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The Local Beer Tax: An Administrative Guide

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THE LOCAL BEER TAX: AN ADMINISTRATIVE GUIDE

Anders O. Hustvedt

Porter C. Greenwood

MUNICIPAL TECHNICAL ADVISORY SERVICE

FOREWORD

Under the terms of legislation passed by the 1951 General Assembly, cities and counties in Tennessee have been authorized to levy a tax on the retail sale of beer, effective April 1, 1951. This bulletin has been prepared as a guide for city officials in the preparation of necessary local legislation and in the establishment of essential administrative procedures.

Administrative procedures presented herein have been based on the experience of other cities levying a similar tax, including Tennessee cities which have imposed the tax under authority granted previously in special legislative enactments. Adoption of uniform tax provisions and administrative procedures may simplify enforcement problems in connection with the tax. This will permit closer cooperation between cities and their respective counties, especially if joint agreements are made to cover collection and other administrative details. However, it is recognized that some modification of these procedures may be required to meet particular local conditions.

The sample ordinances, suggested rules and regulations, and forms in this bulletin were prepared by Anders O. Hustvedt and Porter C. Greenwood, MTAS Consultants. Other MTAS staff members have contributed to the various steps required to bring this bulletin to its final published form.

Gerald W. Shaw, Executive Director
Municipal Technical Advisory Service

INTRODUCTION

A new source of revenue is now available to Tennessee cities. Legislation passed this year (Chapter 37, Public Acts of Tennessee, 1951) authorized municipalities to levy a tax on the retail sale of beer. Widespread interest in information regarding a local beer tax indicates that many cities will adopt the tax. To assist these municipalities, sample ordinances, rules and regulations, and report forms for administering the tax are presented in this bulletin.

Two sample ordinances are given. One authorizes the levy of a 10 per cent tax on the retail sale of beer. The second ordinance provides for the licensing of beer establishments. Accompanying these sample ordinances is a compilation of regulations governing the sale of beer and the operation of establishments selling beer. The last section of this publication contains a suggested report form for administering the beer tax and copies of additional forms which may be useful in enforcing the tax.

The sample ordinance levying a retail beer sales tax (pages 4 to 6) is based upon the enabling Act cited above (pages 25 and 26). The rate is established at 10 per cent of the retail sale price, the maximum allowed by the Act. Retailers are responsible for the collection of the tax from purchasers and are required to pay the amount to the city recorder at the end of each month. They are given 10 days to file a return and pay the tax. To reduce unfair price competition, prices of beer products must be posted on the premises. Certain records must be kept by the retailer and be available for inspection. Retailers must also file a bond with the city insuring prompt payment of the tax.

The sample ordinance levying the tax does not provide for joint cooperation with the county and other municipalities in the collection and administration of the beer tax. Such a procedure is permitted by Section 7 of the Act (page 26). Because local conditions vary greatly with respect to (1) precedence for joint cooperation, (2) personnel available and trained for auditing, (3) trade channels for distribution and sale of beer products, (4) location and numbers of beer distributors and retail outlets, and (5) cooperative attitudes between public officials and the local businesses affected, it appeared desirable to leave the terms of an agreement for joint cooperation to be drafted after a study of local conditions. The costs of administration under a joint agreement may be apportioned among the participating units according to (1) the tax earned in the respective unit, (2) time spent by personnel on specific assignments, (3) number of establishments in respective units, (4) population, or (5) other equitable basis. A program of joint collection and administration is particularly advantageous to the small cities. For maximum effectiveness, the local legislation and regulations of participating units should be uniform.

Municipalities with a well established licensing system governing beer establishments will find the first ordinance sufficient to begin collecting the beer tax. In fact, some cities have proceeded to adopt a tax levying ordinance immediately on passage of the enabling Act in order to start collecting the revenue as soon as the law became effective. There is no need to delay the adoption of the beer tax to modify existing licensing ordinances, except to amend provisions requiring inspection fees or substantial license fees. Under the terms of the enabling Act, additional taxes or inspection fees on the retail sale of beer are prohibited. This does not, however, preclude the levy of a modest fee to process an application for a license to operate a beer establishment.

The second sample ordinance provides for the licensing of establishments engaged in the business of selling beer at retail. Local officials in cities that have not previously licensed beer establishments will find the regulation of such businesses more difficult than other retail businesses. The major problems in the regulation and enforcement of beer licenses involve the dispensing of draft beer in taverns. The control of bottled beer in other retail outlets, such as grocery stores or hotels, is relatively simple. Local officials in cities permitting the sale of beer for the first time should give careful consideration to the problems involved in the protection of public safety, morals, and general welfare. The city's ordinances and other regulations must be strictly enforced. Frequent inspections of beer establishments, necessary to insure compliance, will require the personal services of police officers with the attendant budgetary support.

The sample ordinance licensing the manufacture and sale of beer establishes a basic procedure for regulating the operation of beer establishments. Cities already licensing the sale of beer may find a number of the provisions useful and incorporate such sections into their present code. Before a license is granted, the applicant must submit information concerning certain facts of his personal history and his place of business. He must consent to a number of conditions as a prerequisite for the license. These conditions cover the manner of operation, dispensing of beer, sale to minors, gambling on the premises, and employment of certain persons. Definite hours of sale are established. The license may be suspended or revoked for violation of the regulations.

The compilation of additional rules and regulations supplements the two ordinances. As provided in the ordinance levying the tax, these regulations may be adopted by a resolution of the governing body without the formality required of an ordinance. The purpose of the regulations is to prescribe in detail the requirements for collecting the tax and the conditions for operation of beer establishments. Adoption by resolution increases the flexibility of making changes.

