

Accommodations Tax Reporting

Do's & Don'ts

Tuesday, October 18, 10:50am

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Tourism Expenditure Review Committee

A Brief History of the South Carolina Accommodations Tax Bill

A bill creating a tax on transient lodgings facilities in South Carolina was originally introduced by state Representative Jean Meyers in the mid-seventies. The monies were basically to go to the state's general fund and some towards reduction of property taxes. The state's hotel industry successfully fought the bill as a discriminatory tax for several years. When Ms. Meyers left the legislature, Representative Harriet Keyserling picked up the effort and added a section which used the monies for arts related activities.

The bill was gaining support each year and in 1981, after studying what other states had done, representatives of the hospitality industry including Angus Cotton, John Curry, John David Rose and Ashby Ward held several meetings with Representative Keyserling to craft a bill that would provide a guaranteed amount for tourism promotion as well as funds for appropriate arts activities.

At that time only 16 of South Carolina's 46 counties had significant tourism activity. The remaining 30 counties fought the legislation claiming that their citizens would suffer by having to pay the tax when visiting the popular coastal areas. To get their support, the "Robin Hood" amendment was added which required that the rich tourism areas give some funds to those not otherwise benefiting from the tax.

The bill that passed in 1983 gave the first \$25,000 to the general fund of the county or municipality where it was collected. 25% of the balance was to go to a non-profit organization with a track record of tourism promotion for marketing. An advisory committee was required for every county and municipality that collected in excess of \$50,000 annually and the special rules established for "high tourism impact" areas which let the remaining funds be spent, in part, for general services above what would normally be required if there was not significant tourism impact.

The bill was later modified giving counties/municipalities 5% in addition to the \$25,000 and the designated marketing agency an additional 5% for a total of 30%. There have been minor modifications over time and there is still a need for some clarification on many issues

but the tax has served us well.

CHAPTER 4
Allocation of Accommodations Tax Revenues

SECTION 6-4-5. Definitions.

As used in this chapter:

- (1) "County area" means a county and municipalities within the geographical boundaries of the county.
- (2) "Cultural", as it applies to members of advisory committees in Section 6-4-25, means persons actively involved and familiar with the cultural community of the area including, but not limited to, the arts, historical preservation, museums, and festivals.
- (3) "Hospitality", as it applies to members of the committees in item (2), means persons directly involved in the service segment of the travel and tourism industry including, but not limited to, businesses that primarily serve visitors such as lodging facilities, restaurants, attractions, recreational amenities, transportation facilities and services, and travel information and promotion entities.
- (4) "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.

HISTORY: 1991 Act No. 147, Section 1; 2001 Act No. 74, Section 2; 2002 Act No. 312, Section 2.

SECTION 6-4-10. Allocation to general fund; special fund for tourism; management and use of special fund.

The funds received by a municipality or a county in county areas collecting more than fifty thousand dollars from the local accommodations tax provided in Section 12-36-2630(3) must be allocated in the following manner:

- (1) The first twenty-five thousand dollars must be allocated to the general fund of the municipality or county and is exempt from all other requirements of this chapter.
- (2) Five percent of the balance must be allocated to the general fund of the municipality or county and is exempt from all other requirements of this chapter.
- (3) Thirty percent of the balance must be allocated to a special fund and used only for advertising and promotion of tourism to develop and increase tourist attendance through the generation of publicity. To manage and direct the expenditure of these tourism promotion funds, the municipality or county shall select one or more organizations, such as a chamber of commerce, visitor and convention bureau, or regional tourism commission, which has an existing, ongoing tourist promotion program. If no organization exists, the municipality or county shall create an organization with the same membership standard in Section 6-4-25. To be eligible for selection the organization must be organized as a nonprofit organization and shall demonstrate to the municipality or county that it has an existing, ongoing tourism promotion program or that it can develop an effective tourism promotion program. Immediately upon an allocation to the special fund, a municipality or county shall distribute the tourism promotion funds to the organizations selected or created to receive them. Before the beginning of each fiscal year, an organization receiving funds from the accommodations tax from a municipality or county shall submit for approval a budget of planned expenditures. At the end of each fiscal year, an organization receiving funds shall render an accounting of the expenditure to the municipality or county which distributed them. Fees allocated pursuant to this subsection must not be used to pledge as security for bonds and to retire bonds. Also, fees allocated pursuant to this subsection must be allocated to a special fund and used only for advertising and promotion of tourism to develop and increase tourist attendance through the generation of publicity, and not used to pledge as security for bonds and to retire bonds.
- (4)(a) The remaining balance plus earned interest received by a municipality or county must be allocated to a special fund and used for tourism-related expenditures. This section does not prohibit a municipality or county from using accommodations tax general fund revenues for tourism-related expenditures.

