

COUNTY AND MUNICIPAL GOVERNMENTS

ACCOMMODATIONS

TAX

GUIDELINES

**TOURISM EXPENDITURE REVIEW COMMITTEE
P.O. BOX 125
COLUMBIA, SOUTH CAROLINA 29214-0120**

COUNTY AND MUNICIPAL GOVERNMENT GUIDELINES

ACCOMMODATIONS TAX

I. BEGINNING OF THE STATE'S FISCAL YEAR:

A. PROCEDURES:

*Establish record-keeping system for obtaining and recording information during the year for use in compiling end-of-the-year report. Section 6-4-25(D).

*Establish special funds for allocation of accommodations tax revenues designated for "Advertising and Promotion", and for "Tourism-Related Expenditures." Section 6-4-10(3) and (4).

*Review the complete Allocation of Accommodations Tax Revenues Act, Chapter 4, Title 6, which was amended in 2002.

B. ADVISORY COMMITTEES:

Special Note: House Bill 3851, which passed during the 2002 legislative session, amends Section 6-5-25(A), so as to require appointment of advisory committees by a municipality or county **receiving** more than fifty thousand dollars, instead of twenty-five thousand dollars as previously required. Local governments already having advisory committees in place may continue with these committees, if so desired. Section 6-5-25(A).

*Ensure that your seven-member Accommodations Tax Advisory Committee's makeup conforms to the Act's requirements. See amended Section 6-4-25(A), and 6-4-5(2) and (3).

*Adopt guidelines in cooperation with your advisory committee. Section 6-4-25(B).

*Return Advisory Committee Membership Form October 15. Section 6-4-25(D)(4).

C. ORGANIZATION(S) DESIGNATED TO SPEND ADVERTISING AND PROMOTION FUND:

*Designate one or more qualified organizations with an existing, ongoing tourist promotion program to manage and direct the expenditure of the 30% Advertising and Promotion Fund. However, keep in mind that this is an advertising and promotion fund, and must be used for advertising and promotion of tourism to

develop and increase tourist attendance through the generation of publicity. Section 6-4-10(3).

*Receive from the organization(s) a budget of planned expenditures for advertising and promotion and take action to approve or disapprove such budget. Section 6-4-10(3).

II. DURING THE STATE'S FISCAL YEAR:

A. ALLOCATION AND SPENDING OF ACCOMMODATIONS TAX FUNDS:

*The funds received by a municipality or county must be allocated as follows:

1. The first \$25,000 to the General Fund,
2. The **balance** remaining, after deduction of the \$25,000, must be allocated as follows:
 - a. 5% of balance to General Fund,
 - b. 30% of balance to special fund for advertising and promotion of tourism, and
 - c. 65% of balance, plus interest, to special fund for tourism-related expenditures

Section 6-4-10(1), (2), (3) and (4).

*Immediately upon quarterly allocation of accommodations tax revenue to the special funds, distribute the 30% Advertising and Promotion Fund to the organization(s) designated to receive them. Section 6-4-10(3).

*Each quarter, allocate the remaining balance, 65%, plus earned interest, to the special fund to use for tourism-related expenditures. Section 6-4-10(4).

*Disburse payments for tourism-related services or products purchased by the county or municipality, or to the organizations or agencies approved for tourism-related expenditures. Section 6-4-10(4).

*When tourism-related expenditures are used for infrastructure/service items described in Section 6-4-10(4)(b)4, or for salaries, determine the estimated percentage of costs directly attributed to tourists that can be paid for with accommodations tax funds. Section 6-4-10(4)(b)4.

*If some of the special fund revenue for tourism-related expenditures needs to be carried forward beyond the two year spending limit, request approval from the Tourism Expenditure Review Committee, and list the reasons to carry such funds forward. Requests for extensions must include provisions that funds be committed for a specific project or program. Section 6-4-10(4)(c).

B. RECORDS ON ADVISORY COMMITTEE RECOMMENDATIONS AND COUNTY/MUNICIPAL ACTIONS:

*Receive at least one written report annually, with recommendations, from your Accommodations Tax Advisory Committee for expenditures from the special

fund for tourism-related expenditures. The committee report should include information on **ALL** organizations applying for funds, not just those recommended for funding. Section 6-4-25(C).

*Ensure that any entity receiving funds from the special fund for tourism-related expenditures has made application to, and been reviewed by, the Accommodations Tax Advisory Committee. Section 6-4-25(B).

*Record all recommendations received from your Accommodations Tax Advisory Committee, and all actions taken by your county or municipality on approval of expenditures for tourism-related purposes. Section 6-4-10(4) and 6-4-25(D).

