

Local Taxes

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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Local Taxes

Reference Number:
MTAS-135

Click on the topics listed below in this section for more information.

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__ .

Local Sales Tax Guide

Reference Number:
MTAS-730

Under the 1963 Local Option Revenue Act (found in T.C.A. §§ 67-6-701, *et seq.*), any county by resolution of its legislative body, or any city or town by ordinance of its governing body, can levy the local sales tax at a combined rate up to 2.75 percent. T.C.A. § 67-6-702.

With certain exceptions, the local sales tax covers the same items as the state sales tax. The local tax, however, applies only to the first \$1,600 of the sale or use of a single article of personal property. T.C.A. § 67-6-702(a)(1). What constitutes a "single article" is defined in T.C.A. § 67-6-702(d). Industrial and farm machinery and water sold to or used by manufacturers is taxed locally at 1/3 percent when the local tax rate is 1 percent or less and at 0.5 percent when the local rate exceeds 1 percent. T.C.A. § 67-6-702(b). Dealers with no location in this state may choose to pay, in lieu of the local option sales tax, a local tax at the rate of 2.25 percent of the sales price on all sales made in this state. T.C.A. § 67-6-702(f). Local tax on interstate telecommunication service subject to the tax is imposed at 1.5 percent, but interstate telecommunications services sold to businesses are exempt from local tax. Local tax with respect to intrastate telecommunications services, which are subject to state tax, is imposed at the rate of 2.5 percent. T.C.A. § 67-6-702(g).

How is Local Sales Tax Adopted?

The local sales tax is levied as a percentage of the sale price of a single article. To levy or increase a local option sales tax, the local government first passes an ordinance or resolution to levy the tax. Since the state Department of Revenue administers the sales tax and is usually the collector of the local tax, every resolution or ordinance levying or increasing a local sales tax must be sent to the Department of Revenue for review immediately after its adoption. Cities must provide it after the first reading. This will allow the department to check the resolution or ordinance to assure the validity of the levy. If the resolution or ordinance is not drafted properly, the department will refuse to collect the tax.

If the county has levied the tax at the maximum rate, no city in the county can levy a local sales tax. If the county has a sales tax of less than the maximum, a city can levy a tax equal to the difference between the county rate and the maximum. (Example: County has a tax of 2 percent. City could levy a municipal tax up to 0.75 percent, making the total

combined rate inside the city no more than 2.75 percent.)

If a city levies an increase in the local sales tax rate above the county rate, the city ordinance is suspended for 40 days. If, during this period, the county legislative body adopts a resolution to levy a tax at least equal to the rate in the ordinance, the ordinance remains suspended until a countywide referendum is held.

If the countywide tax is approved, the ordinance is dead. But if the county tax is not approved, the city ordinance becomes effective, and the referendum is held inside the city. If the vote is favorable, the city tax is in effect.

If the county should later adopt a local sales tax increase, however, it would cancel out the city tax to the extent that the new county rate duplicates the city rate. In this event, the city will receive from the county tax the same amount it would have received from its own tax until the end of the city's current fiscal year. T.C.A. § 67-6-703.

Local Referendum for Local Sales Tax

Reference Number:
MTAS-731

No local sales tax or any increase in the local sales tax can become effective until approved in an election in the city or county levying it. T.C.A. §§ 67-6-705 and 67-6-706. If holding a special election on the issue, the county election commission will hold an election not fewer than 75 days nor more than 90 days after receiving a certified copy of the ordinance or resolution. T.C.A. § 2-3-204(a). For regular municipal or state election dates, the deadline for submitting the ordinance to the election commission is 75 days prior to the election. T.C.A. § 2-3-204(b). If the majority vote is for the ordinance or resolution, it becomes operative on the day the election commission makes its official canvass. No tax can be collected until the first day of a month occurring at least 30 days after the operative date. T.C.A. § 67-6-706(a)(3).

If the county legislative body adopts a resolution to levy the tax at the same rate already in effect in a city, the election is open only to voters outside the city. If the county tax is at a higher rate than the city tax, city voters also participate in the election. T.C.A. § 67-6-706(b)(1).

If a city ordinance or a county resolution is rejected in a local referendum, that city or county cannot hold another sales tax election for six months. (An exception is that the waiting period is one year in counties with populations of not more than 750,000 nor less than 700,000 [Shelby] and not more than 278,000 nor less than 250,000 [Hamilton] according to the 1970 and any subsequent federal census.) T.C.A. § 67-6-706(b)(2).