(b) The funds received by a county or municipality which has a high concentration of tourism activity may be used to provide additional county and municipal services including, but not limited to, law enforcement, traffic control, public facilities, and highway and street maintenance, as well as the continual promotion of tourism. The funds must not be used as an additional source of revenue to provide services normally provided by the county or municipality but to promote tourism and enlarge its economic benefits through advertising, promotion, and providing those facilities and services which enhance the ability of the county or municipality to attract and provide for tourists.

“Tourism-related expenditures” include:

- (i) advertising and promotion of tourism so as to develop and increase tourist attendance through the generation of publicity;
- (ii) promotion of the arts and cultural events;
- (iii) construction, maintenance, and operation of facilities for civic and cultural activities including construction and maintenance of access and other nearby roads and utilities for the facilities;
- (iv) the criminal justice system, law enforcement, fire protection, solid waste collection, and health facilities when required to serve tourists and tourist facilities. This is based on the estimated percentage of costs directly attributed to tourists;
- (v) public facilities such as restrooms, dressing rooms, parks, and parking lots;
- (vi) tourist shuttle transportation;
- (vii) control and repair of waterfront erosion, including beach renourishment;
- (viii) operating visitor information centers.

(c)(i) Allocations to the special fund must be spent by the municipality or county within two years of receipt. However, the time limit may be extended upon the recommendation of the local governing body of the county or municipality and approval of the oversight committee established pursuant to Section 6-4-35. An extension must include provisions that funds be committed for a specific project or program.

(ii) Notwithstanding the provisions of subsubitem (i), upon a two-thirds affirmative vote of the membership of the appropriate local governing body, a county or municipality may carry forward unexpended allocations to the special fund beyond two years provided that the county or municipality commits use of the funds exclusively to the control and repair of waterfront erosion, including beach renourishment. The county or municipality annually shall notify the oversight committee, established pursuant to Section 6-4-35, of the basic activity of the committed funds, including beginning balance, deposits, expenditures, and ending balance.

(d) In the expenditure of these funds, counties and municipalities are required to promote tourism and make tourism-related expenditures primarily in the geographical areas of the county or municipality in which the proceeds of the tax are collected where it is practical.

HISTORY: 1990 Act No. 612, Part II, Section 74B; 1991 Act No. 147, Section 1; 2010 Act No. 284, Section 2, eff upon approval (became law without the Governor’s signature on June 28, 2010); 2014 Act No. 184 (S.294), Sections 1, 2, eff June 2, 2014.

Effect of Amendment

The 2010 amendment, in item (3), inserted “only” preceding “for advertising” in the first sentence and added the last two sentences.

2014 Act No. 184, Section 1, in subsection (4)(b), changed the paragraph designators from arabic to roman numbers”; and in subsection (4)(b)(vii), inserted “, including beach renourishment”.

2014 Act No. 184, Section 2, rewrote subsection (4)(c).

SECTION 6-4-15. Use of revenues to finance bonds.

A municipality or county may issue bonds, enter into other financial obligations, or create reserves to secure obligations to finance all or a portion of the cost of constructing facilities for civic activities, the arts, and cultural events which fulfill the purpose of this chapter. The annual debt service of indebtedness incurred to finance the facilities or lease payments for the use of the facilities may be provided from the funds received by a municipality or county from the accommodations tax in an amount not to exceed the

amount received by the municipality or county after deduction of the accommodations tax funds dedicated to the general fund and the advertising and promotion fund. However, none of the revenue received by a municipality or county from the accommodations tax may be used to retire outstanding bonded indebtedness unless accommodations tax revenue was obligated for that purpose when the debt was incurred.