The locally adopted ordinances and local conditions will determine the most effective administrative procedures to collect the tax. To assist local officials in developing an effective method, MTAS has designed a "Retail Beer Tax Report" (pages 16 to 17) based upon the provisions of the sample ordinances and regulations included in this publication. Each section of the form is described in the accompanying text.

The majority of small cities will find the record provided by the beer tax report sufficient to administer the beer tax. For this reason, no additional forms are suggested. Through the years, most cities have established a record keeping system and procedures for handling licenses. Rather than suggest changes, it is recommended that the existing beer license procedure be modified to fit the tax routine. The separate beer license ordinance was prepared with this in mind. Additional forms may be prepared as they become necessary.

A number of the forms used by the City of Chattanooga are included in this publication. These forms include an application for license (page 21), audit form for data from wholesalers (page 22), letter notice of deficiency determination (page 23), and surety bond form (page 24). The letter notice of deficiency determination and surety bond form have been modified to fit the provisions of the ordinances and the rules and regulations included in this publication.

Upon the adoption of the retail beer sales tax ordinance, the city recorder should get in touch with all affected establishments. He should remind them of the effective date of the ordinance, the rate of tax imposed, the time and place of payment, and should furnish them with copies of the report form. At this time, the beer retailers may also be furnished copies of the ordinance together with the rules and regulations governing the sale of beer.

SAMPLE ORDINANCE LEVYING A RETAIL BEER SALES TAX

An ordinance to levy a privilege tax of ten (10) per cent on the amount paid for beer sold at retail in the City of _____, Tennessee, as authorized by Chapter 37, Public Acts of Tennessee, 1951.

Be it ordained by the (governing body) of the City of _____, Tennessee, as follows:

Section 1. DEFINITIONS. As used in this ordinance, the following words and terms shall have the following meanings:

(a) "Beer" shall mean beer or any other beverage of alcoholic content of not more than five (5) per cent by weight.

(b) "Person" shall mean all domestic and foreign corporations, associations, syndicates, partnerships, clubs, societies, or individuals carrying on a business which sells or distributes beer.

(c) "Retail sale" shall mean any sale or distribution where the beer is to be consumed or finally disposed of in any manner, including sales or gifts by wholesalers or distributors except where such sale is intended for resale.

(d) "Purchase price" means the price for which beer is sold at retail.

(e) "Retailer" shall mean any person engaged in the retail sale of beer.

Section 2. LEVYING OF TAX. Every person selling beer at retail shall collect from the purchaser thereof a tax of ten (10) per cent of the purchase price and hold same in a separate fund until paid to the city on or before the tenth day of the succeeding month. Every such person on or before the tenth day of each month shall make a report in duplicate to the City Recorder, and in such form as the city may specify, showing the amount of tax collected through the last day of the preceding calendar month, together with such other facts and information as the City Recorder may require. The City Recorder may require a monthly inventory of beer on hand at the close of the period in the report. The retailer shall submit with his first report to the City Recorder an inventory of beer on hand on the effective date of this ordinance.

Section 3. PAYMENT OF TAX. Every person making a return shall pay on or before the tenth day of the month the amount of tax due for the preceding month. If payment is not made on or before this date, interest and penalty of two (2) per cent of the

amount due shall be added each month until the tax is paid.

Section 4. LIENS FOR UNPAID TAXES. A tax due and unpaid under this ordinance shall be a debt due to the City of _____ . It shall be a lien upon all of the property of the retailer, and said lien shall have priority over all other liens and obligations except those due to the State of Tennessee and the United States, and except others due the city and those due the county and with these it shall have equal dignity.

Section 5. DETERMINATION OF TAX DUE BY CITY RECORDER. If any person liable for the tax herein imposed fails to file a return, or the City Recorder has reasonable cause to believe that an erroneous statement has been filed, the City Recorder may make an investigation to determine the amount of the tax due. The City Recorder may make such investigations and take such testimony and evidence as may be necessary; provided, however, that the retailer shall be given notice and an opportunity to be heard before the City Recorder before any final determination is made.

Section 6. AVAILABILITY AND KEEPING OF RECORDS. Any person charged with the collection of the tax hereby levied shall make his books and records available to the City Recorder, or his agents, at all reasonable times. The retailer shall keep all invoices and records of sales and purchases of beer for a period of two years.

Section 7. POSTING OF PRICES. Every retailer shall post in a conspicuous place upon the premises the retail price of beer, the amount of city beer tax, and the total price to be paid by the purchaser.

Section 8. BOND REQUIRED OF RETAILER. Each retailer may be required to furnish a cash or surety bond in an amount as determined by the (governing body).

Section 9. FAILURE TO PAY BEER TAX. The City Recorder may suspend the license of any retailer who fails to make the return and pay the tax within the time herein specified.

Section 10. ADOPTION OF RULES AND REGULATIONS. The (governing body) by resolution may adopt rules and regulations not inconsistent with the terms of this ordinance for the purpose of carrying out and enforcing the payment of the tax herein levied. A copy of the rules and regulations shall be on file and available for public examination in the City Recorder's office. Failure or refusal to comply with any rules and regulations promulgated under this section shall be deemed a violation of this ordinance.

Section 11. CERTIFICATE HAS FORCE AND EFFECT OF LAW. Every report or any written information required of a person under the provisions of this ordinance shall be accompanied by a certificate

to the effect that the information is true to the best of his knowledge, information, and belief. Such certificate shall have the force and effect of an oath subscribed to before a notary public.

Section 12. VIOLATIONS AND PENALTIES. Every person who willfully violates any of the provisions of this ordinance shall be guilty of a misdemeanor, and upon conviction thereof shall be liable to a fine or penalty of not less than five dollars (\$5) nor more than fifty dollars (\$50) and in addition thereto may have his license suspended or revoked.

