

TITLE 5

MUNICIPAL FINANCE AND TAXATION

CHAPTER

1. REAL AND PERSONAL PROPERTY TAXES.
2. PRIVILEGE TAXES.
3. SALES TAX.
4. WHOLESALE BEER TAX.
5. HOTEL/MOTEL TAX.
6. PURCHASING.

CHAPTER 1

REAL AND PERSONAL PROPERTY TAXES¹

SECTION

- 5-101. When due and payable.
5-102. When delinquent--penalty and interest.

5-101. When due and payable. Taxes levied by the city against real and personal property shall become due and payable annually on the first Monday of October of the year for which levied. (1969 Code, sec. 6-101)

5-102. When delinquent--penalty and interest.² All real property taxes shall become delinquent on and after the first day of March next after they

¹State law reference

Tennessee Code Annotated, sections 67-1-701, 67-1-702 and 67-1-801, read together, permit a municipality to collect its own property taxes if its charter authorizes it to do so, or to turn over the collection of its property taxes to the county trustee. Apparently, under those same provisions, if a municipality collects its own property taxes, tax due and delinquency dates are as prescribed by the charter; if the county trustee collects them, the tax due date is the first Monday in October, and the delinquency date is the following March 1.

²State law reference

Tennessee Code Annotated, section 67-1-801(c) provides that if the county trustee collects the municipality's property taxes, a penalty of 1/2 of 1% and interest of 1% shall be added on the first day of March, following the tax due date and on the first day of each succeeding month.

become due and payable and shall thereupon be subject to a penalty of two percent (2%) on the first day of March and on the first day of each succeeding month thereafter.¹ (1969 Code, sec. 6-102, modified)

¹State law reference

A municipality has the option of collecting delinquent property taxes any one of three ways:

- (1) Under the provisions of its charter for the collection of delinquent property taxes.
- (2) Under Tennessee Code Annotated, sections 6-55-201--6-55-206.
- (3) By the county trustee under Tennessee Code Annotated, section 67-5-2005.

CHAPTER 2

PRIVILEGE TAXES

SECTION

5-201. Tax levied.

5-202. License required.

5-203. Application of funds and collection of tax.

5-201. Tax levied. Except as otherwise specifically provided in this code, there is hereby levied on all vocations, occupations, and businesses declared by the general laws of the state to be privileges taxable by municipalities, an annual privilege (hereafter known as "Business") tax in the maximum amount allowed by state laws. The taxes provided for in the state's "Business Tax Act" (Tennessee Code Annotated, title 67, chapter 58) are hereby expressly enacted, ordained, and levied on the businesses, business activities, vocations, and occupations carried on within the city at the rates and in the manner prescribed by the act.

The city recorder is authorized to charge a fee for collecting and recording business taxes as authorized by Tennessee Code Annotated, § 67-4-717, except this fee may not be charged persons paying the annual minimum tax under the provisions of this part if paid on the same date as the respective and related return is filed. (1969 Code, § 6-301, as amended by Ord. dated June 19, 1972, modified, and amended by Ord. #466, June 2005)

5-202. License required. No person shall exercise any such privilege within the city without a currently effective business license, which shall be issued by the recorder to each applicant therefor upon the applicant's payment of the appropriate business tax. (1969 Code, sec. 6-302, as amended by Ord., dated June 19, 1972, modified)

5-203. Application of funds and collection of tax. All of the revenue and funds derived from such privilege and business taxes shall be assigned to and deposited in the general fund of the city. The collector of taxes of the City of Clinton is empowered and authorized to use and invoke any and all of the various powers and procedures conferred upon such office to secure and enforce compliance with this chapter of the Clinton Municipal Code, as set forth in the "Business Tax Act" above described. (Ord. dated June 19, 1972)

CHAPTER 3

SALES TAX

SECTION

- 5-301. Sales tax levied.
- 5-302. Approval of voters required.
- 5-303. Collection of tax.
- 5-304. Suits for recovery of illegally assessed or collected tax.
- 5-305. Notice of ordinance.

5-301. Sales tax levied. As authorized by Tennessee Code Annotated, Sections 67-6-701 -- 67-6-712, as amended, there is levied a city sales and use tax at the rate of one-eleventh (1/11) of the rate levied in the Retailers' Sales Tax Act, as amended (Tennessee Code Annotated, Title 67, Chapter 6, Parts 1-6), except as limited or modified by statute, which city sales and use tax is one-half percent (1/2%) over and above the sales and use tax levied by Anderson County. (1969 Code, sec. 6-401, as replaced by Ord. Nos. 254 and 267)

5-302. Approval of voters required. If a majority of those voting in the election required by section 5 of chapter 329, Public Acts of 1963, vote for the ordinance,¹ collection of the tax levied by this ordinance shall begin on the first day of the month occurring thirty (30) or more days after the county election commission makes its official canvass of the election returns. As provided in said section 5 of chapter 329 of the Public Acts of 1963 and also as set forth in section 67-6-706 of the Tennessee Code Annotated, the Anderson County Election Commission shall hold an election thereon, providing options to vote "For" or "Against" this ordinance, within sixty (60) days after the receipt of a duly certified copy of this ordinance from the Recorder of the City of Clinton. Upon final passage of this ordinance, a duly certified copy of same shall be

¹Historical record of sales tax ordinances

The original ordinance, as adopted on July 3, 1968, was approved by the voters on August 27, 1968, by a vote of 552 to 132.