HISTORY: 1991 Act No. 147, Section 1.

SECTION 6-4-20. Administration account established; State Treasurer's duties; distribution of account revenues; exceptions to tourism spending mandate.

(A) An accommodations tax account is created to be administered by the State Treasurer.

(B) At the end of each fiscal year and before August first a percentage, to be determined by the State Treasurer, must be withheld from those county areas collecting four hundred thousand dollars or more from that amount which exceeds four hundred thousand dollars from the tax authorized by Section 12-36-2630(3), and that amount must be distributed to assure that each county area receives a minimum of fifty thousand dollars. The amount withheld from those county areas collecting four hundred thousand dollars or more must be apportioned among the municipalities and the county in the same proportion as those units received quarterly remittances in Section 12-36-2630(3). If the total statewide collections from the local accommodations tax exceeds the statewide collections for the preceding fiscal year then this fifty thousand dollar figure must be increased by a percentage equal to seventy-five percent of the statewide percentage increase in statewide collections for the preceding fiscal year. The difference between the fifty thousand dollars minimum and the actual collections within a county area must be distributed to the eligible units within the county area based on population as determined by the most recent United States census.

(C) At the end of each fiscal year and before August first, the State Treasurer shall distribute to each county area collecting more than fifty thousand dollars but less than four hundred thousand dollars an additional fifteen thousand dollars. If the total statewide collections from the local accommodations tax exceed the statewide collections for the preceding fiscal year, this fifteen thousand dollar figure must be increased by a percentage equal to seventy-five percent of the statewide percentage increase in statewide collections for the preceding fiscal year. This amount must be distributed in the same manner as the fifty thousand dollars in subsection (B). The amount paid those qualified county areas under this subsection must be paid from the account created under this section.

(D) The amount withheld in excess must be distributed to the county areas whose collections exceed four hundred thousand dollars based on the ratio of the funds available to the collections by each county area.

(E) The accommodations tax funds received by a municipality or county in county areas collecting fifty thousand dollars or less are not subject to the tourism-related provisions of this chapter.

(F) Two percent of the local accommodations tax levied pursuant to Section 12-36-2630(3) must be remitted quarterly and equally to the eleven agencies designated by law and regional organizations to administer multi-county tourism programs in the state tourism regions as identified in the promotional publications of the South Carolina Department of Parks, Recreation and Tourism. This remittance is in addition to other funds that may be allocated to the agencies by local governments.

(G) The State Treasurer may correct misallocations to counties and municipalities from accommodations tax revenues by adjusting subsequent allocations, but these adjustments may be made only in allocations made in the same fiscal year as the misallocation.

HISTORY: 1990 Act No. 612, Part II, Section 74B; 1991 Act No. 147, Section 1; 1991 Act No. 168, Section 2.

Code Commissioner's Note

1991 Act No. 168, Section 2, originally amended this section by adding item “(5).” By direction of the Code Commissioner, the added text was redesignated as subsection “(G)” to conform to the designations in the earlier amendment of this section by 1991 Act No. 147, Section 1.

SECTION 6-4-25. Advisory Committee; guidelines for expenditures; annual reports; reports to Accommodations Tax Oversight Committee.

(A) 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 an advisory committee to make recommendations on the expenditure of revenue generated from the accommodations tax. The advisory committee consists of seven members with a majority being selected from the hospitality industry of the municipality or county receiving the revenue. At least two of the hospitality industry members must be from the lodging industry where applicable. One member shall represent the cultural organizations of the municipality or county receiving the revenue. For county advisory committees, members shall represent the geographic area where the majority of the revenue is derived. However, if a county which receives more in distributions of accommodations taxes than it collects in accommodations taxes, the membership of its advisory committee must be representative of all areas of the county with a majority of the membership coming from no one area.

(B) A municipality or county and its advisory committee shall adopt guidelines to fit the needs and time schedules of the area. The guidelines must include the requirements for applications for funds from the special fund used for tourism-related expenditures. A recipient’s application must be reviewed by an advisory committee before it receives funds from a county or municipality.

(C) Advisory committees shall submit written recommendations to a municipality or county at least once annually. The recommendations must be considered by the municipality or county in conjunction with the requirements of this chapter.