Section 13. SEVERABILITY. If any sentence, clause, section, or part of this ordinance should be held unconstitutional by a court of competent jurisdiction such holding shall not affect the remaining sentences, clauses, sections, or parts of this ordinance.

Section 14. EFFECTIVE DATE. This ordinance shall take effect from and after _____, 1951.

[Revised 3/12/51]

SAMPLE ORDINANCE LICENSING THE MANUFACTURE AND SALE OF BEER

An ordinance to regulate and license the manufacture, distribution, and sale of beer of alcoholic content of not more than five (5) per cent by weight or other beverage of like alcoholic content and prescribing rules governing the same and providing for the issuance of licenses and the revocation of the same and providing penalties for the violation of the provisions of this ordinance. Be it ordained by the (governing body) of the City of _____, Tennessee, as follows:

Section 1. LEGALIZING MANUFACTURE AND SALE OF BEER. It shall hereafter be lawful to transport, store, sell, distribute, possess, receive, and/or manufacture beer of alcoholic content of not more than five (5) per cent by weight or any other beverage of like alcoholic content within the corporate limits of the City of _____, subject to all the regulations, limitations, and restrictions provided by Chapter 69, Public Acts of Tennessee, 1933, and amendments thereto or other laws of the state and subject to the rules, regulations, limitations, and restrictions hereinafter provided or hereafter promulgated.

Section 2. PERMIT REQUIRED. No person, firm, corporation, syndicate, or association shall engage in the storing, selling, distributing, and/or manufacturing of beer of alcoholic content of not more than five (5) per cent by weight or other beverage of like alcoholic content within the corporate limits of the City of _____ until he shall have received a permit or license to do so from the City Recorder, which license shall at all times be subject to all of the limitations and restrictions hereinafter provided. The City Recorder shall not issue such license unless and until he is instructed to do so by the (governing body) as hereinafter provided.

Section 3. REGULATIONS. No license shall be issued to sell beer or other beverage coming within the provisions of this ordinance or in violation of any provision of the state law, or where such sale will cause congestion of traffic or interfere with schools, churches, or other places of public gathering, or otherwise interfere with public health, safety, or morals. The judgment of the (governing body) on such matters shall be final except that same is subject to review at law. No license shall be issued to sell any beverage coming within the provisions of this ordinance for consumption on the premises where the primary or principal business carried on is the sale of groceries, drugs, candies, soda fountain drinks, merchandise, or commodities, other than the serving of meals and lunches; provided, nothing in this subsection shall prevent sale

or consumption in dining rooms and lunch rooms of stores where such rooms are separate and distinct from other departments. No license shall be issued to sell any beverage coming within the provisions of this ordinance in a room or place used to carry on the business of playing at pool or billiards except in the front of such room or place which is separated from the other part of the building by a partition or wall and where there is a regularly licensed restaurant or lunch room occupying such room separated from the game room by partitions or walls.

Section 4. CONDITIONS PRECEDENT. Before any license is issued by the City Recorder the applicant therefor shall file with the (governing body) a sworn petition in writing establishing the following facts which are hereby made conditions of any permit issued thereunder and any misstatement of fact shall be sufficient cause for the revocation of such license:

(a) The applicant shall be a citizen of the United States or if a firm, syndicate, or association, the members thereof shall be citizens of the United States. The application shall designate the location of the premises where the business will be conducted and shall name the owner or owners of such premises.

(b) No person shall be employed in the storage, sale, or manufacture of such beverage except citizens of the United States.

(c) The applicant shall not engage in the sale of such beverages except at the place or places for which the (governing body) has issued a license or licenses to said applicants.

(d) No sale of such beverage shall be made except in accordance with the following conditions:

(1) If the application is for a license to sell for consumption on the premises, said applicant will make no sale except where meals or lunches are regularly served at tables or counters under regular license.

(2) If the application is for a license to sell at hotels, sales for consumption on the premises will be made only at tables and to persons in guest rooms.

(3) If the application is for a license in a club or lodge, such applicant must be a regularly incorporated club or lodge operating under a charter and bylaws in which the officers are elected by regular membership. Members of said organization must pay a substantial membership or initiation fee. The purpose of organization and existence of said club shall be for purposes other than the sale of beverages covered by this ordinance.

(4) If the application is for a license to sell not for consumption on the premises, no sale will be made for consumption on the premises. Furthermore, no consumption shall be allowed on the premises or on the sidewalks, streets, or property within two hundred (200) yards thereof. No such beverage will be kept for sale on said premises except in the original packages or containers.

(e) No sale shall be made to minors. Applicant shall not permit minors or any disorderly or disreputable person or persons previously convicted of violation of the liquor laws to loiter around or frequent his place of business.

(f) Applicant shall not allow gambling or gambling devices on his premises.

(g) Applicant shall not allow any liquors or beverages of alcoholic content greater than five (5) per cent by weight to be brought into his premises for consumption therein.

(h) Neither the applicant nor any person employed by him in the distribution, sale, or manufacture of beer shall have been convicted of any violation of the laws of the State of Tennessee against the sale, manufacture, possession, or transportation of beer or intoxicating liquors or of any crime involving moral turpitude within the past ten years.

(i) Applicant shall conduct the business in person for himself. If applicant is acting as agent, the application shall state the person, firm, corporation, syndicate, association, or joint stock company for whom the applicant intends to act.

(j) Applicant shall not distribute or sell beverages in bottles or other containers unless such containers shall bear a label or cap showing the name of the manufacturer thereof.

(k) Applicant shall not purchase beer except from manufacturers or distributors licensed to manufacture or distribute such beverage in this state. No manufacturer or distributor shall sell beer for resale except to those who have been licensed by the (governing body).

