

FINANCING A METROPOLITAN GOVERNMENT IN TENNESSEE

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I. OVERVIEW

One of the most important aspects of exploring a city/county consolidation under the Tennessee Metropolitan Government Charter is the potential financial impact of a consolidation. Questions which typically arise when considering a city/county consolidation include:

- Will more or less revenue be collected?
- How will services provided by the existing city or cities, and the county, be continued and financed?
- Will the types of revenue collected change in any way?

While in many instances, the answers to these questions will depend upon the unique circumstances in each county, the purpose of this section is to describe, in as much detail as is possible under the general state law, the financial situation which would exist in a consolidated city/county under the Tennessee Metropolitan Government Charter (TCA Title 7, Chapters 1 through 7).

At the outset, it can be stated as a general rule that revenues under a Metropolitan Government are the same as the total of the revenues of the predecessor city (or cities) and county combined. The legislative intent when the Metropolitan Government sections were drafted was to leave the basic functions and structure of existing city and county governmental forms unchanged below the elected official level, and to leave those decisions which might alter those structures, including revenue collection and financial matters, to the citizens of the consolidated government in the process of drafting their new charter. This intent is clearly stated in many sections of the Metropolitan Government law, and is frequently re-stated in other sections of the Tennessee Code Annotated (hereafter referred to as "TCA") which deal with revenue collection and apportionment among cities and counties. Specifically, TCA 7-3-201 empowers a Metropolitan Government to levy and collect within its General Services District any tax which a county is empowered to levy; and the same authority to levy and collect municipal taxes is granted to the Metropolitan Government in its Urban Services District.

II. URBAN AND GENERAL SERVICES DISTRICTS

For a complete understanding of the revenue and finances of a Metropolitan Government under Tennessee law, it is necessary to discuss the "General" and "Urban" Services Districts which are required in a consolidated government under TCA Chapter 7. The General Services District consists of the total area of the former county, including municipalities which are consolidated, as well as those smaller cities which may choose to remain as independent governmental units. The Urban Services District consists of the principal city in the county, together with the area of such other cities in the county which may be included in the consolidated government. The Urban Services District does not include any smaller cities which choose to remain independent (e.g., Belle Meade, Berry Hill, etc. in Davidson County).

The Metropolitan Council is empowered to determine which services are to be provided to all residents (i.e., the General Services District), and to further decide which "urban" services are to be provided to residents of what was formerly the principal city of the county, together with any other smaller cities which may be consolidated (the Urban Services District). Typically, "urban" services would include additional police and fire services, and possibly a higher level of refuse collection, recreation, or other services. The Urban Service District's budget for those additional services must then be financed by a mandatory additional property tax, along with such other revenues as the Metropolitan Council may allocate. The property tax and those additional other revenues are levied and collected as "city" taxes are in other municipalities. However, this does not preclude the Metropolitan Council from levying and/or collecting "city" revenues and applying those revenues to the General Services budget. For example, Metro Nashville/Davidson collects all wholesale taxes on beer authorized for both cities and counties and budgets them in the General Services budget, since the beer regulations and licensing requirements are consolidated and uniform county-wide. The same is true for streets and roads revenues and operations: in Metro Nashville/Davidson, this is a county-wide function which provides services for both the "city" and "county" portions.

III. DETAILED REVENUE DISCUSSION

Following is a detailed discussion of revenue sources and their collection under a Metropolitan Government form. Any particular restrictions or variations from the usual method of collecting the revenue in a city and/or county are noted. Where it is illustrative to do so, the collection and disposition of the revenue in Metro Nashville/Davidson is mentioned.

A. PROPERTY TAXES

Property taxes under a consolidated government are assessed and collected as they are in cities and counties. As mentioned above, there is a mandatory Urban Services District property tax levy which is to finance the higher service level in the urban portion of the city/county. It is not clear from TCA whether or not this additional tax needs to raise a substantial portion of the Urban Services District's revenues: a tax rate of \$0.00 is at least a theoretical possibility, although this has never been tested by Nashville/Davidson.

The General Services District property tax rate also includes schools, since under TCA, all schools in the consolidated government's area also must be consolidated and a metropolitan board of education established.

