



# County Technical Assistance Service

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## Local Option Sales Tax

Tennessee Code Annotated  
Tennessee Attorney General Opinions

Reference Number: CTAS-1618

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*Authority.* T.C.A., Title 67, Chapter 6, Part 7.

*Description.* Any county, by resolution of its legislative body, or any city or town by ordinance of its governing body, may levy a sales tax on the same privileges subject to the state sales tax, with certain exceptions. T.C.A. § 67-6-702. Telecommunications services and certain energy related services are exempt from the local tax or limited in the rate chargeable. T.C.A. §§ 67-6-702 and 704. No local sales tax or increase in the local sales tax is effective until it is approved in a referendum in the county or city levying it. T.C.A. § 67-6-705.

If the county has levied the tax at the maximum rate, no city in the county may levy an additional local sales tax. If a county has a sales tax of less than the maximum, a city may levy an additional tax up to the difference between the county rate and the maximum. If a city passes an ordinance to increase its sales tax rate above the county rate, the city ordinance is suspended for 40 days during which time the county legislative body may pass a resolution to increase the county tax. If such a resolution is passed, the ordinance remains suspended until a countywide referendum is held. If the referendum is successful, the city ordinance is dead. However, if the referendum is not successful, the city may proceed with a city referendum on the matter. T.C.A. § 67-6-703. If the city referendum passes, the city receives all revenues generated by the increase above the county level; the first half is not earmarked for education. However, if the county, at a later date, raises its sales tax rate up to the level of the city rate, then the distribution formula outlined below would apply to the entire local option portion of the sales tax.

A resolution or ordinance levying the sales tax may be initiated by a petition of 10 percent of the registered voters of the taxing jurisdiction. T.C.A. § 67-6-707. The tax, once levied, is perpetual unless the resolution or ordinance establishes a specific termination date or unless the tax is repealed by a manner in which it could be adopted. T.C.A. §§ 67-6-708, 67-6-709. The same exemptions generally apply to the local option sales tax as apply to the state sales tax. The local sales tax cannot exceed 2.75 percent, and applies only up to the first \$1,600 on the sale or use of any single Article of personal property. The old law provided for a \$5 or \$7.50 single item limit on the sale or use of any single Article of personal property. These limits remain effective unless and until the county legislative body removes these old limits by a resolution, whereupon the local option tax will apply to the first \$1,600 on the sale or use of any single Article of personal property. T.C.A. § 67-6-702.

*Distribution.* Revenue from local option sales tax levied by counties is distributed as follows:

1. 50 percent specifically for education, to be distributed in the same manner as the county property tax for school purposes.

2. 50 percent distributed on the basis of where the sale occurred. Taxes collected inside a municipality are distributed to that municipality, and taxes collected in unincorporated areas are distributed to the county. Counties and cities may contract with each other for distribution of the half not allocated to school purposes. T.C.A. § 67-6-712.

In 1998, the General Assembly passed Public Chapter 1101 which was a major reform of the annexation and incorporation laws having a great impact upon the way the local option sales tax is distributed among cities and counties. T.C.A. § 6-51-115. It included a "hold harmless" provision to protect county revenue sources. When a city annexes territory or a new city incorporates, revenue amounts generated in that area by local option sales taxes, which had been received by the county prior to the annexation or incorporation, continue to go to the county for 15 years after the date of the annexation or incorporation. During that time, any increase in the situs-based portion of the revenues generated in the area would be distributed to the annexing or incorporating municipality. Note that this does not affect the distribution of the first half of the local option sales tax, which would continue to go to education funding. If commercial activity in the annexed area decreases due to business closures or relocations, a city may petition the Department of Revenue to adjust the payments it makes to the county.

[Local Option Sales Tax Rates, Single Article Cap and Effective Dates](#) shows local option sales tax rates, bases, and caps, and the dates they went into effect. As of the publication of this document, the current rates are as follows: 49 counties are at 2.75 percent; 11 are at 2.50 percent; 28 counties are at 2.25 percent; 5 counties have rates of 2.00 percent; 1 is at 1.75 percent; and 1 is at 1.50 percent. Three counties have not yet adopted the maximum base of \$1,600; two remain at the level of \$7.50 and one at \$8.25.

[Countywide Local Option Sales Tax Collections FY 2016](#) shows countywide local option sales tax collections for fiscal year 2015 as reported by the Tennessee Department of Revenue in its *June 2015 Monthly Collections Report*. The collections figures can enable a simple calculation of potential additional local sales tax revenue that might be generated by increasing the existing rate if it is not currently at the maximum. For example, if the current rate is 2.25 percent, divide 2.75 percent by 2.25 percent. The result is 1.22, a factor that can be applied to current collections. If collections in the county with the 2.25 percent rate are \$2.0 million, then multiply 1.22 by \$2.0 million. The estimated collections at the new rate are therefore approximately \$2.44 million, or an additional \$440,000. Caution should be used in making budgetary plans based on collections information. Data should be the most current and any foreseeable adverse economic event should be considered.

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