Applicant shall submit with his application satisfactory evidence that he has registered and received from the Commissioner of Finance and Taxation of the State of Tennessee a certificate showing such registration and that he has filed with said Commissioner of Finance and Taxation a bond securing the payment of the state taxes.

The (governing body) shall consider the applications filed and grant or refuse the license according to its best judgment of the facts and circumstances. The action of the (governing body) in granting or refusing a license shall be final except as same is subject to review at law.

Section 5. LICENSE REVOCABLE. Licenses issued pursuant to the authority of the (governing body) shall be revocable at the discretion of said (governing body). Whenever it shall be brought to the attention of said (governing body) that any declaration of fact contained in the application is false, or that there has been any violation thereof, or that the limitations and conditions of the license have been violated, or that the licensee permits minors to frequent or loiter around his place, or permits gambling or gambling devices of any character under the same roof in which such beverages are sold, or permits liquor or other beverages of alcoholic content greater than five (5) per cent by weight to be brought on his premises or consumed thereon, or permits any drunken, disreputable, or disorderly person or persons heretofore connected with the violation of liquor laws to make his establishment a place of visitation or resort, fails to file a report or pay any tax or license fee required, or otherwise violates the provisions or restrictions of the state law or of any ordinance said (governing body) shall revoke such license. The revocation shall become final after five (5) days notice, unless the licensee within said five (5) days demands a hearing before the (governing body). At this hearing the burden shall be upon the licensee to show that he has not violated the declarations of fact or statements contained in his application and that he has not violated the state law or the provisions of this ordinance. The action of the (governing body) in affirming or setting aside its revocation of such license shall be final except as same is subject to review at law.

Section 6. LICENSE TO HOTELS, CLUBS, AND LODGES. A license may be issued for the sale of any beverage coming within the provisions of this ordinance in hotels, clubs, or lodges, subject to all the limitations and restrictions contained in Chapter 69, Public Acts of Tennessee, 1933, and amendments thereto, and subject to the limitations and restrictions provided by this ordinance.

Section 7. PRIVILEGE TAX. Each applicant for a license to sell at retail any beverage coming within the provisions of this ordinance shall file with the City Recorder before the issuance of such license a cash bond or a bond with a surety company licensed to do business in Tennessee as surety. Said bond shall be in the amount of five hundred dollars (\$500), and conditioned that the principal will pay over and account for all privilege taxes levied under authority of the beer tax ordinance. The license shall be posted in a conspicuous place in the place of business. Wholesalers and manufacturers shall pay the same privilege tax as imposed by Chapter 113, Public Acts of Tennessee, 1933, before such license shall be issued.

Section 8. APPROVAL OF APPLICATION. Applications for license shall be filed with the City Recorder who shall make an investigation. The police department may assist in the investigation. Upon completion of said investigation, the City Recorder shall submit the application and recommendations to the (governing body)

at its next meeting. The (governing body) shall consider the application and shall endorse its action thereon. If approved, the City Recorder shall issue a license.

Section 9. HOURS OF SALE. No sale of any beverage coming within the provisions of this ordinance shall be made between the hours of 12 o'clock midnight and 7:00 A.M. on weekdays or between the hours of 12 o'clock midnight on Saturday and 7:00 A.M. on Monday.

Section 10. SUSPENSION OF LICENSE. The City Recorder may suspend a license issued under the provisions of this ordinance for violation of sections 3, 4, and 5. Upon finding a violation, the City Recorder shall serve notice to the licensee stating the violation and shall require the licensee to show cause why the license shall not be suspended. The licensee shall have 24 hours in which to request a hearing. The police department shall post a notice of the suspension on the door of the premises and take whatever steps may be necessary to carry out this provision. No beer shall be sold on the premises during the suspension.

Section 11. PENALTY FOR VIOLATION. Any violation of the provisions of this ordinance shall be deemed a misdemeanor punishable by fine of not less than five dollars (\$5) nor more than fifty dollars (\$50) for each and every offense. Each day's violation shall constitute a separate offense. In addition, the (governing body) may revoke the license.

Section 12. SEVERABILITY. Each section, paragraph, and provision of this ordinance is declared to be severable and if any such section, paragraph, or provision be declared invalid by the judgment or decree of any court of competent jurisdiction such invalidity shall not effect any of the remaining sections, paragraphs, or provisions.

Section 13. EFFECTIVE DATE. This ordinance shall take effect from and after _____, 1951.

RULES AND REGULATIONS GOVERNING THE RETAIL SALE OF BEER

Regulation Number 1

DEFINITIONS. As used in these rules and regulations, the following words and terms shall have the following meanings:

(a) The word "beer" shall mean any beverage of alcoholic content of not more than five (5) per cent by weight.

(b) The word "person" shall mean all domestic and foreign corporations, associations, syndicates, partnerships, clubs, societies, or individuals carrying on a business which sells or distributes beer.

(c) "Retail sale" shall mean any sale of beer at retail, giving of beer as a gift, exchange, barter, or in any manner disposing of same for consumption on or off the premises.

(d) "Purchase price" means the price for which beer is sold at retail. The purchase price shall be filed with the City Recorder on the form provided.

(e) "Tax" means the ten (10) per cent tax on the retail sale price of beer. In computing the tax due, no allowance shall be made for a variation below the purchase price.

(f) The singular shall include the plural and the plural the singular, and the masculine shall include the feminine and neuter genders.

Regulation Number 2

IMPOSITION AND RATE OF TAX. The rate of the tax is ten (10) per cent of the retail sale price. If beer is given away, bartered, or in any manner disposed of for use or consumption, the tax is to be paid on the price the beer would have sold for had it been sold at the purchase price. The tax shall be determined by the total quantity of beer delivered to the premises and by taking into consideration changes in inventory. Allowance will be made for actual breakage or wastage, not to exceed one (1) per cent. The tax herein imposed shall be collected also on beer delivered into the city limits from points outside the city.