In addition to the General and Urban Services Districts tax rates, ad valorem tax rates can be established to finance the operations of "Special Service Districts," which are districts established outside of the Urban Service District to provide one or more of the services provided in the Urban Services District. Special Service Districts can be established in a consolidated city/county only if explicitly authorized by the Metropolitan Government's charter (see TCA 7-2-108(c)).

B. LOCAL OPTION GENERAL SALES TAXES

The local option sales tax is imposed in Metropolitan Charter counties using the same method as in other cities and counties. The Urban Services District is analogous to a municipality, and the General Services District functions as a county in the procedures described in TCA 67-6-701 through 712. The local sales tax can be used as a revenue source for the Urban Services District if the residents of the district vote to impose a "city-only" sales tax rate, which could be superseded by a "county-wide" rate imposed by voters of the entire General Services District. As a practical matter, the tax rate in a Metropolitan Government would almost always be a county-wide rate, since the issues of competing for revenue between city and county which arise in sales taxation in the balance of the state would disappear with a unified government. The sales tax in Metro Nashville/Davidson is the same in both the Urban and General Services Districts, and is a General Services District revenue.

C. ALCOHOLIC BEVERAGE TAXES

The revenue-raising authority of a consolidated government in the area of alcoholic beverages is unchanged from that of other municipalities and counties. There are five forms of alcoholic beverage revenue available to all local governments in Tennessee, including consolidated governments:

(1) ALCOHOLIC BEVERAGES PRIVILEGE TAX

This is an annual "premises license" [TCA 57-4-301(b)] collected by the state, and which may also be collected at the same rates by local governments. The fee is based on the type of business (hotel, club, restaurant, etc.) and seating capacity of the business which will be serving mixed drinks. In Metro Nashville/Davidson, this is a General Services District revenue.

(2) ALCOHOLIC BEVERAGES GROSS RECEIPTS TAX

This is a 15% tax on the sales price of mixed drinks [TCA 57-4-301(c)], collected by the state, of which 50% is rebated to the local jurisdiction. The distribution of the 50% is mandated by state law (TCA 57-4-306) such that the point-of-sale city or county receives the revenue. The law explicitly defines the Urban Services District of a Metropolitan Government as a "municipality" and the General Services District as a "county," [TCA 57-4-301(b)(2)] so this revenue is allocated to both districts in Metro Nashville/Davidson.

(3) ALCOHOLIC BEVERAGES MUNICIPAL INSPECTION FEE

All municipalities in the state which permit package sales of liquor may impose an "inspection fee" of either 8% (county population less than 60,000) or 5% (county larger than 60,000) of the wholesale price, levied on retailers (TCA 57-3-501). The wholesalers actually collect the tax from retailers and remit the proceeds to the

municipality. A special provision in the law allows Metropolitan Governments to collect this tax on sales in the smaller independent cities within its county until the smaller cities opt to collect the tax for their own use. In Metro Nashville/Davidson, this is a General Services District revenue.

(4) WHOLESALE BEER TAX

TCA 57-6-101 authorizes the collection of a 17% tax on beer at the wholesale level. This is an "either/or" tax: it is either collected by the city or the county, depending on the location of the business. In Metro Nashville/Davidson, it is a General Services District revenue.

(5) BEER LICENSES

Any person or company selling beer in Tennessee is required by TCA 57-5-104 to obtain a license from either the city or the county. Without going into the numerous complexities of this regulatory authority, TCA 57-5-108 grants all municipalities and Metropolitan Governments, which are defined for the purposes of this law as "Class B counties," much more latitude than counties in the licensing and regulation of beer sales. Beer permits are not a very significant revenue source, since they are limited to a one-time fee of \$100.

D. STATE-SHARED TAXES

State-shared taxes are an important source of revenue to local governments in Tennessee, and consolidated governments are no exception. With almost no exceptions, the formulas for sharing taxes with separate cities and counties are applied equally to consolidated governments.