C. COUNTIES AND MUNICIPALITIES NOT REQUIRED TO FORM AN ADVISORY COMMITTEE, BUT ARE STILL REQUIRED TO DISBURSE FUNDS AND FILE REPORTS WITH THE TOURISM EXPENDITURE REVIEW COMMITTEE:

*Local governments **receiving fifty thousand dollars or less** in accommodations tax revenues in county areas **collecting more than fifty thousand dollars** do not have to form an advisory committee, however, may form a committee if so desired. This simply means that you do not have to form an advisory committee unless you **receive more than fifty thousand dollars** in accommodations taxes. This does not mean that you do not have to file, as you must still continue to annually submit reports to the Tourism Expenditure Review Committee as outlined in the statute. Section 6-4-25(A) amended, and 6-4-25(D).

*Local governments must still accept applications and review these applications before sending recommendations on to council for final approval, even though the local government may not have to form an advisory committee.

III. END OF THE STATE'S FISCAL YEAR:

A. FINAL PAYMENT:

*Receive fourth quarter payment, with supplemental adjustments for end-of-the- year, when applicable, from State Treasurer. This should be prior to August 1. Section 6-4-20.

B. END-OF-THE-YEAR REPORTS:

*Obtain from organization(s) designated to spend the 30% Advertising and Promotion Fund, an accounting of how such funds were spent. Section 6-4-10(3).

*Receive packet of forms and guidelines from the Tourism Expenditure Review Committee around August.

*By October 1, 2010 submit the end-of-the-year reports to

the Tourism Expenditure Review Committee. The reports shall include:

1. end-of-the-year report detailing advisory committee's accommodations tax recommendations. If you are not required to have a committee, then local government's recommendations are to be reported;
2. municipality's or county's action following the recommendations;
3. explanation of how funds from the accommodations tax are spent, except for the first twenty-five thousand dollars and five percent of the balance in Section 6-4-10(2) allocated to the General Fund. The list of explanations is due before October first and must include funds received and disbursed during the previous fiscal year;
4. list of advisory committee members noting the chairperson, business address, if applicable, and representation of the hospitality industry, including the lodging industry and cultural interests. Section 6-4-25(D)(1), (2), (3) and (4).

*Regional tourism agencies shall submit reports on their budgets and annual expenditure of accommodations tax funds to the Tourism Expenditure Review Committee. Section 6-4-25(E).

IV. TOURISM EXPENDITURE REVIEW COMMITTEE:

A. POWERS AND DUTIES:

*The Tourism Expenditure Review Committee was established in July 2001, by Act No. 74 of 2001. The committee consists of 11 members, appointed for various terms. This committee serves as the oversight authority on all questionable tourism-related expenditures, and has statutory authority to impose fines and withhold funds. Section 6-4-35.

B. WITHHOLDING OF FUNDS FOR EXPENDITURES FOUND TO BE IN NON-COMPLIANCE:

*Municipalities and counties must be notified if an expenditure is questioned, and the committee may consider any further supporting information that the county or municipality may provide. If the committee finds an expenditure to be in non-compliance, it shall certify the non-compliance to the State Treasurer, who shall withhold the amount of the expenditure found to be in non-compliance from future distributions. Local governments may appeal to the committee in writing within 30 days of the date of the letter of withholding. An appeal from an action of the committee lies with the Administrative Law Judge Division. Section 6-4-35(B)(1)(a).

*The Tourism Expenditure Review Committee has withholding authority over the 30% Advertising and Promotion Fund, as well as the 65% Tourism-Related Expenditure Fund. Section 6-4-35(B)(1)(a).

C. PENALTY (FINE) IMPOSED FOR NON-FILING OF REPORTS:

*If the committee determines that a municipality or county has failed to file the reports required to be filed pursuant to Section 6-4-25(D)(3), it may impose a fee of five hundred dollars a month, or part of a month, for each month the report is not filed, but no more than five thousand dollars. This penalty shall be certified to the State Treasurer, who shall withhold the amount of the penalty from future distributions. Local governments may appeal to the committee in writing within 30 days of the date of the letter of withholding. An appeal from an action of the committee lies with the Administrative Law Judge Division. Section 6-4-35(B)(1)(b).

