

Taxation — Hotel-Motel Tax

Private Acts of 1979, Chapter 167

Section 1. Definitions

For the purpose of this act:

(a) Person. "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.

(b) Hotel. "Hotel" means any structure or space, or any portion thereof, which is occupied or intended or designated for occupancy by transients for dwelling, lodging or sleeping purposes, and includes any hotel, inn, tourist court, tourist cabin, motel or any place in which rooms, lodgings or accommodations are furnished to transients for a consideration.

(c) Occupancy. "Occupancy" means the use or possession, or the right to the use or possession, of any room, lodgings or accommodations in any hotel.

(d) Transient. "Transient" means any person who exercises occupancy or is entitled to occupancy for any rooms, lodgings or accommodations in a hotel for a period of less than thirty (30) continuous days.

(e) Consideration. "Consideration" means the consideration charged, whether or not received, for the 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 therefrom 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.

(f) County. "County" means Montgomery County, Tennessee.

(g) Operator. "Operator" means the person operating the hotel whether as owner, lessee or otherwise.

Section 2. Authority to Levy Tax

The county is authorized to levy a privilege tax upon the privilege of occupancy in any hotel of each transient in an amount of five percent (5%) of the consideration charged by the operator. Said tax so levied is a privilege tax upon the transient occupying said room and is to be collected as hereinafter provided.

As amended by: Private Acts of 2000, Chapter 140.

Section 3. Tax Added to Invoice

Said tax shall be added by each and every operator to each invoice prepared by the operator for the occupancy of his hotel and to be given directly or

158

Section 4. Remittance to Trustee

(a) The tax hereby levied shall be remitted by all operators who lease, rent or charge for any rooms or spaces in hotels, as heretofore defined, within the county, to the county trustee, said tax to 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 said tax from the transient at the time of the presentation of the invoice for said occupancy whether prior to occupancy by the operator to the transient, then the obligation to the county entitled to such tax shall be that of the operator.

(b) For the purpose of compensating the operator in accounting for and remitting the tax authorized by this act, said operator shall be allowed two percent (2%) of the amount of tax due and accounted for and remitted to the trustee in the form of a deduction in submitting his report and paying the amount due by him; provided the amount due was not delinquent at the time of payment.

Section 5. Rules and Regulations

The trustee or other authorized collector of the tax authorized by this act shall be responsible for the collection of said tax. A monthly tax return under oath shall be filed with the trustee by the operator with such number of copies thereof as the trustee may reasonably require for the collection of said 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 trustee and approved by the Board

of County Commissioners prior to use. The trustee shall audit each operator in the county at least once per year and shall report on the audits made on a quarterly basis to the Board of County Commissioners. The Board of County Commissioners is hereby authorized to adopt resolutions to provide reasonable rules and regulations for the implementation of the provisions of this act.

Section 6. Offer to Absorb Tax Prohibited

No operator of a hotel should 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.

Section 7. Penalties and Interest for Delinquency

Taxes collected by an operator which are not remitted to the county trustee on or before the due dates are 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 for 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 or willful refusal of a transient to pay the tax imposed is hereby declared to be unlawful and shall constitute a misdemeanor punishable upon conviction by a fine not in excess of fifty dollars (\$50.00). The fine levied herein shall be applicable to each individual transaction involving lodging services paid by a transient to the operator in those cases when the operator fails or refused to pay the tax payable to the county trustee.

159

Section 8. Records

It shall be the duty of every operator liable for the collection and payment to the county of any tax imposed by this act to keep and preserve for a period of three (3) years all records as may be necessary to determine the amount of such tax as he may have been liable for the collection of and payment to the county, which records the county trustee shall have the right to inspect at all reasonable times.

Section 9. Administration

The county trustee in administering and enforcing the provisions of this act shall have as additional powers, those powers and duties with respect to collecting taxes as provided in Title 67 of Tennessee Code Annotated or otherwise provided by law for the county clerks.

For his services in administering and enforcing the provisions of this act, the county trustee **shall** be entitled to retain as a commission one percent (1%) of the taxes so collected, or the actual cost of administration of the tax as required herein, whichever is greater.