(1) SALES TAX

Municipalities in Tennessee share in the proceeds from the statewide sales tax, based upon population (TCA 67-6-103). 4.5925% of the proceeds of the 5.5% sales tax are earmarked for municipalities. Metropolitan Governments share in this distribution based upon the population of the Urban Services District. In Metro Nashville/Davidson, state-shared sales tax is a General Services District revenue.

(2) BANK EXCISE TAX

The state collects a 6% tax on adjusted net earnings of banks and similar financial institutions (TCA 67-4-801). Roughly half of this amount is paid to the city and county where the institution's principal office is located, and the allocation between cities and counties is determined by their respective property tax rates. As applied to Metropolitan Government, the allocation is made based upon

the General Services and Urban Services property tax rates. In Metro Nashville/Davidson, shared excise tax is both a General Services District and Urban Services District revenue.

(3) INCOME TAX

The "income tax" in Tennessee presently is a tax on dividends and interest from stocks and bonds. The rate is 6% for instruments of non-Tennessee corporations, and 4% for Tennessee corporations. Cities and counties in the state receive 3/8's of the proceeds, based on the residence of the taxpayer. This is a General Services District revenue in Metro Nashville/Davidson.

(4) ALCOHOLIC BEVERAGE TAX

Tennessee counties share in the state liquor and wine tax, imposed by TCA 57-3-301. The tax is \$4.00 per gallon for distilled spirits and \$1.10 per gallon for wine, plus various fixed amounts for annual retailers', wholesalers' and other licenses. Counties, and the General Services Districts of Metropolitan Governments, receive 17.5% of the revenue, 75% based on county population and 25% based on county area.

(5) BEER BARRELAGE TAX

TCA 57-5-201 imposes a tax of \$3.90 per 31-gallon barrel of beer sold in the state. Of the amount collected, 10.05% is distributed to municipalities based upon population, and 10.05% is distributed equally to counties (1/95 to each county). The General Services District of a Metropolitan Government receives the county share, and the Urban Services District receives the city share. In Metro Nashville/Davidson, shared beer tax is a General Services District revenue.

E. GASOLINE & MOTOR FUEL TAXES

The requirement that state-shared gasoline and motor fuel taxes must be expended on legitimate streets and highways operations applies to a Metropolitan Government on the same basis as to other local governments. The major advantage to combining the gasoline and motor fuel taxes of both the "city" and the "county" area, as Metro Nashville/Davidson does, is that it provides the opportunity to better allocate the relatively scarce resources available for transportation purposes. The artificial distinctions between the roads of the two jurisdictions are eliminated, which can make transportation decision-making simpler and more effective.

(1) STATE GASOLINE AND MOTOR FUEL TAXES

Gasoline and motor fuel (diesel fuel) taxes are imposed at the rate of \$0.16 per gallon on gasoline, \$0.12 per gallon on gasohol, \$0.13 per gallon on compressed natural gas, and \$0.15 per gallon on diesel fuel (TCA 67-3-604 and 67-3-803).

Of these amounts, 28.6% of gasoline and gasohol taxes, and 24.75% of diesel and CNG taxes are distributed to counties and the General Services District of a Metropolitan Government. Gasoline and gasohol taxes are distributed to counties 50% divided evenly between all 95 counties, and 50% based on population. Diesel and CNG taxes are distributed to counties 50% based on area and 50% based on population.

Cities and the Urban Services District of a Metropolitan Government receive 14.3% of gasoline and gasohol taxes and 12.38% of diesel and CNG taxes, distributed by population (TCA 54-4-103, 54-4-203, 67-3-617 and 67-3-812).

(2) SPECIAL TAX ON PETROLEUM PRODUCTS

In addition to the taxes noted above, there is an additional \$0.01 per gallon tax imposed on all petroleum products. Of this amount, approximately \$12,000,000 is set aside for distribution to local governments, 38% to counties and General Services Districts of Metropolitan Governments, and 62% to cities and Urban Services Districts, both based on population.

