

STATE OF TENNESSEE

OFFICE OF THE
ATTORNEY GENERAL
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February 22, 2012

Opinion No. 12-20

Confidentiality of Hotel/Motel and Gross Receipts Tax Information

QUESTIONS

1. Is hotel/motel tax information collected by Madison County and Rhea County confidential pursuant to the provisions of Tenn. Code Ann. §§ 67-1-1701 to -1712?
2. Is gross receipts tax information collected by the City of Pigeon Forge in administering that tax under a general law of local application confidential pursuant to the provisions of Tenn. Code Ann. §§ 67-1-1701 to -1712?

OPINIONS

1. Yes. In authorizing Madison County and Rhea County to levy the hotel/motel tax, the General Assembly granted their county clerks “those powers and duties with respect to collecting taxes as provided in Title 67 of Tennessee Code Annotated,” which include the confidentiality provisions of Tenn. Code Ann. §§ 67-1-1701 to -1712.
2. No. The confidentiality provisions of Tenn. Code Ann. §§ 67-1-1701 to -1712 apply only to taxes administered or collected by the Tennessee Department of Revenue, absent incorporation through some other provision of general or local law. The City of Pigeon Forge, not the Department, administers and collects its special gross receipts tax under Chapter 808 of the 1976 Public Acts, and no applicable law appears to apply Title 67 to that tax.

ANALYSIS

1. By private acts, the General Assembly authorized Madison County and Rhea County “to levy a privilege tax upon the privilege of occupancy in any hotel.” 1980 Tenn. Priv. Acts 324, § 2 (Madison County); 1992 Tenn. Priv. Acts, 148, § 2 (Rhea County). Each county administers and collects its respective hotel/motel tax. 1980 Tenn. Priv. Acts 324 (Madison County); 1992 Tenn. Priv. Acts 148 (Rhea County). Generally, the confidentiality provisions of Tenn. Code Ann. §§ 67-1-1701 to -1712 (the “Taxpayer Confidentiality Act”) apply only to taxes administered or collected by the Tennessee Department of Revenue. Tenn. Code Ann. §§ 67-1-1701(5), (7), and (8) and -1702(a). However, in authorizing the hotel/motel taxes for Madison County and Rhea County, the General Assembly granted their county clerks “those powers and duties with respect to collecting taxes as provided in Title 67 of Tennessee Code Annotated or otherwise provided by law.” As stated in a previous opinion issued by this Office,

the “powers and duties . . . provided in Title 67” include the provisions of the Taxpayer Confidentiality Act. *See* Op. Tenn. Atty. Gen. No. U94-059 (March. 24, 1994). Accordingly, the hotel/motel tax information collected by Madison County and Rhea County is confidential pursuant to the Taxpayer Confidentiality Act, as incorporated into the private acts under which these taxes are imposed in those counties.

2. By a general law of local application, the General Assembly has authorized cities operating under a city manager-commission charter and having a population of between 1,350 and 1,375 according to the 1970 census or a subsequent census to levy a gross receipts tax “upon all persons, firms, and corporations doing business within” the city. 1976 Tenn. Pub. Acts 808, § 1. Pigeon Forge comes within this classification, 1973-1974 Tennessee Blue Book 290, and has imposed the special gross receipts tax that the law authorizes. Pigeon Forge City Code §§ 5-501 to -508. Pigeon Forge itself administers and collects the gross receipts tax. 1976 Tenn. Pub. Acts 808, § 1; Pigeon Forge City Code §§ 5-504, -505, -506, and -508. Unlike the hotel/motel taxes discussed above, and Pigeon Forge’s own amusement tax and hotel/motel tax, 1979 Tenn. Priv. Acts 98, § 9, and 159, § 8; Pigeon Forge City Code §§ 5-608 and 5-709, the General Assembly did not grant Title 67 powers and duties to any Pigeon Forge city officials. 1976 Tenn. Pub. Acts 808. Moreover, this Office is unaware of any more general provision of municipal law or tax law that would subject this information to confidential treatment. Accordingly, the confidentiality provisions of the Taxpayer Confidentiality Act do not apply to gross receipts tax information collected by the City of Pigeon Forge. As a result, such information is a public record in accordance with Tenn. Code Ann. § 10-7-503(a)(2)(A), except that any credit card numbers or personal identification numbers or authorization codes contained in such records are confidential under Tenn. Code Ann. § 10-7-504(a)(19).

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Requested by:

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