V. ADDITIONAL GUIDELINE INFORMATION:

A. GUIDELINES TO FOLLOW FOR TOURISM:

*“Travel” and “Tourism” mean the action and activities of people taking trips outside their home communities for any purpose, except daily commuting to and from work. *According to the S.C. PRT, the Travel Institute of America and other agencies, travel distance is generally defined as 50 miles. **However, the Tourism Expenditure Review Committee considers any event that brings in tourists to a region and boosts the local economy.***

*Accommodations tax funds must be used to attract and provide for tourists, and must be spent on tourism-related expenditures. If expenditure cannot be directly related to tourism, then accommodations tax revenue may not be used to fund the expenditure. *In order to make this determination, the Tourism Expenditure Review Committee requests that entities provide an overall budget, percentage of tourists generated, a description of the event/project and total attendance to the event/project. This can be done by following the example posted on TERC’s website. (If this information is available. Some entities do not track this data, and although not a requirement, the Committee asks that this information be provided in order to gain a better understanding of the expenditures).*

*Certain tourism-related expenditures must be awarded on a “percentage of tourism” basis. Local governments must be able to substantiate how much of the total expenditure is related to tourism, and must be able to provide the “percentage of tourism” to the total budget of the project.

*Organizations applying for funding should submit on their applications any other accommodations tax funds they have requested or received from other municipalities or counties for the year.

*Any and all organizations applying for accommodations tax funding must have an application on file for each request, each year. Any and all organizations applying for funding must be listed on the Accommodations Tax Reporting Form submitted annually to the Tourism Expenditure Review Committee, regardless of whether or not they were awarded any funds.

*Salaries may be paid from the 65% Tourism-Related Fund, as well as from the 30% Advertising and Promotion Fund. However, salaries may only be paid based

on the percentage of time spent on tourism-related functions.

*Accommodations tax tourism funds may not be spent on purely local functions.

*In most cases, beauty pageants should not be funded out of accommodations tax funds. Pageants serve more of a personal benefit to the contestants and, in most cases, do not attract and provide for tourism. They should not be funded from accommodations taxes unless the county or municipality can prove that it is a tourism-related event, or the funds may be used for advertising and promotion.

***Fireworks expenditures may only be funded to the extent that they attract and provide for tourism and are a tourism-related expenditure according to Section 6-4-10 of the S.C. Code of Laws. This would include expenditures to advertise an event to tourists or an event that has ties to civic or cultural activities (such as a July 4th, New Years Eve) fireworks display.**

***Welcome signs are not acceptable accommodations tax expenditures, and should not be funded from accommodations taxes. However, welcome signs when part of an overall tourism promotion and displayed in an effort to attract tourists may be funded. Example of appropriate expenditures would be billboards displayed in an “out of market” advertising area that states “come stay in xyz...” which would state the tourist destination.**

***TERC may approve the installation, maintenance and operation of lighting and landscaping where the committee believes it promotes travel and tourism.**

B. 30% ADVERTISING AND PROMOTION FUND:

*The 30% Advertising and Promotion Fund revenue must be given to an organization or organizations that have an existing, on-going tourism promotion program, and must be used for **advertising and promotion** of tourism to develop and increase tourist attendance through the generation of publicity.

*The 30% fund revenue must be distributed immediately upon receipt to the organization or organizations so designated.

C. 65% TOURISM-RELATED FUND:

*The 65% Tourism-Related Fund revenue must be used for tourism-related expenditures. This revenue provides for a two-year carry-forward. If 65% tourism-related revenue is not spent within two years of receipt, it must be committed for a specific project or program, and must have the approval of the Tourism Expenditure Review Committee.

D. ADVISORY COMMITTEES:

*A municipality or county **receiving** more than fifty thousand dollars in revenue from the accommodations tax in county areas **collecting** more than fifty thousand dollars shall appoint a seven member advisory committee to make

recommendations on the expenditure of revenue generated from the accommodations tax.

*Local governments already having an advisory committee may elect to continue with the advisory committee, or do away with the committee, until such time as they reach more than fifty thousand dollars in receipts.

*A municipality or county **receiving** more than twenty-five thousand dollars in revenue from the accommodations tax in county areas **collecting** more than fifty thousand dollars must still file and report in accordance with the accommodations tax oversight statutes, even though they may not have to form an advisory committee until they **receive** over fifty thousand dollars in accommodations tax revenue. The 2002 amendment to the statute simply amends the amount of revenue that must be received before having to form a committee. It does not delete or amend the requirement for filing and reporting. Section 6-4-25(D)(3) still provides for local governments to submit to the Tourism Expenditure Review Committee a list of how their funds from the accommodations taxes are spent, except for the first twenty-five thousand dollars and five percent of the balance allocated to the General Fund. Therefore, local governments must still report on disbursement of the 30% Advertising and Promotion Fund and disbursement of the 65% Tourism-Related Fund.