Collection of Local Sales Tax

Reference Number:
MTAS-732

Cities and counties formerly had the option of collecting the local option sales tax themselves. This authority was eliminated by the General Assembly, and the law now requires the state Department of Revenue to collect the local sales tax at the same time it collects the state sales tax. T.C.A. § 67-6-710. The Department of Revenue requires that a certified copy of the resolution or ordinance be sent immediately upon adoption to the Department of Revenue if the tax is to be collected by that department. The department has promulgated Local Option Sales and Use Tax Rules and Regulations governing collection. The state will retain a reasonable amount (currently 1.125 percent) to cover its expenses. T.C.A. § 67-6-710(b)(2). The ordinance or resolution will designate the county or municipal officer against whom suit may be brought for recovery if the tax is collected by the state. The Department of Revenue recommends that the commissioner of revenue also be named in the resolution or ordinance as a party against whom suit for recovery is brought. T.C.A. § 67-6-710(d)(2).

Distribution of Local Sales Tax

Reference Number:
MTAS-733

If the tax is effective only inside a city, the proceeds go to the city general fund. If the tax is levied by the county, the money is divided as follows in accordance with T.C.A. § 67-6-712:

- One-half is expended and distributed in the same manner as the county property tax for schools, including division with any city or district schools by the trustee on the basis of the weighted full-time equivalent average daily attendance in accordance with Title 49, Chapter 3, Part 3.
- (a) The other half is distributed on the basis of where the sale occurred. Collections in incorporated cities or towns go to their general fund. Collections in unincorporated areas go to the county general fund. (b) Or, a county and city may, by contract, provide for some other division of the half not allocated to schools.

The situs-based distribution of the second half of sales tax revenue also is affected by "hold harmless" provisions of the

Tennessee Growth Policy Law (1998 Public Chapter 1101). For 15 years following any annexation or new incorporation by a municipality, the county is held harmless for the loss of local option sales tax revenues that would otherwise have gone to the city under prior law following the annexation. This dollar amount for any annexed tax-generating property is referred to as "annexation date revenue." Any increases over the annexation date revenue are distributed to the annexing municipality. (Note that these provisions do not affect the distribution of the first half of the local option sales tax, which continues to go to education funding.) For more details on how to determine annexation date revenue and how these provisions apply, see T.C.A. § 6-51-115.

In a few counties and cities, distribution of sales tax revenue also is affected by the presence of a sports authority that has acquired a professional sports franchise. In these cases, an amount equal to the amount of local tax revenue derived from the sale of admissions to the games and the sale of other related items on the premises of the facility is distributed to the municipality or county for the exclusive use of the sports authority. T.C.A. § 67-6-712(c). There are similar provisions relative to qualified public use facilities in a tourism development zone created under the Convention Center and Tourism Financing Act. T.C.A. § 7-88-106.

An ordinance or resolution levying the tax is perpetual unless it establishes a specific termination date, or unless it is repealed in the same way it was adopted. T.C.A. § 67-6-709. Any election for the repeal of a county tax is open to voters of the entire county. A county or municipality may adopt a local sales tax for a specific period of time when the expiration date for the tax is included in the adopting resolution or ordinance. T.C.A. § 67-6-708.

Local Alcohol Taxes

Reference Number:
MTAS-535

Local Wholesale Beer Tax

Wholesale beer deliveries to retail outlets in a city or county are taxed at 17 percent of wholesale prices (excluding state and federal privilege taxes levied after May 3, 1983). The tax is paid by each beer wholesaler directly to the city or county, and monthly sales reports are made to the state Department of Revenue and to each city and county. A city should check that tax payments are being received from beer wholesalers serving the area based on deliveries to all retail beer outlets in the city. An investigation by the Department of Revenue may be requested if there is doubt about administration of the tax. T.C.A. §§ 57-6-101–118. For a period of 15 years, a newly annexed area or newly incorporated city gives the county the same amount of wholesale beer tax it was collecting on the date of incorporation. T.C.A. § 57-6-103.

Local Mixed-Drink Tax

Cities that have passed a liquor-by-the-drink referendum may levy and collect a local privilege tax from businesses selling alcohol for on-premises consumption based on the schedule provided in T.C.A. § 57-4-301(b)(2).

Retail Liquor License Inspection Fees

Cities may levy inspection fees on retail liquor licensees based on wholesale liquor prices. The fees may not exceed 8 percent in counties with a population of less than 60,000 and in counties where premier tourist resort cities are located, or 5 percent in other counties. Populations are to be taken from the most recent federal census. T.C.A. § 57-3-501.

Business Taxes

Reference Number:
MTAS-540

The business tax in Tennessee is to be "in addition to all other privilege taxes" and is intended by the legislature to be in lieu of any other ad valorem tax on "inventories of merchandise held for sale or exchange". T.C.A. § 67-4-701. The statutes governing business tax changed significantly effective January 1, 2014. Consequently, information about business tax should be referred to <https://www.tn.gov/content/dam/tn/revenue/documents/taxguides/bustaxguide.pdf> [1].