Upon any claim of illegal assessment and collection, the taxpayer shall have the remedy provided in T.C.A. 67-3033, it being the intent of this act that the provisions of law will apply to the recovery of state taxes illegally assessed and collected under the authority of this act; provided further, the county trustee shall possess those powers and duties as provided in Section 67-2301, Tennessee Code Annotated, for the county clerks. With respect to the adjustment and settlement with taxpayers, all errors of county taxes collected by him under authority of this act and to direct the refunding of same. Notice of any tax paid under protest shall be given to the county trustee and the resolution authorizing levy of the tax shall designate a county officer against whom suit may be brought for recovery.

Section 10. Tourist Commission

For the purpose of promoting tourist and recreational activity, authorization is granted to Montgomery County to establish a Tourist Commission for the City of Clarksville and Montgomery County. The commission shall be composed of five (5) persons selected by and with the joint approval of the mayor of the City of Clarksville and the county executive of Montgomery County. One member of the commission shall be a person affiliated with the hotel-motel business and the remaining members shall be selected from a list of nine (9) persons submitted by the area Chamber of Commerce. Upon this act becoming effective, the initial term of office for such commissioners shall be staggered so that one (1) such appointee shall serve an initial term of one (1) year, two (2) such appointees shall serve an initial term of two (2) years, and two (2) such appointees shall serve an initial term of three (3) years, and, thereafter, all commissions shall be appointed for terms of three (3) years and vacancies shall be filled in the same manner that original appointments are made with the area Chamber of Commerce submitting two (2) names for each vacancy, but vacancies shall be filled for the duration of the unexpired term only. There shall be no prohibition upon a commissioner succeeding himself or herself subject, however, to being reappointed in accordance with the previous provisions of this section.

In the fiscal year beginning July 1, 2000, four (4) additional members shall be added to the Tourist Commission. The four (4) additional members shall be appointed as follows: As with the original members of the Tourist Commission, all these additional members shall be selected by and with joint approval of the County Executive of Montgomery County and the Mayor of the City of Clarksville. In order to maintain staggered terms of office, one (1) of these additional members shall initially be appointed to a term of office of one (1) year, two (2) members shall initially be appointed to a term of office of two (2) years, and one (1) member shall initially be appointed to a term of office of three (3) years. After those initial terms, these appointments shall be filled in the same

160

Section 11. Application and Allocation of Revenue

The proceeds of the tax authorized by this act shall be appropriated and distributed by the Board of County Commissioners as follows: (1) One-fourth (1/4) of the proceeds shall be placed in the general fund of the City of Clarksville, (2) One-fourth (1/4) of the proceeds shall be placed in the general fund of Montgomery County, (3) One-half (1/2) of the proceeds shall be placed in a Tourist Promotion Fund to be administered by the Clarksville-Montgomery County Tourist Commission established by this act, and shall be used for the promotion of tourism in Montgomery County. The proceeds of the tax authorized by this act shall not be used to provide a subsidy in any form to any hotel.

As amended by: Private Acts of 2000, Chapter 140.

Section 12. Severability Clause

The provisions of this act are hereby declared to be severable. If any of its sections, provisions, exceptions, or parts be held unconstitutional or void, the remainder of this act shall continue to be in full force and effect, it being the legislative intent now hereby declared that this act would have been adopted even if such unconstitutional or void matter had not been included herein.

Section 13. Local Approval

This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the Board of County Commissioners of Montgomery County not before September 1, 1979, and not later than January 1, 1980. Its approval or nonapproval shall be proclaimed by the presiding

officer of the Board of County Commissioners and shall be certified by him to the Secretary of State.

Section 14. Effective Date

This act shall be effective for the purpose of approval by the county legislative body upon becoming a law, the public welfare requiring it. For all other purposes, this act shall be effective upon being approved as provided in Section 13 of this act.

Passed: May 17, 1969.

161

Private Acts of 1980, Chapter 202 — Not Approved Locally

The following act affected collection of the Hotel-Motel Tax in Montgomery County, but it was not approved locally and did not become effective.

1. Private Acts of 1980, Chapter 202, amended Private Acts of 1979, Chapter 167, reprinted above, by exempting military personnel from the obligation to pay the privilege tax on occupancy of a hotel or motel room. The act was not approved locally and did not become effective.