and occupations carried on within the municipality at the rates and in the manner prescribed by the Act. (1989 Code, § 6-301)

5-302. Business license required. There is hereby levied on all vocations, occupations, and businesses declared by the general laws of the State to be privileges taxable by municipalities, an annual requirement to have and exhibit a Business License, except those professions exempt by the Tennessee State Code. This license shall be issued by the city recorder to each applicant therefore upon such applicants compliance with all regulatory provisions and payment of the appropriate privilege tax. (1989 Code, § 6-302)

5-303. Violations. Any person, firm or corporation which carries on any vocation, occupation or business herein declared to be a privilege and taxed as such, that fails to comply with the Business Tax Act shall be subject to the penalties prescribed by Tennessee Code Annotated, § 67-1-1801, et seq. (1989 Code, § 6-303)

5-304. Applicability. All ordinances or parts of ordinances heretofore enacted which are in conflict with this chapter are hereby declared to be void and are hereby repealed upon implementation of this chapter. (1989 Code, § 6-304)

CHAPTER 4

PURCHASING

SECTION

5-401. Responsibility of manager.

5-402. Purchases between \$2,500.00 and \$5,000.00.

5-403. Purchases over \$5,000.00.

5-404. Exceptions.

5-401. Responsibility of manager. The city manager shall be responsible for all purchasing, but he may delegate the responsibility to any subordinate or subordinates who are appointed by him. (1989 Code, § 1-701)

5-402. Purchases between \$2,500.00 and \$5,000.00. Purchases between two thousand five hundred dollars (\$2,500.00) and five thousand dollars (\$5,000.00) shall, whenever possible, be made only after obtaining written competitive bids. (Ord. #201, May 1997, modified)

5-403. Purchases over \$5,000.00. Purchases in excess of five thousand dollars (\$5,000.00) shall be made only after public advertisement, obtaining competitive sealed bids and board of commissioners approval. (1989 Code, § 1-703, modified)

5-404. Exceptions. Exception to the provisions of § 5-403 may be made under one or more of the following conditions; however, board of commissioners approval is still required for purchases over five thousand dollars (\$5,000.00):

(1) When immediate delivery of the goods or service is required due to an emergency arising from an unforeseen cause.

(2) When the goods or service can be purchased only from a single source.

(3) When fuel, fuel products and perishable commodities are purchased on the open market.

(4) When used equipment, material or supplies are purchased from any local, state, or federal agency.

(5) When insurance is purchased through an organization of governmental entities.

(6) When professional services are being purchased.

(7) When real property is being leased or purchased.

(8) When purchases are made from a non-profit corporation whose purpose is to provide goods or services specifically to municipalities.

(9) When investments are made in the State Investment Pool.

(10) When purchases are made through the State Department of General Services.

(11) When the board of commissioners determines by a unanimous vote, based upon written recommendations from the city manager, that it is clearly not to the advantage of the city to solicit competitive bids. (1989 Code, § 1-704, modified)

CHAPTER 5

HOTEL/MOTEL OCCUPANCY TAX

SECTION

- 5-501. Definitions.
- 5-502. Levy of occupancy tax.
- 5-503. Collection by operator; inclusion in rate.
- 5-504. Remittance of tax by operator.
- 5-505. Collection of tax by city.
- 5-506. Disclosure of tax.
- 5-507. Failure of operator to collect tax.
- 5-508. Rules and regulations; reports; records.
- 5-509. Allocation of funds.

5-501. Definitions. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(1) “Consideration” means the consideration charged, whether or not received, for occupancy in a hotel, valued in money, whether to be received in money, goods, labor or otherwise, including all receipts, cash, credits, property and services of any kind or nature, without any deduction there from whatsoever. Nothing in this definition shall be construed to imply that consideration is charged when the space provided to the person is complimentary from the operator and no consideration is charged to or received from any person.

(2) “City manager” means the city manager of the city.

(3) “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 court, tourist cabin, motel or any place in which rooms, lodgings or accommodations are furnished to transients for a consideration.

(4) “Occupancy” means the use or possession, or the right to the use or possession, of any room, lodgings or accommodations in any hotel.

(5) “Operator” means the person operating the hotel whether as owner, lessee or otherwise.

(6) “Person” means any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit.

(7) “Transient” means any person who exercises occupancy or is entitled to occupancy for any rooms, lodgings or accommodation in a hotel for a period of less than thirty (30) continuous days. (as added by Ord. #06-95, Sept. 2006)

5-502. Levy of occupancy tax. The city hereby levies a privilege tax upon the privilege of occupancy in a hotel of each transient in an amount of five percent (5%) of the rate charged by the operator. Such tax is a privilege tax upon the transient occupying such room and is to be collected as provided in this chapter. (as added by Ord. #06-95, Sept. 2006)

5-503. Collection by operator; inclusion in rate. (1) Such tax shall be added by each and every operator to each invoice prepared by the operator for the occupancy of the hotel and given directly or transmitted to the transient for the occupancy of the operator's hotel. Such tax shall be collected by such operator from the transient and remitted to the city.