(D) Municipalities and counties annually shall submit to the South Carolina Accommodations Tax Oversight Committee:

- (1) end-of-the-year report detailing advisory committee accommodations tax recommendations;
- (2) municipality’s or county’s action following the recommendations;
- (3) list 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 is due before October first and must include funds received and dispersed during the previous fiscal year;
- (4) list of advisory committee members noting the chairman, business address if applicable, and representation of the hospitality industry including the lodging industry and cultural interests.

(E) The regional tourism agencies in Section 6-4-20 annually shall submit reports on their budgets and annual expenditure of accommodations tax funds pursuant to this chapter to the Accommodations Tax Oversight Committee.

HISTORY: 1991 Act No. 147, Section 1; 2002 Act No. 312, Section 3.

SECTION 6-4-30. Repealed by 2003 Act No. 96, Section 3.MM, eff June 18, 2003.

Editor’s Note

Former section 12-10-35 was entitled “Department of Revenue’s duties regarding accommodations taxes” and was derived from 1991 Act No. 147, Section 1; 1997 Act No. 87, Section 1; 2001 Act No. 74, Section 3.B.

SECTION 6-4-35. Tourism Expenditure Review Committee.

(A) There is established the Tourism Expenditure Review Committee consisting of eleven members as follows:

- (1) one member appointed by the Speaker of the House;
- (2) one member appointed by the President Pro Tempore of the Senate;

(3) the Director of the South Carolina Department of Parks, Recreation and Tourism, or his designee, ex officio;

(4) eight members appointed by the Governor as follows:

(a) one member on the recommendation of the South Carolina Association of Tourism Regions;

(b) one member on the recommendation of the South Carolina Association of Convention and Visitors Bureaus;

(c) one member on the recommendation of the South Carolina Travel and Tourism Coalition;

(d) one member on the recommendation of the Municipal Association of South Carolina;

(e) one member on the recommendation of the South Carolina Association of Counties;

(f) one member on the recommendation of the Hospitality Association of South Carolina;

(g) one member on the recommendation of the South Carolina Arts Commission; and

(h) one member at large.

Appointed members shall serve for terms of four years and until their successors are appointed and qualify, except that of those first appointed by the Governor, four shall serve for a term of two years and the term must be noted on the appointment. Regardless of the date of appointment, all terms expire July first of the applicable year. Members shall serve without compensation but may receive the mileage, subsistence, and per diem allowed by law for members of state boards, committees, and commissions. Vacancies must be filled in the manner of original appointment for the unexpired portion of the term.

(B)(1)(a) The Tourism Expenditure Review Committee shall serve as the oversight authority on all questionable tourism-related expenditures and to that end, all reports filed pursuant to Section 6-4-25(D)(3) must be forwarded to the committee for review to determine if they are in compliance with this chapter. The municipality or county must be notified if an expenditure is questioned, and the committee may consider any further supporting information the municipality or county may provide. If the committee finds an expenditure to be in noncompliance, it shall certify the noncompliance to the State Treasurer, who shall withhold the amount of the expenditure found in noncompliance from subsequent distributions in accommodations tax revenue otherwise due the municipality or county. An appeal from an action of the committee under this subitem lies with the Administrative Law Judge Division.

(b) If the committee determines that a municipality or county has failed to file the reports required 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 not more than five thousand dollars. The committee shall certify the penalty to the State Treasurer, who shall withhold the amount of the penalty from subsequent distributions otherwise due the municipality or county. An appeal from an action of the committee under this subitem lies with the Administrative Law Judge Division.

(c) Allocations withheld must be reallocated proportionately to all other recipients.

(2) The committee has jurisdiction to investigate and research facts on written complaints submitted to it with regard to the appropriate tourism-related expenditures and resolve these complaints as provided in item (1) of this subsection.

(3) The committee shall forward copies of information submitted by the local governments and regional tourism agencies pursuant to Section 6-4-25 arising under the tourism provisions of this chapter to the Department of Parks, Recreation and Tourism, which shall publish an annual report on the information submitted.

HISTORY: 2001 Act No. 74, Section 3.A; 2003 Act No. 38, Section 1, eff June 2, 2003.