Local Tourism Development Zone Business Tax

Municipalities and counties may levy a privilege tax of up to 5 percent of the sale price on goods sold in a qualified public use facility or in a tourism development zone established under the Convention Center and Tourism Development Financing Act of 1998 codified in T.C.A. §§ 7-88-101, *et seq.* Businesses exempt from the business tax also are exempt under this tax. Passage of the tax requires a two-thirds vote of the governing body at two consecutive meetings. A petition signed by 10 percent of those who voted in the municipality in the latest gubernatorial election can require that the tax be put to referendum. Revenues from the tax will be used to pay the cost of the convention center or other qualified public use facility. Authority to levy this tax does not apply in Davidson County. T.C.A. §§ 67-4-3001, *et seq.*

Hotel/Motel Tax

Reference Number:
MTAS-541

Hotel/Motel Taxes Levied by Home Rule, Metropolitan, and Certain Private Acts Home rule municipalities, metropolitan governments, and certain cities by private act or ordinance may levy a hotel/motel tax. For home rule municipalities, the hotel/motel tax applies to motel occupancies of fewer than 30 days. T.C.A. § 67-4-1401. The tax levied by a home rule municipality may not exceed 5 percent of the consideration charged for occupancy. It is collected when the customer is invoiced and remitted by the operator no later than the 20th of each month. Penalties and interest for delinquencies are authorized under T.C.A. § 67-4-1408, which allows home rule municipalities to use distress warrants to collect the tax.

Hotel/Motel Taxes Levied by Private Act

Municipalities that levy the tax by private act but that did not impose a hotel/motel tax by May 12, 1988, are prohibited from adopting such a tax if the county where the city is located already levies the tax. (This prohibition was removed for cities in Rutherford, Williamson, Blount, Dickson, Hardin, and Shelby counties, and for cities that have constructed a project under the Convention Center and Tourism Development Financing Act, codified as T.C.A. §§ 7-88-101, *et seq.* Because of the wording of the exemption in subsection (c) of 67-4-1425, this exemption might apply now or in the future in other counties not listed here.) If a city has already enacted the hotel/motel tax, the county may impose a hotel/motel tax only outside that city. T.C.A. § 67-4-1425. A recent AG opinion 15-78, opined that if the Hotel/Motel tax was levied through a private act, that it was also applicable to short-term rentals such as found through new services like Airbnb.

Hotel/Motel Taxes Authorized by General Law or General Law of Local Application

Cities in certain counties exempted under subsection (c) of T.C.A. § 67-4-1425 are limited to a 5 percent rate and cities in counties incorporated under the general law may levy the tax by ordinance passed by a two-thirds vote of the governing body.

The tax levied by these cities may not exceed 5 percent of the consideration charged by the operator, and revenues from the tax by cities in Blount County must be used for tourism as defined in T.C.A. § 7-4-101(8).

Levying the Tax and Limitation

Reference Number:
MTAS-1129

In Home Rule chartered-cities

- The tax is levied by ordinance with approval by a two-thirds vote of the legislative body at two consecutively scheduled meetings or upon the approval of a majority of the voters in a municipal referendum. The referendum is held by the county election commission upon a petition of 10 percent of the qualified voters who voted in the municipality in the most recent gubernatorial election.
- The tax levy is limited to 5 percent.
- The tax levy is not pre-empted by, and is in addition to, any county tax. See T.C.A. § 67-4-1402.

In private act-chartered cities and most general law cities (mayor-aldermanic, city manager-commission, and modified manager-council charters):

- The tax is authorized by private acts of the Tennessee General Assembly. The private act must be ratified by a two-thirds vote of the authorized membership of the municipality's legislative body or approved by a majority of those voting in a referendum held for that purpose, the method to be prescribed by the private act.
- Generally, there is no limit on the tax. However, after May 12, 1988, if a county has levied a hotel-motel tax, the city cannot levy such a tax in any amount. Conversely, if the city has levied a hotel-motel tax, the county may not levy such a tax within the city in any amount.

Note: MTAS legal consultants advise that general law charters may be supplemented with a private act as long as the act is consistent with state general laws and the general law charters.

Collecting the Tax

Reference Number:
MTAS-1132

Provisions for collecting the tax are outlined in Tennessee statutes for home rule chartered-cities, in private acts and ordinances for those adopting the tax under private act, and in statutes and ordinances for metropolitan governments.

The hotel-motel operator generally is required to file, under oath, a monthly tax return with the authorized collector with the number of copies of the return as the collector reasonably requires. The report must include facts and information deemed reasonable to verify the tax due. The form of the report generally is developed by the authorized collector and approved by the city legislative body prior to use. The collector generally is required to audit each operator in the city at least once per year and report on the audits made on a quarterly basis to the city legislative body. See for example T.C.A. § 67-4-1406.