(2) When a person has maintained occupancy for thirty (30) continuous days, that person shall receive from the operator a refund or credit for the tax previously collected from or charged to him, and the operator shall receive credit for the amount of such tax if previously paid or reported to the city. (as added by Ord. #06-95, Sept. 2006)

5-504. Remittance of tax by operator. (1) The tax levied shall be remitted to the city manager or his designee by all operators who lease, rent or charge for rooms or spaces in hotels within the city, and the city manager is charged with the duty of collection thereof. Such tax shall be remitted to such officer not later than the 20th day of each month for the preceding month. The operator is hereby required to collect the tax from the transient at the time of the presentation of the invoice for occupancy whether prior to occupancy or after occupancy as may be the custom of the operator, and if credit is granted by the operator to the transient, then the obligation to the city for such tax shall be that of the operator.

(2) For the purpose of compensating the operator in accounting for and remitting the tax authorized and levied pursuant hereto and the related ordinances of the city, the operator shall be allowed two percent (2%) of the amount of the tax due and accounted for and remitted to the city in the form of a deduction in submitting his report and paying the amount due by such operator, provided the amount due was not delinquent at the time of payment. (as added by Ord. #06-95, Sept. 2006)

5-505. Collection of tax by city. (1) The city manager shall be responsible for the collection of such tax and shall place the proceeds of such tax in the general funds account of the city. A monthly tax return shall be filed under oath with the city manager by the operator, with such number of copies thereof as the city manager may reasonably require for the collection of such tax. The report of the operator shall include such facts and information as may be deemed reasonable for the verification of the tax due. The form of such report shall be developed by the city manager and approved by the board of commissioners prior to use. The city manager shall cause an audit of each

operator in the city at least once per year and shall report on the audits made to the board of commissioners.

(2) The city manager is hereby authorized to adopt reasonable rules and regulations for the implementation of the provisions of this chapter. (as added by Ord. #06-95, Sept. 2006)

5-506. Disclosure of tax. 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 not be added to the rent, or that if added, any part will be refunded. (as added by Ord. #06-95, Sept. 2006)

5-507. Failure of operator to collect tax. Taxes collected by an operator which are not remitted to the city manager 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 twelve percent (12%) per annum, and, in addition, a penalty of one percent (1%) for each month or fraction thereof such taxes are delinquent. Such interest and penalty shall become a part of the tax herein required to be remitted. Each occurrence of willful failure or refusal of an operator to collect or remit the tax or the willful refusal of a transient to pay the tax imposed is hereby declared to be unlawful and shall be punishable by a civil penalty not in excess of fifty dollars (\$50.00). In addition, it is unlawful for any operator to knowingly file a false tax return, and a violation shall be punishable by a civil penalty of not more than fifty dollars (\$50.00). (as added by Ord. #06-95, Sept. 2006)

5-508. Rules and regulations; reports; records. (1) It is the duty of every operator liable for the collection and payment to the city of any tax imposed under the authority of this chapter to keep and preserve, for a period of three (3) years, all records as may be necessary to determine the amount of such tax for which he may have been liable for the collection of and payment to the city, which records the city manager, his designee or any accounting firm or accountant employed by the city, shall have the right to inspect at all reasonable times.

(2) The city manager, in administering and enforcing the provisions of this chapter, shall have as additional powers those powers and duties with respect to collecting taxes as provided in Tennessee Code Annotated, § 67-1-101 et seq., or otherwise provided by law for county clerks and/or municipal officers.

(3) Upon any claim of illegal assessment and collection, the taxpayer shall have the remedies provided in Tennessee Code Annotated, § 67-9-101, et seq., it being the intent of this chapter that the provisions of law which apply to the recovery of state taxes illegally assessed and collected also apply to taxes illegally assessed and collected under the authority of this chapter. The city manager shall also possess those powers and duties as provided in Tennessee

Code Annotated, § 67-1-707 for county clerks with respect to the adjustments and refunds of such tax.

(4) With respect to the adjustment and settlement with taxpayers, all errors of taxes collected by the city manager under the authority of this chapter shall be refunded by the city.

(5) Notice of any tax paid under protest shall be given to the city manager, and suit may be brought for recovery of such tax against the city manager of the city in his official capacity. (as added by Ord. #06-95, Sept. 2006)

5-509. Allocation of funds. The proceeds of the tax authorized by this chapter shall be allocated to such funds as the board of commissioner shall from time to time direct. (as added by Ord. #06-95, Sept. 2006)