



Hotel/Motel Tax

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,

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

Table of Contents

Hotel/Motel Tax	3
Levying the Tax and Limitation	3
Collecting the Tax	4

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.

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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