Regulation Number 3

PERSONS LIABLE FOR TAX; EXTINGUISHMENT OF LIABILITY. Every person purchasing beer at retail is responsible for the tax. However, the retailer is responsible for the collection thereof, and if he fails to make such collection he becomes primarily liable therefor. The liability for the tax is extinguished only by the payment thereof.

Regulation Number 4

BOND REQUIRED OF RETAILER. Every retailer shall file with the City Recorder a cash bond or a bond with a surety company licensed in Tennessee as surety. Said bond shall be in the amount of five hundred dollars (\$500) and shall be conditioned on the retailer collecting and paying over to the City Recorder the tax due.

Regulation Number 5

ABSORPTION OF TAX BY RETAILER AND ADVERTISING. The retailer may absorb the tax. However, it shall be unlawful for the retailer to advertise this fact.

Regulation Number 6

DUE DATE OF TAXES; INTEREST AND PENALTY. The beer tax shall become due on the last day of each month, and shall be payable without penalty on or before the tenth day of the following month. If not paid within this time, the retailer shall pay interest and penalties of two (2) per cent of the tax due per month.

Regulation Number 7

TAX REPORTS. Retailers shall file with the City Recorder tax reports and pay the amount of tax due. The report is to be filed on the form furnished by the City Recorder. Copies of monthly inventories may be required.

Regulation Number 8

DEFICIENCY DETERMINATIONS. If any person fails to file a return or the City Recorder believes that an erroneous or false report has been filed, the City Recorder may proceed to determine the amount of tax due and make a deficiency assessment. Such assessment may be based upon the information found in the report or previous reports, upon information received from an examination of the books of the retailer or of wholesalers delivering beer to the premises, and upon any other information available to the City Recorder.

Regulation Number 9

RECORDS TO BE KEPT BY WHOLESALERS; INSPECTION. Each wholesaler delivering beer to retailers located within the city shall retain copies of delivery invoices so that they may be examined by the City Recorder or any person designated by him. All books, invoices, and records of deliveries that reveal the deliveries of beer to retailers shall be open at all reasonable hours for inspection by the City Recorder or any person designated by him.

Regulation Number 10

NOTICE OF DETERMINATION; RIGHT OF RETAILER TO BE HEARD. A written notice of intent to make a deficiency determination shall be given to the retailer. The retailer shall have five days to notify the City Recorder in writing of his intention to be heard on said determination. The retailer will not be heard thereafter on the matter. After determination is made, the City Recorder shall give notice of the amount of such determination, and the amount thus determined shall be paid within 10 days after such notice is mailed to the taxpayer. If payment is not made within this time, the retailer shall pay interest and penalties of two (2) per cent of the balance due per month. In addition, the City Recorder may suspend the license for failure to pay the tax promptly.

Regulation Number 11

TRANSFER OF LICENSE. Beer licenses are not transferable from one person to another or from one location to another. No licensee shall abandon, loan, rent, or lease his license. Upon the sale of a licensed establishment the licensee shall remove his beer license from the premises and deposit the same with the City Recorder.

Regulation Number 12

BEER ESTABLISHMENTS PROHIBITED. The (governing body) of the city has determined that the following establishments are not suitable for the retail sale of beer, and no beer license will be granted:

- (a) Establishments located within _____ feet of churches, schools, state institutions, and privately-operated charitable or eleemosynary institutions.
- (b) Establishments in predominantly residential districts.
- (c) Establishments not abutting on a public sidewalk or street unless there is provided room to park cars of patrons off the right of way.
- (d) Establishments which are not kept in a clean and sanitary condition.
- (e) Establishments which are not equipped with sanitary toilets for both males and females.
- (f) Pool rooms or other recreational facilities unless there is a barrier separating the recreational facility from the place where beer is sold. Beer shall not be consumed in the part of the building used for recreation.

- (g) Places that are not adequately lighted and ventilated.

Regulation Number 13

CLEANSING AND STERILIZING OF RECEPTACLES IN WHICH BEER IS SERVED. Beer shall be served only in receptacles which have been cleansed and sterilized.

(a) Receptacles shall be washed in hot water containing an effective cleansing agent and then rinsed.

(b) Sterilization may be accomplished by either of the following methods:

(1) Immersing for not less than one minute in clean water containing at least one hundred parts per million of available chlorine or in equivalent disinfecting solution.

(2) Immersing for not less than two minutes in clean hot water maintained at a temperature of at least 170 degrees Fahrenheit.

Regulation Number 14

MINORS IN BEER ESTABLISHMENTS. No person under 18 years of age shall engage in the retail sale of beer. Minors shall not be employed on the premises nor engage in the delivery of beer.

Regulation Number 15

NAMES AND ADDRESSES OF AGENTS OF BREWERS AND DISTRIBUTORS. All retailers shall furnish to the City Recorder the names and addresses of all establishments or persons from whom they purchase or receive beer for resale. Retailers shall keep records of all deliveries and sales in such form as may be required by the City Recorder.

Regulation Number 16

SALES TO INTOXICATED PERSONS AND MINORS. It shall be unlawful for any licensee to sell, furnish, or give away beer (1) to any person visibly intoxicated, (2) to any insane person, (3) to any minor, or (4) to habitual drunkards or persons of known intemperate habits.

Regulation Number 17

SUSPENSION OR REVOCATION OF LICENSE. The (governing body) of the city may suspend or revoke any license for violation of these rules and regulations.