Editor's Note

2004 Act No. 202, Section 3, provides as follows:

"Wherever the term 'Administrative Law Judge Division' appears in any provision of law, regulation, or other document, it must be construed to mean the Administrative Law Court established by this act."

Effect of Amendment

The 2003 amendment, in subsection (A) substituted "eleven" for "nine" in the introductory paragraph, substituted "eight" for "six" in paragraph (4), added paragraphs (4)(g) and (4)(h), and made nonsubstantive changes.

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Tourism Expenditure Review Committee

Question: [How do I know if a project or event qualifies as a tourism-related expenditure?](#)**Question:** [Are Municipality and County Services Fundable?](#)

Question: [What is the definition of tourist?](#)

Question: [Carryover Amounts](#)

Question: [Does the Tourism Expenditure Review Committee monitor local accommodations taxes?](#)

Question:

[The issue of the distance a "tourist" has to travel is concerning to some accommodations tax recipients. We know TERC will look at individual situations, case by case, but for the general question of how far a tourist has to travel to be considered a "tourist" needs to be clarified. Something in writing would be helpful, so that we have something to give our organizations.](#)

Question: [Recently, someone asked about applying for atax funds to fund the salary of a staff member who does website updates and answering tourist inquiries. Could it be applicable as long as they could give the percentage of the staff time that actually applies to the tourism effort?](#)**Question:** [Many counties and municipalities continue to fund the lighting of interstate and highway exits through state accommodations taxes. I was under the impression that this was an acceptable expenditure?](#)

Question: [Is it appropriate or not to fund museums, libraries, etc. in an area of non high concentration of tourism and can these facilities receive state accommodations tax funding for costs incurred in building, funding of operation, as well as cost of repairs and necessary additions to the facility?](#)

Question: [Are fireworks considered an appropriate expenditure of](#)

[accommodations taxes?](#)

Question: [Are welcome signs and banners considered fundable?](#)

Question: [Are the operation of sporting events acceptable use of atax funds?](#)

Question: [Are historical markers or monuments fundable?](#)

Question: How do I know if a project or event qualifies as a tourism-related

expenditure? Answer: The committee looks to distinguish between events or activities designed for and attended primarily by those in the local community, from events that are designed for and attended primarily by non-residents who come from outside the local community. In looking to make a determination regarding the purpose or intent of an activity or event, the Committee looks to substantiate the promotional activities undertaken to bring non-residents into the area to attend the funded activity. The promotional efforts are a key indicator of the extent to which the purpose of the funded activity is to attract non-residents. As the statute identifies such promotional activities to be an approved use of funds, the Committee encourages counties and municipalities to consider this factor in granting funds. (Read more in our Tourism Policy, available in your reporting package).

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Are Municipality and County Services Fundable?

Under Code Section 6-4-10 (4)(b)(4), monies in the 65% Tourism-related Fund can be used for services normally provided by the municipality or county only if these local governments have a high concentration of tourism. Revenue Ruling 98-22 states that a county or municipality has a high level of tourism when it collects over \$900,000 in accommodations tax revenue and is exempt from Sunday “blue laws.” Currently, the only counties that meet this criteria are Beaufort, Charleston, Georgetown, Greenville, Horry, and Richland. Examples of qualifying expenditures under this category would include salaries for extra police force during the peak tourist season, monies spent to hire extra garbage service around tourist facilities during the tourist season or to provide other services that are required by high concentration of tourism. If your local government is not located within the “high concentration” counties you may spend accommodations tax money for such services only for specific events (extra police force at a music festival, for example) and the expenditures must be based on the estimated percentage of costs directly attributable to tourists.

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Questions: Carryover Amounts

As a reminder, the law says that you have two years from receipt to spend any remaining funds from the 65% tourism-related fund, which must be used for tourism-related expenditures. Please keep this in mind when awarding funds and reporting this year. Should you need an extension, one may be requested from the Tourism Expenditure Review Committee. Please bear in mind that the funds may only be carried over beyond the two-year limit provided the funds are designated for an approved project or event.

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Question: What is the definition of tourist?