Ordinance No. 170, an amendment increasing the tax from 1/3rd to 4/9ths, was approved by the voters on August 7, 1980, by a vote of 550 to 347.

Ordinance No. 218 was approved by the voters on December 6, 1983, by a vote of 171 to 63.

Ordinance No. 254, which replaced section 6-401 in the 1969 Code, was approved by the voters on August 7, 1986, by a vote of 982 to 321.

Ordinance No. 267, which replaced section 6-401 in the 1969 Code, was approved by the voters on May 19, 1987, by a vote of 205 to 20.

immediately delivered by the recorder to the Anderson County Election Commission. (1969 Code, sec. 6-402; Ord. No. 170)

5-303. Collection of tax. It having been determined by the Department of Revenue of the State of Tennessee that it is feasible for this tax to be collected by that department, said determination being evidence by "Local Option Sales and Use Tax Rules and Regulations" heretofore promulgated by the Department of Revenue, the department shall collect such 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 said department. The mayor is hereby authorized to contract with the Department of Revenue for the collection of the tax by the department, and to provide in said contract that the department may deduct from the tax collected a reasonable amount or percentage to cover the expense of the administration and collection of said tax. (1969 Code, sec. 6-403)

5-304. Suits for recovery of illegally assessed or collected tax. 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 mayor. (1969 Code, sec. 6-404)

5-305. Notice of ordinance. A copy of this ordinance shall be transmitted to the said Department of Revenue and shall be published one time in a newspaper of general circulation in the City of Clinton, Tennessee, prior to the election called for in section 5-302 hereof. (1969 Code, sec. 6-405)

CHAPTER 4

WHOLESALE BEER TAX

SECTION

5-401. To be collected.

5-401. To be collected. The city manager is hereby directed to take appropriate action to assure payment to the city of the wholesale beer tax levied by the "Wholesale Beer Tax Act," as set out in Tennessee Code Annotated, title 57, chapter 6.¹

¹State law reference

Tennessee Code Annotated, title 57, chapter 6 provides for a tax of 17% on the sale of beer at wholesale. Every wholesaler is required to remit to each municipality the amount of the net tax on beer wholesale sales to retailers and other persons within the corporate limits of the municipality.

Municipal code reference

Alcohol and beer regulations: title 8.

CHAPTER 5

HOTEL/MOTEL TAX

SECTION

- 5-501. Definitions.
- 5-502. Levy of tax.
- 5-503. Tax added to invoice.
- 5-504. Remittance to city treasurer.
- 5-505. Method of reporting taxes.
- 5-506. Offer to absorb tax prohibited.
- 5-507. Penalties and interest for delinquency.
- 5-508. Records.
- 5-509. Administration.
- 5-510. Collection of tax.
- 5-511. Allocation of proceeds.
- 5-512. Applicability.
- 5-513. Severability.

5-501. Definitions. As used in this chapter unless the context otherwise requires the following words and phrases shall have the meanings attributed to them:

(1) "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 there from whatsoever; provided, however, 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.

(2) "Hotel" or "motel" mean any structure, or any portion of any structure, which is occupied or intended or designed for occupancy by transients for dwelling, lodging or sleeping purposes, and includes any hotel, motel, inn, tourist camp, tourist cabin, or any place in which rooms, lodgings or accommodations are furnished to transients for a consideration.

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

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

(5) "Person" means any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, receiver, trustee, syndicate, or any other group or combination acting as a unit.

(6) "Transient" means any person who exercises occupancy or is entitled to occupancy for any rooms, lodgings or accommodations in a hotel or motel for a period of less than thirty (30) continuous days. (as added by Ord. #439, Nov. 2002)

5-502. Levy of tax. The amount of the privilege tax upon the privilege of occupancy in any hotel or motel on each transient shall be three percent (3%) of the consideration charged by the operator. Such tax is a privilege tax upon the transient occupying such room and is to be collected as provided by this chapter. (as added by Ord. #439, Nov. 2002)

5-503. Tax added to invoice. Such tax shall be added by each and every operator to each invoice prepared by the operator for the occupancy of the hotel or motel and given directly or transmitted to the transient. Such tax shall be collected by such operator from the transient and remitted to the city.