Taxes collected by hotel or motel operators that are not remitted to the authorized collector on or before the due dates are

delinquent. An operator is liable for interest on delinquent taxes authorized by general law or private act.

It generally is the duty of every hotel and motel operator liable for collecting and paying to the city any tax imposed by the city to keep and preserve for a period of three years all records that may be necessary to determine the amount of the tax owed. The authorized collector generally may inspect the records at all reasonable times. See your private act or general law authority.

Impact Fees and Adequate Facilities Taxes

Reference Number:
MTAS-542

Impact Fees

Municipalities incorporated under the general law mayor-aldermanic charter and the general law modified city manager-council charters have authority to levy impact fees. See T.C.A. § 6-2-201(15) and § 6-33-101(a). Private acts authorize some other municipalities to levy impact fees. The County Powers Relief Act of 2006 placed some restrictions on the assessing of impact fees for counties and metropolitan governments after June 30, 2006 however, these restrictions did not extend to cities.

Adequate Facilities Taxes

Several municipalities have levied adequate facilities taxes under authority of general law and/or private acts. A statute authorizing high-growth counties to levy adequate facilities taxes however, provides that it is "the exclusive authority for local governments to adopt any new or additional adequate facilities taxes on development." T.C.A. § 67-4-2913. A complication for municipalities wishing to levy adequate facilities taxes, which are privileges taxes, is that they should be aware of section T.C.A. § 67-4-503. This section prohibits a municipality from levying a privilege tax under authority of a private act if the county in which the municipality is located has previously levied a tax by private act on the same privilege. Although this statute apparently has never been used to invalidate a privilege tax, it is still on the books and could be used.

Tax Refund

Reference Number:
MTAS-543

T.C.A. § 67-1-707(b) establishes an administrative method for refunding municipal taxes collected erroneously or illegally. The claim for a refund must be made within one year of payment, or it is barred.

Sales Tax Rate on Utility Sales

Reference Number:
MTAS-1175

State law limits both state and local sales taxes on water, gas, electricity, and other energy sources used by manufacturers. Your city needs to ensure that your utility billing system reflects these different rates. If you have been overcharging your manufacturer utility customers, you may owe them a refund. **The streamlined sales tax act is scheduled to take effect on July 1, 2017. If not extended again by our legislature, these rates and exemptions will change.**

Water

Tennessee Code Annotated (T.C.A.) § 67-6-206(b)(1) provides for a lower state sales tax of 1 percent applied to sales of water used in manufacturing. T.C.A. § 67-6-702(b) also limits the local sales tax rate on such water sales to 0.33 percent whenever the local tax does not exceed 1 percent and at the rate of 0.5 percent whenever the rate of local tax exceeds 1 percent. This combined 1.5 percent maximum rate is in lieu of the combined state and local sales tax levied on residential water sales. Normal residential water sales are taxed at the 7 percent state rate plus your local rate, which could result in 9.75 percent with a maximum 2.75 percent local rate.

Energy

T.C.A. § 67-6-206(b)(1) also provides that a "tax at the rate of 1.5 percent shall be imposed with respect to gas, electricity, fuel oil, coal, and other energy fuels when sold or used by manufacturers." T.C.A. § 67-6-704 exempts all energy sales from the local sales tax. This state-only sales tax is in lieu of the combined state and local sales tax levied on other taxable sales (seven percent state rate plus your local rate).

Manufacturer Defined

T.C.A. § 67-6-206(b)(2) describes a manufacturer's principal business as fabricating or processing tangible personal property for sale.

Exemptions from Sales Tax

T.C.A. § 67-6-206(b)(3) provides for a certificate issued by the Commissioner of Revenue that completely exempts water and energy used directly in the manufacturing process from sales tax. Typically, a manufacturer has to provide evidence of a separate meter for the manufacturing process water or energy usage to obtain a certificate. The burden is on the manufacturer to apply for and obtain this certificate, and the manufacturer must provide a certified copy of the certificate to the city.

Refunds of Tax Overpayments

Any previous collections resulting in overpayment must be refunded to the taxpayer. The statute of limitations on sales tax refunds extends back three years. T.C.A. § 67-1-1802 describes the refund process. The Department of Revenue has a form (RV-F0102401) [2] that the city must complete and return with documentation showing that it has refunded the correct amount.

Links:

[1] <https://www.tn.gov/content/dam/tn/revenue/documents/taxguides/bustaxguide.pdf>

[2] <https://www.tn.gov/revenue/taxpayer-education/existing-businesses/request-a-refund.html>

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Source URL (retrieved on 01/26/2021 - 11:20am): <https://www.mtas.tennessee.edu/reference/local-taxes>

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