Answer: According to Section 6-4-5 (a)(4), “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. Because there is no clear definition of “home community,” the Tourism Expenditure Review Committee has adopted a guideline set by other travel industry entities, which states that a tourist is **generally** one that comes from 50 miles outside of their homes. However, the Committee **looks at every event on a case-by-case basis**. The Committee considers any project or event that increases visitors to the region and boosts the economy.

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Question: Does the Tourism Expenditure Review Committee monitor local accommodations taxes?

Answer: No, the Committee's charge is to monitor state accommodations tax reporting only. If an entity encounters a problem concerning local accommodations taxes, it must be worked out from a local level.

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Question: The issue of the distance a "tourist" has to travel is concerning to some accommodations tax recipients. We know TERC will look at individual situations, case by case, but for the general question of how far a tourist has to travel to be

considered a "tourist" needs to be clarified. Something in writing would be helpful, so that we have something to give our organizations.

Answer: The Committee has drafted a policy on the definition of tourist, which is posted on our website: www.atax.sc.gov. The law defines tourists as those traveling outside of their "home communities," however; it does not define home community. Therefore, the Committee has adopted the geographical definition of tourist used by the national Tourism Industry Association and the South Carolina Department of Parks Recreation and Tourism, which defines a tourist essentially as a "traveler" from 50 miles away or more. But, in the same policy, the Committee states that it does examine every application for the economic impact the "tourist" has on the visited community. So in essence the tourist may be from an area closer than the 50 miles as mentioned above but only if a significant economic impact can be shown such as the case may be in Columbia and Camden. [BACK TO TOP](#)

Question: Is it appropriate or not to fund museums, libraries, etc. in an area of non high concentration of tourism and can these facilities receive state accommodations tax funding for costs incurred in building, funding of operation, as well as cost of repairs and necessary additions to the facility?

Answer: The Tourism Expenditure Review Committee maintains a position under Section 6-4-10 (4b3) that the following is reserved for areas of high concentration of tourism activity: "construction, maintenance, and operation of facilities for civic and cultural activities including construction and maintenance of access and other nearby roads and utilities for the facilities." However, the Committee does examine the "tourism economic impact". We have in the past allowed funding for facilities such as those mentioned above, however, it is vitally important that the facilities maintain documentation of the visitors in order to qualify as a facility that is not simply for local benefit. In cases where no visitor information has been generated because the facility is new, a long range plan on how the facility plans to promote and market itself to visitors is appropriate.

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Question: Many counties and municipalities continue to fund the lighting of interstate and highway exits through state accommodations taxes. I was under the impression that this was an acceptable expenditure?

Answer: Although the Committee has in the past found the purchase and installation of lighting

of interstate and highway exits and the installation of landscaping an acceptable expenditure, the Committee feels as though that the maintenance and operating costs of these assets might not be the best use of accommodations tax funds. Normally, this is something considered a "normal expense" of the municipality or county. Although the Committee is not recommending funds be withheld at this time, we would like for entities to consider this for the future and notify the Committee of steps being taken to fund the lights from some source other than state accommodations tax funds.

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Question:: Recently, someone asked about applying for atax funds to fund the salary of a staff member who does website updates and answering tourist inquiries. Could it be applicable as long as they could give the percentage of the staff time that actually applies to the tourism effort?

Answer: For the first part of your question we refer to Revenue Ruling 98-22, issued by the S.C. Department of Revenue. In question 19, it says "can Accommodations Tax Funds be used to fund local government salaries?" The Answer is that "As a general rule, no unless the county or municipality can show that the employee's position is necessary to attract or provide for tourists. Additionally, the salary or wage must:(a) be for services that would normally not be provided by the county; (b) the county or municipality must have a high concentration of tourism activity; and (c) the amount of Tourism-related Funds spent on the salary or wages must be based on the estimated percentage of costs attributable to tourists. To the extent that only a portion of the employee's salary or wages meets the requirements listed above, only that portion of the salary or wages that would satisfy these requirements may be paid for out of Tourism related Funds. If a staff person's entire time is not devoted to the promotion of tourism or the furnishing of services to tourists, the Department would expect the employee and the county or municipality to determine the amount of time the employee devotes to tourism and to treat an appropriate amount of the employee's salary as a tourism-related expenditure. Also, in recent years, the Committee has relaxed part "B" of the above statement if it is proven that the employee is 100% dedicated to tourism matters. If not, once again, you would estimate the percentage of their time that went towards tourism and fund their salary based on that.