CITY OF _____, TENNESSEE

RETAIL BEER TAX REPORT

FIRM _____
 ADDRESS _____

MONTHLY REPORT
 FOR PERIOD ENDING _____

LICENSE NO. _____
 ADDRESS OF PREMISES _____

NOTE: This report is due on the 10th day of month following the period covered. If tax is not paid on that date, penalties and interest accrue at the rate of two (2) per cent per month.

COMPUTATION OF RETAIL BEER TAX						ALTERNATE COMPUTATION
DAY OF MONTH	BEER SALES DO NOT INCLUDE TAX	TAX	DAY OF MONTH	BEER SALES DO NOT INCLUDE TAX	TAX	
1			SUB-TOTAL			DO NOT WRITE IN THIS SPACE
2			17			
3			18			
4			19			
5			20			
6			21			
7			22			
8			23			
9			24			
10			25			
11			26			
12			27			
13			28			
14			29			
15			30			
16			31			
SUB-TOTAL			TOTAL			

PENALTIES AND INTEREST _____

AMOUNT ATTACHED _____

AMOUNT REC'D _____

DATE _____ BY _____

MAKE ALL REMITTANCES PAYABLE TO THE CITY OF _____

I hereby certify that the information herein contained is true and correct, to the best of my knowledge, information, and belief.

Signature _____

Date _____

Title _____

POSTED PRICES FOR ESTABLISHMENT COVERED BY THIS REPORT

BRAND	BOTTLES (RETURNABLE)			NON-RETURNABLE BOTS.		CANS		BARRELS	
	7 oz.	12 oz.	32 oz.	12 oz.	32 oz.	12 oz.	32 oz.	QUARTER	HALF
Atlantic									
Ballantine's Ale									
Ballantine's Beer									
Barbarossa									
Big Ten									
Blatz									
Bruck's									
Budweiser									
Burger									
Carling's Red Cap									
Champagne Velvet									
Cook's									
Falls City									
Falstaff									
Gerst									
Hudepohl									
Michelob									
Millers High Life									
Pabst									
Red Top Ale									
Schlitz									
Stag									
Sterling									
76 Ale									
Twenty Grand									

Price per glass of draft beer _____ Capacity of glass _____ oz.

Please attach copies of inventory on hand at beginning and end of period covered.

The retail beer tax is levied pursuant to Ordinance No. _____, Section 2, which provides: "Every person selling beer at retail shall collect from the purchaser thereof a tax of ten (10) per cent of the purchase price and hold same in a separate fund until paid to the City on or before the tenth (10th) day of the succeeding month." Each month the retailer shall submit to the city recorder copies of the "Retail Beer Tax Report" in duplicate together with the amount of tax due. Retailers neglecting or failing to collect the tax shall be liable for the full amount which should have been collected and shall pay the tax themselves. Failure to file the report and pay the tax is cause for suspension or revocation of retailer's license.

EXPLANATION OF THE SUGGESTED RETAIL BEER TAX REPORT FORM

Form. The suggested report form (pages 16 and 17) is designed to obtain information concerning the daily beer sales, amount of tax due, and prices of beer products. Additional space is provided for the retailer to report his computation of the tax by other methods, should the figure for daily sales not be available. An extra copy of the report may serve as a tax receipt. The reverse side of the report form (page 17) is designed to obtain supplementary information.

Filing. At the top of the suggested form, the retailer is instructed to file the return and accompanying tax with the city recorder. If another official is designated in the tax ordinance to receive the report and tax, this instruction line may be changed to indicate the proper official with whom the return should be filed. In Chattanooga, for example, the report is filed with the city treasurer. The treasurer's office of that city issues a receipt for the amount of the tax paid and forwards the tax report to the beer tax inspector.

Identification. The name of the city has been left out so that local officials may insert the name of their city to properly identify their form. This name should also appear just below the space for indicating the amount of the tax as a part of the instructions to the retailer, "Make all remittances payable to the City of _____."

Name and address. Space is provided at the top of the form in the upper left-hand corner to indicate the name and address of the firm or licensee submitting the return. One return is required from each retail premises selling beer. A firm with a number of retail outlets will submit one for each outlet. An additional space is provided below the line for indicating the license number so that the address of the premises may be shown, where different from that of the licensee.

The arrangement of lines for the firm name, address, and license number permits the use of mechanical addressing equipment. Some cities will prefer to provide each licensee with a supply of the tax return forms and depend upon the individual proprietor to submit his return promptly. This is the practice in Dayton. Chattanooga, on the other hand, prepares a form for each licensee on mechanical addressing equipment. In addition to printing the name and address of each licensee on the form, the month covered by the return is stamped on each form. These forms are then sent to each licensee just before the end of the period for which taxes are due.

Preparation of report form. The question of supplying blank copies of reports or of preparing the name, address, and period covered by the reports in advance will be influenced by the number of establishments. With only two licensees, Dayton finds it

unnecessary to address the forms. Chattanooga has 350 licensees reporting to the treasurer monthly. In addition to preparing copies of the monthly beer tax reports in advance for each licensee, Chattanooga also prepares a receipt form, filling in the name, address, and period of anticipated returns. When the tax is paid, the amounts involved are indicated and the original copy of the receipt is given to the taxpayer. The treasurer's office keeps these preaddressed receipts in a special file until called for by the licensee and paid. After the tenth day of the month following the period covered, the unclaimed receipts become the file of delinquent taxpayers. In this manner, prompt enforcement measures may be started against any one of the large number of licensees who becomes delinquent in his payment of the tax. The smaller cities with only a few licensees will not require such a procedure because the outstanding reports will be known by the city recorder by checking over the receipt ledger. For this reason, the suggested report form was designed to permit the extra copy to serve as a receipt. The space near the lower right-hand corner was left for this purpose.