*Local governments must still accept applications and review these applications before sending recommendations on to council for final approval, even though the local government may not have to form an advisory committee.

**LOCAL GOVERNMENTS AFFECTED BY
ACCOMMODATIONS TAX ACT TOURISM PROVISIONS**

FISCAL YEAR 2010-2011 REPORTING

FOR

FISCAL YEAR 2009-2010 REVENUE

29 COUNTY AREAS - COLLECTIONS TOTALING MORE THAN \$50,000 IN FY09-10

<p><u>TOTAL COUNTY</u></p> <p>Aiken Anderson Beaufort Berkeley Charleston Cherokee Chester Clarendon Colleton Darlington</p>	<p>Dillon Dorchester Florence Georgetown Greenville Greenwood Horry Jasper Kershaw Laurens</p>	<p>Lexington Newberry Oconee Orangeburg Pickens Richland Spartanburg Sumter York</p>
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Note: These county areas had total collections of more than \$50,000 in accommodations tax revenue for FY09-10.

LOCAL GOVERNMENTS WITHIN THE 29 COUNTY AREAS – UNINCORPORATED

NET REVENUES TOTALING MORE THAN \$50,000 IN FY09-10

<u>COUNTY – UNINCORP.</u>		
Aiken Anderson Beaufort Berkeley Charleston Cherokee Chester Clarendon Darlington	Dillon Dorchester Florence Georgetown Greenville Greenwood Horry Jasper Kershaw	Laurens Lexington Newberry Oconee Orangeburg Pickens Richland Spartanburg Sumter York

Note: These local governments received more than \$50,000 in accommodations tax revenue, and must continue to file an Accommodations Tax Reporting Form with the Tourism Expenditure Review Committee. These local governments must also form an advisory committee at the local level and send the membership form to the Tourism Expenditure Review Committee.

NET REVENUES TOTALING MORE THAN \$25,000, BUT LESS THAN \$50,000 IN FY09-10

<u>COUNTY – UNINCORP.</u>		
None		

Note: This local government received more than \$25,000 in accommodations tax revenue, but less than \$50,000. The local government would not have to form an advisory committee at the local level, but may form one if so desired. However, they must still continue to file an Accommodations Tax Reporting Form with the Tourism Expenditure Review Committee showing disbursement of their 30% Advertising and Promotion Fund revenue and their 65% Tourism-Related Fund revenue. They would not be required to form a local advisory committee until they reach over \$50,000 in receipts.

LOCAL GOVERNMENTS WITHIN THE 29 COUNTY AREAS – MUNICIPAL

NET REVENUES TOTALING MORE THAN \$50,000 IN FY 09-10

<p><u>MUNICIPAL</u></p> <p>Aiken Anderson Beaufort Bluffton Blythewood Camden Cayce Charleston Clemson Clinton Columbia Dillon Edisto Beach Florence</p>	<p>Folly Beach Gaffney Georgetown Greenville Greenwood Hardeeville Hartsville Hilton Head Island Isle of Palms Kiawah Island Lexington Mount Pleasant Myrtle Beach Newberry</p>	<p>North Charleston North Myrtle Beach Pawleys Island Rock Hill Santee Seabrook Island St. George Simpsonville Spartanburg Summerville Sumter Surfside Beach Walterboro</p>
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Note: These local governments received more than \$50,000 in accommodations tax revenue, and must continue to file an Accommodations Tax Reporting Form with the Tourism Expenditure Review Committee. These local governments must also form an advisory committee at the local level and send their membership forms to the Tourism Expenditure Review Committee.

LOCAL GOVERNMENTS WITHIN THE 29 COUNTY AREAS – MUNICIPAL

**NET REVENUES TOTALING MORE THAN \$25,000, BUT LESS THAN \$50,000 IN
FY09-10**

<u>MUNICIPAL</u>		
Conway Duncan Easley Goose Creek	Moncks Corner Orangeburg Ridgeland Seneca	Springdale Sullivans Island West Columbia

Note: These local governments received more than \$25,000 in accommodations tax revenue, but less than \$50,000. These local governments do not have to form an advisory committee at the local level, but may form one if so desired. However, they must still continue to file an Accommodations Tax Reporting Form with the Tourism Expenditure Review Committee showing disbursement of their 30% Advertising and Promotion Fund revenue and their 65% Tourism-Related Fund revenue. They are not required to form a local advisory committee until they reach over \$50,000 in receipts.