F. OTHER REVENUES

(1) BUSINESS TAXES

The state Business Tax Act (TCA 67-4-701 et. seq.) allows local governments to impose an annual tax of from .025% to .1% on the gross receipts of most wholesale and retail businesses, with the minimum tax set at \$15.00. This tax can be imposed by both the city and the county, and is imposed by both in some counties. Theoretically, both the General and Urban Services District could impose the business tax, but such a situation is unlikely, since both business licenses would be issued by the same unit of local government. In Metro Nashville/Davidson, the business tax is imposed only county-wide (General Services District), but the revenues are split between the General and Urban Services Districts' budgets.

(2) HOTEL AND ROOM OCCUPANCY TAXES

In many counties and cities in the state, Room Occupancy taxes ranging from 1% to 5% have been imposed by Private Act of the Legislature on transient occupancy of hotel and motel rooms in the city or county. For Metropolitan Governments, there is a specific section of the state law (TCA 7-4-101 through 112) which authorizes such a tax at the rate of 3%. The revenue from this tax must be distributed 1/3 to tourism promotion, 1/3 to tourist related activities, and 1/3 to the General Fund. In Metro Nashville/Davidson, the "Tourist Accommodation Tax" is a revenue of the General Services District.

(3) TVA GROSS RECEIPTS TAXES

Under both federal and state law, (16 USCS 831i; TCA 67-9-101 through 103) the Tennessee Valley Authority makes an annual in lieu of tax payment to the State of Tennessee equal to 5% of gross power sales proceeds in the state for the preceding year. Since FY 1978, 48.5% of the increase in these payments over the FY 1978 level has been distributed to cities and counties in the state. 30% of that amount is distributed to counties based on population, 30% is distributed to counties based on the county's physical size in acres, 10% is distributed to counties based on the amount of TVA-owned land in the county, and 30% is distributed to cities based on population. In Metropolitan Governments, the distributions are to General Services Districts ("counties") and Urban Services Districts ("cities"). In Metro Nashville/Davidson, TVA Gross Receipts revenue is a General Services District revenue.

(4) MOTOR VEHICLE LICENSES

Under TCA 5-8-102, counties have the option to levy a privilege tax on motor vehicles, or a "wheel tax," as it is often referred to. There is no set amount or limit to the tax, and it must be imposed by a 2/3's vote of the county legislative body. Cities may also impose fees which are similar, but which may not be termed "wheel tax" or "automobile license" (TCA 6-55-501 and 502; 7-51-702). While in a Metropolitan Government both a "city" and a "county" tax could legally be imposed, a unified tax would be the most likely form. Metro Nashville/Davidson has such a tax, termed a "motor vehicle regulatory license," and it is a General Services District revenue.

(6) COURT FINES AND COSTS

Courts which exist in a Metropolitan Government must include the chancery, circuit, criminal, general sessions and juvenile courts previously established for the predecessor county. Municipal courts of the consolidated cities may be provided for separately, or combined with general sessions courts. Such courts, whether termed "metro", "general sessions" or otherwise, have the same basic powers to levy court fines and costs as other general sessions and municipal courts in the state (TCA 7-3-311).

(7) FEDERAL FUNDS

A unique situation can sometimes occur when a consolidated government is seeking federal funds: if the particular federal program makes no distinction between the Urban and General Services Districts under Tennessee Metropolitan Government law, and the program is targeted to cities, a Metropolitan Government could have a comparative advantage in competing with other cities by claiming the entire population as a "city" population. While this is a theoretical advantage at best, especially given the current trends in federal funding for local governments, it is a possible advantage to consolidated governments. Metro Nashville/Davidson's consolidated Housing Authority is an example of where this might be an advantage in competing for federal funds.

IV. SUMMARY

The finances of a Metropolitan Government under Tennessee law are not as complex as one might imagine upon first examination. Revenues are essentially unchanged in most respects from those received by the predecessor city (or cities) and county. Two slight advantages in actual receipts may be possible:

(1) Competition for federal funds might be enhanced because of the larger population base; and,

(2) The larger pool of available revenue could increase the yield from investment of idle fund balances.

More important than these possible small increases in collections is the enormous advantage that the governing board of a Metropolitan Government has in deciding, without artificial boundary and jurisdictional restrictions, as to how and where the available funds can and should be expended for the benefit of its citizens. As in the functioning of Metropolitan Government in general, finances benefit from this improved accountability and simplified decision-making process.