Computation of tax. The large space in the center of the form is used for the computation of the tax. Lines provided for each day in the month are intended to be used to report daily sales of beer and the tax accruing thereon. The daily tax accruals may then be added to obtain the amount of tax due from the licensee.

The retailer is instructed to report beer sales exclusive of the tax. Because of the manner in which records are kept by the retailer, however, the sales figure may include the beer tax paid by the consumer. In this case, the amount of tax due the city is $1/11$ of the total gross sales reported. However, if the retailer absorbs the tax himself and does not record the tax in the sales receipts, the tax due is $1/10$ of the total beer sales reported. Use of the $1/11$ ratio in place of the 10 per cent figure for retailers absorbing the tax will result in a loss of tax collected amounting to 10 per cent.

For computation of the tax by another basis, such as the quantity (number of cases and barrels) sold, the space at the right center is provided. Retailers of draft beer who do not keep separate sales records of such transactions may use this space for computing the tax due on the basis of the number of barrels or kegs consumed. The volume of beer consumed is easily translated into the number of glasses, which can be converted to the tax due. Capacities of containers may be translated by the following equivalents:

- 1 quart contains 32 ounces.
- 1 gallon contains 4 quarts or 128 ounces.
- 1 keg ($\frac{1}{2}$ barrel) contains $15\frac{1}{2}$ gallons. This is equivalent to 240 8-ounce glasses.
- 1 barrel contains 31 gallons or 480 8-ounce glasses.

Chattanooga has resolved questions involving the tax due on draft beer by accepting no less than \$2.00 in tax per keg ($\frac{1}{2}$ barrel). Whatever the basis of computation, the total sales and/or amount of tax due is entered on the lower line of the computation schedule.

Receipt. At the lower right of the computation schedule is a box provided for the use of the city recorder. This space is intended to be used as a receipt where separate receipts are not issued. The lines may be signed or stamped upon payment of the tax. The duplicate, after being checked to agree with the original, may be stamped for a receipt.

Signature. The name of the person completing the tax report, his title in the organization, and date of the return appear at the bottom of the suggested report form. The sample ordinance levying the beer tax includes a provision (Section 11, page 5) to give the report the force and effect of law. This precludes the necessity of having the report notarized.

Supplementary information. On the reverse side, space is provided for the retailer to indicate the price of the different brands of beer in the various quantities commonly stocked. The names of the leading brands of beer have been listed to facilitate completing the data. Additional lines are available to list other brands. The price of draft beer and quantity dispensed in each glass are also listed. Last, the retailer is instructed to file complete copies of his inventory along with the report form. The purpose of gathering the information on this side of the report form is to simplify verification of the report from data relating to the delivery of beer to the retailer.

Instructions. Accompanying the instructions at the bottom of the page is a brief excerpt of the ordinance levying the tax. The proper number of the ordinance levying the beer tax should be inserted in the space indicated.

ADDITIONAL FORMS

APPLICATION FOR A LICENSE TO ENGAGE IN THE BUSINESS OF SELLING
BEER AND OTHER BEVERAGES

The undersigned applies to the Board of Commissioners of the City of Chattanooga for a license to engage in the business of selling beer and other beverages of an alcoholic content of not more than three and two-tenths (3.2) per cent by weight, in the City of Chattanooga, Tennessee.

Name-----

Address-----

(If corporation, give name and address of officers, directors or trustees. If partnership, give name and address of each partner.)

How long have you been a resident of Chattanooga?-----

Place and date of Birth----- Color-----

If naturalized, where?----- When?-----

Present occupation-----

Present place of business-----

Place for which a license is desired-----

Owner of property-----

Have you been convicted of violating any of the laws of the State of Tennessee or any other State?-----

When?----- Where?-----

Do you agree to prohibit anyone from drinking intoxicating liquors in your place of business?-----

Do you agree not to permit any slot machines, punch boards, tip boards, or other gaming device, in your place of business?-----

Do you agree not to sell, or permit to be sold, beer or other beverages with alcoholic content to a person in an intoxicated, or partly intoxicated condition?-----

Do you agree to observe and comply with the rules and regulations governing the sale of beer which have been, or may hereafter be made by the Board of Commissioners?-----

(Signed)-----

By -----

The above application came before the Board of Commissioners at its meeting on the ----- day of -----, 194--, and the application was

Approved:

Chief of Police

APPROVED BY COMMISSION:

Date-----, 194--

Auditor

(Chattanooga Application for License)

City of _____

City Hall

_____, Tennessee

(date)

(Name and address of licensee)

Subject: Notice of Deficiency Determination

Dear Sir:

We have completed a routine check of your beer tax for the month(s) of _____, 19__ to _____, 19__, inclusive, from the beer distributors' sales reports to us.

This examination indicates that your tax for this period is deficient in the total amount of \$_____, including interest and penalty, itemized as follows:

<u>MONTH</u>	<u>DEFICIENCY</u>	<u>INTEREST PENALTY</u>	<u>TOTAL DUE</u>
	\$	\$	\$
	_____	_____	_____
	\$	\$	\$

We have computed your tax on the basis of information available to us. In computing the tax you owe, we have considered your reported inventory balances and the posted prices filed with us. Should you have monthly inventory figures or other valid information, unknown to us, which would have a bearing on your tax, we will be glad to consider such information if submitted in writing on or before five days from above date; otherwise this assessment shall be final.

This balance must be paid or settled on or before ten days from above date, or your license will be suspended in accordance with provisions of Section __, Ordinance No. _____.

For further information or appointment, please call me at the city recorder's office.

