



## In-Lieu of Tax Payments

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Dear Reader:

The following document was created from the MTAS website ([mtas.tennessee.edu](https://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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**Reference Number:** MTAS-134

### ***Tennessee Valley Authority***

The Tennessee Valley Authority (TVA) pays 5 percent of gross power sales proceeds to the state in lieu of taxes. Counties and cities are allocated 48.5 percent of the increase in TVA payments made to the state above the amount received in the base year (fiscal year 1978). Counties receive 70 percent of this allocation, and cities receive 30 percent.

Distribution of the city share is based on population. Three percent of the earmarked revenue is allocated to cities and counties affected by TVA power plant construction. Cities that received TVA in-lieu-of-tax payments from the state before implementing the per capita formula continue to receive that amount in addition to the formula allocation. T.C.A. §§ 67-9-101–103.

### ***Utility Tax Equivalents***

Tennessee cities that operate electric distribution systems are allowed to take tax equivalents up to maximums prescribed by the Municipal Electric System Tax Equivalent Law of 1987. This law replaces former statutory provisions and supersedes all charter or private act provisions.

The allowed payment is an amount equal to the property tax the system would pay if it were a private utility, plus 4 percent of the average of revenue minus power costs from electric operations for the preceding three fiscal years. T.C.A. § 7-52-304. A city's governing body is allowed to prescribe the amount up to the maximum after consulting with a power board to determine the "fair share of the cost of government" borne by the municipality on behalf of the utility. The act also provides for tax equivalent payments to the county government and to neighboring municipalities served by a city's electric distribution system. T.C.A. §§ 7-52-301–310.

Another act contains almost identical provisions and is applicable to gas systems owned and operated by municipalities, counties, and metropolitan governments. It, too, supersedes the provisions of any charter or private act. T.C.A. §§ 7-39-401–406.

### ***Expenditure Reports by CDBG Recipients***

T.C.A. § 6-54-124 requires municipalities that receive community development block grants (CDBG) and municipalities and industrial development corporations that are party to an in-lieu-of-property-tax agreement to make a report addressing the expenditures of such funds. In addition, municipalities must place a copy of the report in the main branch of their public libraries or on the Internet.

### ***Municipal Utility***

Municipalities are authorized to request by resolution in-lieu-of-tax payments from any public works. T.C.A. § 7-34-115. "Public works" is defined by T.C.A. § 7-34-104(3) as water; sewer; gas or electric heat, light, or power; or parking facilities. Except for municipal gas and electric plants, these payments may not exceed the amount of taxes payable on private property of a similar nature. T.C.A. § 7-34-115. Gas and electric in-lieu-of-tax payments are computed under T.C.A. § 7-39-404 and T.C.A. §§ 7-52-301, *et seq.*, respectively.

### ***Housing Authority***

Housing authorities "shall agree" to pay in-lieu-of-tax payments or special assessments not to exceed the cost of services, improvements, or facilities provided. T.C.A. § 67-5-206. A similar requirement provides that non-profit housing corporations providing low-cost housing for elderly or handicapped people must agree to make in-lieu-of-tax payments for any project exceeding 12 units occupied after January 1, 1990. T.C.A. § 67-5-207.

Municipalities with housing authorities, except in Davidson County, may delegate to the authority by a majority vote the right to negotiate and accept payments in lieu of taxes from lessees operating property restricted under the Low Income Housing Tax Credit Program. The housing authority must submit the agreement to the local legislative bodies of affected jurisdictions for approval. Housing authorities must file reports by October 1 of each year on property owned by them that is subject to in-lieu-of-tax payments. T.C.A. § 13-20-104.

### ***Golf Courses***

If a government body leases a golf course to a private operator, the operator must make

in-lieu-of-property-tax payments equal to what the ad valorem taxes would be if the course were private property. T.C.A. § 67-5-203(c).

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