

# LOCAL SALES TAX HANDBOOK

August 2007

Dennis W. Huffer, Legal Consultant, MTAS  
and David E. Connor, Legal Consultant, CTAS

THE UNIVERSITY of TENNESSEE   
MUNICIPAL TECHNICAL ADVISORY SERVICE

*In cooperation with the Tennessee Municipal League*





# LOCAL SALES TAX HANDBOOK

August 2007

**Dennis W. Huffer, Legal Consultant, MTAS**  
**David E. Connor, Legal Consultant, CTAS**

## MTAS OFFICES

Knoxville (Headquarters).....	(865) 974-0411
Johnson City .....	(423) 854-9882
	(423) 282-0416
Nashville .....	(615) 532-6827
Jackson .....	(731) 423-3710
Martin .....	(731) 881-7057

[www.mtas.tennessee.edu](http://www.mtas.tennessee.edu)

The Municipal Technical Advisory Service (MTAS) was created in 1949 by the state legislature to enhance the quality of government in Tennessee municipalities. An agency of the University of Tennessee Institute for Public Service, MTAS works in cooperation with the Tennessee Municipal League and affiliated organizations to assist municipal officials.

By sharing information, responding to client requests, and anticipating the ever-changing municipal government environment, MTAS promotes better local government and helps cities develop and sustain effective management and leadership.

MTAS offers assistance in areas such as accounting and finance, administration and personnel, fire, public works,

law, ordinance codification, and water and wastewater management. MTAS houses a comprehensive library and publishes scores of documents annually.

MTAS provides one copy of our publications free of charge to each Tennessee municipality, county and department of state and federal government. There is a \$10 charge for additional copies of the "Local Sales Tax Handbook."

Photocopying of this publication in small quantities for educational purposes is encouraged. For permission to copy and distribute large quantities, please contact the MTAS Knoxville office at (865) 974-0411.





---

# TABLE OF CONTENTS

The Tennessee Law.....	1
Who Can Have It? .....	1
On What? .....	1
How Is It Adopted?.....	1
The Local Referendum .....	2
How Is It Collected?.....	2
Who Gets the Money? .....	2
Is It Forever? .....	3
Potential Impact of Streamlined Sales Tax Act.....	3
Estimating Your Local County and City Sales Tax Revenues .....	4
Sample Ordinance for Levying Local Sales Tax for the First Time.....	5
Sample Resolution or Ordinance for Levying an Additional Sales and Use Tax.....	6
Sample Ballot for Election on Tax Being Levied for the First Time .....	7
Sample Ballot for Election to Increase County or City Sales Tax .....	7





# LOCAL SALES TAX HANDBOOK

## 1. THE TENNESSEE LAW

**Voters have a choice in financing local government needs.**

### WHO CAN HAVE IT?

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.

### ON WHAT?

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 telecommunications 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 IT 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.

## THE LOCAL REFERENDUM

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. The county election commission will hold an election not fewer than 45 days nor more than 60 days after receiving a certified copy of the ordinance or resolution. T.C.A. § 2-3-204. 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).

## HOW IS IT COLLECTED?

Cities and counties formerly had the option of collecting the tax themselves. This authority was eliminated by the General Assembly, and the law now requires that the state Department of Revenue will collect the local 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 (1.125 percent for 1987–88 and subsequent fiscal years) 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.

## WHO GETS THE MONEY?

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:

1. 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.



2. (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.

## IS IT FOREVER?

No. However, an ordinance or resolution levying the tax is perpetual unless it establishes a specific termination date as mentioned below, 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.

## POTENTIAL IMPACT OF STREAMLINED SALES TAX ACT

In 2003, the Tennessee General Assembly passed a series of comprehensive changes to the state’s sales and use tax laws in an effort to come into compliance with a multi-state “Streamlined Sales and Use Tax Agreement.” 2003 Public Chapter 357. The agreement is part of an attempt by numerous states to see an end brought to the federal moratorium on taxation of goods sold over the Internet. The sourcing and other significant provisions of Public Chapter 357 have not yet taken effect and were delayed by the 2007 session of the General Assembly until July 1, 2009. The sourcing provisions, which require that tax revenue for delivered goods accrues to the jurisdiction where the goods are delivered rather than the jurisdiction where sold, are the provisions that would cause the most disruption in the present local sales tax scheme. Depending upon developments on the federal level, significant modifications may be made to the sales and use tax in Tennessee to simplify administration of the tax. It is premature to report on these possible changes at this time.



## 2. ESTIMATING YOUR LOCAL COUNTY AND CITY SALES TAX REVENUES

To estimate the increase in revenues for a county or city from an increase in an existing countywide local option sales tax rate, use the following chart. For cities, the amount the city received from the county's tax for the city's general fund should be inserted in column 3.

Municipalities with a city-only local option sales tax may use the same chart, inserting in the third

column the amount of local sales tax collected in the city during the previous fiscal year.

Municipalities adopting a city-only sales tax in counties with a local option sales tax, distributed according to the statutory formula, should multiply by two the amount of local sales tax received from the county during the latest full fiscal year, then use this figure in column 3.

(1) Present Rate of Tax	(2) Proposed New Rate of Tax	(3) Local Sales Tax Collected in County During Last Year	(4) X Factor	(5) Estimated Increase in Revenue from the Additional Tax
2.25%	2.75%	\$ _____	X .2222	\$ _____
2.25%	2.50%	\$ _____	X .1111	\$ _____
2.00%	2.25%	\$ _____	X .125	\$ _____
1.75%	2.25%	\$ _____	X .2857	\$ _____
1.75%	2.00%	\$ _____	X .1429	\$ _____
1.5%	2.25%	\$ _____	X .5	\$ _____
1.5%	2.00%	\$ _____	X .3333	\$ _____
1.5%	1.75%	\$ _____	X .1667	\$ _____
1%	2.25%	\$ _____	X 1.25	\$ _____
1%	2%	\$ _____	X 1.00	\$ _____
1%	1.75%	\$ _____	X .75	\$ _____
1%	1.5%	\$ _____	X .5	\$ _____



### 3. SAMPLE ORDINANCE FOR LEVYING LOCAL SALES TAX FOR THE FIRST TIME

Be it ordained by the \_\_\_\_\_ (here 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\_\_.



#### 4. 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\_\_.



## 5. SAMPLE BALLOT FOR ELECTION ON TAX BEING LEVIED FOR THE FIRST TIME

Shall an ordinance passed by the \_\_\_\_\_ (city 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 \_\_\_\_\_

## 6. 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 \_\_\_\_\_ (name of 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) \_\_\_\_\_







# THE UNIVERSITY of TENNESSEE **UT**

---

## MUNICIPAL TECHNICAL ADVISORY SERVICE

The University of Tennessee does not discriminate on the basis of race, sex, color, religion, national origin, age, disability, or veteran status in provision of educational programs and services or employment opportunities and benefits. This policy extends to both employment by and admission to the university.

The university does not discriminate on the basis of race, sex, or disability in its education programs and activities pursuant to the requirements of Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act (ADA) of 1990.

Inquiries and charges of violation concerning Title VI, Title IX, Section 504, ADA or the Age Discrimination in Employment Act (ADEA) or any of the other above referenced policies should be directed to the Office of Equity and Diversity (OED), 1840 Melrose Avenue, Knoxville, TN 37996-3560, telephone (865) 974-2498 (V/TTY available) or 974-2440. Requests for accommodation of a disability should be directed to the ADA Coordinator at the UTK Office of Human Resources, 600 Henley Street, Knoxville, TN 37996-4125.