



Local Sales Tax Guide

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,

The University of Tennessee
Municipal Technical Advisory Service
1610 University Avenue
Knoxville, TN 37921-6741
865-974-0411 phone
865-974-0423 fax
www.mtas.tennessee.edu

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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.

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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