Sincerely yours,

City Recorder

(Suggested letter notice of deficiency determination)

BOND

KNOW ALL MEN BY THESE PRESENTS, That we _____,
of _____, Tennessee, as Principal, and _____,
_____, Surety, do hereby acknowledge our-
selves indebted and firmly bound and held, jointly and severally,
unto THE CITY OF _____, TENNESSEE, a municipal cor-
poration, in the sum of

FIVE HUNDRED DOLLARS,

(\$500.00), for the payment of which well and truly to be made in law-
ful money of the United States we do hereby bind ourselves, our heirs,
executors, administrators, successors, and assigns.

But the condition of the foregoing obligation or Bond is this: Where-
as, the Principal has been issued a license by the City of _____
to sell beer at retail under the provisions of Ordinance Number ____.

Now, Therefore, if the said Principal shall pay unto the City of _____
all privilege taxes collected by him or which should
be collected by him as required and provided for by the provisions
of Ordinance Number ____, then this obligation shall be void; otherwise,
to remain in full force and effect.

IN WITNESS WHEREOF, the said Principal and Surety have affixed their
respective signatures hereto, on this the ____ day of _____,
19__.

Principal

} _____
} _____
} _____
Surety

(Suggested Surety Bond Form)

PUBLIC CHAPTER NO. 37, (SENATE BILL NO. 303)

A BILL to be entitled: "AN ACT authorizing the counties and municipalities to levy a tax on the retail sale of beer, providing the amount of such tax, for the collection thereof, and for the promulgation of rules, regulations, and penalties, and prohibiting retail sales taxes or inspection fees except as provided in this Act, and repealing all acts in conflict with this Act."

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE, That any county or incorporated municipality in this State in the discretion of its governing body, may impose a privilege tax upon the retail sale of beer, such tax shall not exceed ten (10%) per cent of the retail sale price. The tax imposed by any county shall apply only to such retail sales in unincorporated portions of the county, and any municipal tax to retail sales within the corporate limits of the municipality. This privilege tax shall apply to sales made by wholesale dealers in case lots to be consumed by the purchaser and on all sales of beer except sales made by wholesalers to retailers of beer for resale. For the purposes of this Act, the quantity of beer sold at retail by any retailer shall be the total quantity of beer delivered by wholesalers or secured from any other source, whether sold, consumed, or finally disposed of in any other manner; provided, however, that a quantity not to exceed one (1%) per centum of said deliveries shall be allowed for breakage and wastage.

SECTION 2. BE IT FURTHER ENACTED, That the term "beer" as used in this Act shall include beer and all other beverages of like alcoholic content as defined by the provisions of Chapter No. 69, Public Acts of Tennessee for the year 1933, as amended by Chapter No. 170, Public Acts of Tennessee for the year 1935.

The term "person" as used in this Act shall include individuals, partnerships, corporations and associations.

SECTION 3. BE IT FURTHER ENACTED, That every person selling beer at retail shall collect from the purchaser thereof the tax imposed under the authority of this Act shall pay same to the county or municipality levying the tax in accordance with rules and regulations promulgated by the governing body of the county or municipality.

SECTION 4. BE IT FURTHER ENACTED, That for the purpose of enforcing this Act the governing body of the county or municipality may require by regulations that the records of beer deliveries of wholesale distributors and others delivering beer for resale to the various retail outlets within the county or municipality be open for inspection by the local tax collector or his duly authorized representative at all reasonable times. However, no wholesaler may be required to submit any written report of deliveries.

SECTION 5. BE IT FURTHER ENACTED, That the local ordinances, resolutions, rules and regulations adopted pursuant to this Act may contain provisions necessary for the prompt imposition, collection, and administering of the tax herein authorized; for the filing of periodical returns; for the assessment of the tax on the basis of available information or external indices upon failure to file any return or an incorrect or insufficient return; for the making of refunds; for the maintenance, retention and inspection of records; for the subpoena of persons and records and the administration of oaths; for the enforcement of collection by execution for sale; for notices and limitations of time; for the promulgation by the governing body administering the tax of regulations for the effective administration and enforcement of such tax; for payment of interest and penalties in the case of delinquencies; for the enforcement of any such rules, regulations, resolutions, and ordinances by appropriate proceedings; and for making violations thereof misdemeanors and prescribing the punishment of such violations by fines, forfeitures, or imprisonment or by two or more of such punishments.

SECTION 6. BE IT FURTHER ENACTED, That any acts performed under the provisions of this Act shall be reviewable for error, illegality, or unconstitutionality or any other reason whatsoever by proceeding in the Circuit Court for the county or the municipality in question. However, as a prerequisite to such Circuit Court action the tax shall be deposited and an application made for refund, or in lieu thereof a bond posted in double the amount of the tax.

SECTION 7. BE IT FURTHER ENACTED, That any county and any one or more municipalities within a county through their governing bodies may work out an agreement for the joint collection and administration of the tax herein authorized.

SECTION 8. BE IT FURTHER ENACTED, That no county or municipality may impose any tax or inspection fee on the retail sale of beer, except under the provisions of this Act; provided, however, that nothing in this Act shall prohibit a municipality or county from imposing an inspection fee where such municipality or county has not elected to levy the tax authorized by this Act. All Acts or parts of Acts, either Public or Private, in conflict with this Act be and the same hereby are repealed.

SECTION 9. BE IT FURTHER ENACTED, That if any section, provision or part of this Act shall be held unconstitutional, such unconstitutionality shall not affect the validity of the remaining sections, provisions or parts of this Act. The General Assembly hereby declares that it would have passed the remaining sections, provisions or parts of this Act if it had known that such sections, provisions or parts thereof would be declared unconstitutional.

SECTION 10. BE IT FURTHER ENACTED, That the provisions of this Act shall become effective from and after the first day of April, 1951.

Passed: February 15, 1951, Approved: February 16, 1951

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