When a person has maintained occupancy for thirty (30) continuous days, that person shall receive from the operator a refund or credit for the tax previously collected from or charged to him, and the operator shall receive credit for the amount of such tax if previously paid for reported to the City of Clinton. (as added by Ord. #439, Nov. 2002)

5-504. Remittance to city treasurer. (1) The tax hereby levied shall be remitted by all operators who lease, rent or charge for any rooms, lodgings, spaces or accommodations in hotels or motels within the city to the city treasurer, such tax to be remitted to such officer not later than the twentieth (20th) day of each month for the preceding month. The operator is hereby required to collect the tax from the transient at the time of the presentation of the invoice for such occupancy whether prior to occupancy or after occupancy as may be the custom of the operator, and if credit is granted by the operator to the transient, then the obligation to the city entitled to such tax shall be that of the operator.

(2) For the purposes of compensating the operator for remitting the tax levied by this act, the operator shall be allowed two percent (2%) of the amount of the tax due and remitted to the city treasurer in the form of a deduction in submitting the report and paying the amount due by such operator, provided the amount due was not delinquent at the time of payment. (as added by Ord. #439, Nov. 2002)

5-505. Method of reporting taxes. The city treasurer shall be responsible for the collection of such tax. A monthly tax return under oath shall be filed with the city treasurer by the operator with such number of copies thereof as the city treasurer may reasonably require for the collection of such 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 city treasurer and approved by the legislative body prior to use. The city treasurer shall audit each operator in the city at least once per year and shall report on the audits made on a quarterly basis to the legislative body. The legislative body is hereby authorized to adopt ordinances to provide reasonable rules and regulations for the implementation of the provisions of this chapter. (as added by Ord. #439, Nov. 2002)

5-506. Offer to absorb tax prohibited. No operator of a hotel shall 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. (as added by Ord. #439, Nov. 2002)

5-507. Penalties and interest for delinquency. Taxes collected by an operator which are not remitted to the city treasurer 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 as liable for an additional 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 herein required to be remitted. Each occurrence of willful refusal of an operator to collect or remit the tax or willful refusal of a transient to pay the tax imposed is unlawful and shall be punishable by a civil penalty not in excess of fifty dollars (\$50.00). (as added by Ord. #439, Nov. 2002)

5-508. Records. It is the duty of every operator liable for the collection and payment to the city 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 the payment to the city, which records the city treasurer shall have the right to inspect at all reasonable times. (as added by Ord. #439, Nov. 2002)

5-509. Administration. The city treasurer in administering and enforcing the provisions of this chapter shall have as additional powers, those powers and duties with respect to collecting taxes as provided in Tennessee Code Annotated, title 67, or otherwise provided by the law for the county clerks.

Upon any claim of illegal assessment and collection, the taxpayer has the remedies provided in Tennessee Code Annotated, title 67, chapter 23, it being the intent of this act that the provisions of law which apply to the recovery of state taxes illegally assessed and collected shall also apply to the tax levied under the authority of this chapter. The city treasurer shall also possess those powers and duties as provided in Tennessee Code Annotated, § 67-1-707, for the county clerks with respect to the adjustment and refunds of such tax.

With respect to the adjustment and settlement with taxpayers all errors of taxes collected by him under authority of this act shall be refunded by the

city. The city treasurer shall have the authority to direct the refunding of same. Notice of any tax paid under protest shall be given to the city treasurer and suit may be brought against the mayor, but only in his or her capacity as the chief executive officer of the city, for the recovery of any such taxes paid under protest. (as added by Ord. #439, Nov. 2002)

5-510. Collection of tax. The city treasurer is hereby charged with the duty of collection of the tax herein authorized and shall place the proceeds of such tax in an account as designated in accordance with § 5-511. (as added by Ord. #439, Nov. 2002)

5-511. Allocation of proceeds. The proceeds received by the city from the tax shall be retained by the city and deposited in the general fund to be designated and used for such purposes as specified by the legislative body. (as added by Ord. #439, Nov. 2002)

5-512. Applicability. The tax levied pursuant to the provisions of this chapter shall only apply in accordance with the provisions of Tennessee Code Annotated, §§ 67-4-1401 through 1411. (as added by Ord. #439, Nov. 2002)

5-513. Severability. The provisions of this chapter are severable. If any of its sections, provisions, exceptions, or parts are held unconstitutional or void, the remainder of the chapter shall continue to be in full force and effect, it being the declared legislative intent that this act would have been adopted even if such unconstitutional or void material had not been included herein. (as added by Ord. #439, Nov. 2002)

CHAPTER 6

PURCHASING

SECTION

5-601. Maximum amount for purchases without public advertisement and competitive bidding.

5-601. Maximum amount for purchases without public advertisement and competitive bidding. Public advertisement and competitive bidding shall be required for the purchase of all goods and services exceeding an amount of ten thousand dollars (\$10,000.00) except for those purchases specifically exempted from advertisement and bidding by the Municipal Purchasing Act of 1983. (as added by Ord. #509, Oct. 2006)