However, keep in mind that if the employee is someone that would have to be employed by the County or municipality anyway (even if they did deal with promotion of tourism), such as the mayor, their salary could not be funded at all.

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Question: Are fireworks considered an appropriate expenditure of accommodations taxes?

Answer: 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.

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Question: Are welcome signs and banners considered fundable?

Answer: 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.

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Question: Are the operation of sporting events acceptable use of atax funds?

Answer: TERC maintains that if the primary purpose of the event is to attract tourists and promote tourism to the general area and not to fund scholarships (even though subsequently some events that promote tourism may generate scholarships, but that was not the primary intent), and the funds are used strictly to promote and generate tourism than it is likely appropriate. However, the statute makes no mention of “operational costs” for sporting events as it does for cultural events and the arts, so TERC maintains the operation of sporting events is not an acceptable use of funds.

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Question: Are historical markers or monuments fundable?

Answer: To answer this question, the Committee always refers to Revenue Ruling 98-22, issued by the SC Department of Revenue, which states that it depends on the nature of the monument and the impact it will have on tourism. If it is a single statute dedicated to a local figure, it is unlikely that such a monument will have any impact on tourism. However, if the monument is in the nature of a large structure designed to honor a group or entity, then it may be permissible to use Tourism-related Funds for such monument. For example, a monument along the lines of the United States Holocaust Memorial Museum or the Vietnam Veterans Memorial may have a sufficient impact on tourism to warrant receiving Tourism-related Funds.

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State of South Carolina
Department of Revenue
301 Gervais Street, P.O. Box 125, Columbia, South Carolina 29214

SC REVENUE RULING #98-22

SUBJECT: Use of Accommodations Tax Funds

EFFECTIVE DATE: Applies to all fiscal years beginning after December 1, 1998.

SUPERSEDES: All previous documents and any oral directives in conflict herewith.

REFERENCES: S. C. Code Ann. Chapter 4, Title 6 (Supp. 1997)
S.C. Code Ann. 53-1-150 (Supp. 1997)

AUTHORITY: S. C. Code Ann. Section 6-4-30 (Supp. 1997)
SC Revenue Procedure #97-8

SCOPE: A Revenue Ruling is the Department of Revenue's official **advisory opinion** of how laws administered by the Department are to be applied to a specific issue or a specific set of facts, and is provided as guidance for all persons or a particular group. It is valid and remains in effect until superseded or modified by a change in the statute or regulations or a subsequent court decision, Revenue Ruling or Revenue Procedure.

LAW:

Allocation of Accommodation Tax Funds

Chapter 4 of Title 6 of the South Carolina Code of Laws ("Code") provides a procedure for handling accommodations tax revenues collected by taxpayers within a county or municipality. If a county or municipality is located in a "County Area" that collects over \$50,000 in Accommodations Tax ("Accommodations Tax Funds"), each county or municipality in that County Area will be required to allocate and spend all Accommodations Tax Funds that they collect in the manner required by the statute. A "County Area" is defined as a county and the municipalities located within the geographic

boundaries of the county. See Code Section 6-4-5(1).

For example, if County A has within its boundaries Municipalities X, Y, and Z and County A collects \$25,000 in Accommodations Tax Funds, Municipality X collects \$10,000, Municipality Y collects \$20,000 and Municipality Z collects \$5,000, the county and each of the municipalities will be required to allocate and spend their Accommodations Tax Funds as required by the statute.

Under Code Section 6-4-10, the first \$25,000 of all Accommodations Tax Funds collected by a county or municipality is allocated to the general fund of the county or municipality. Whatever is left after allocating the original \$25,000 is the balance. Five percent of the balance is allocated to the general fund of the county or municipality and 30% of the balance is allocated to a special fund which must be used for the advertising and promotion of tourism ("Promotion Fund"). The monies in the Promotion Fund must be administered by one or more non-profit organizations that have an existing, ongoing tourism promotion program, or if the organization does not currently have a program, it must show that it can develop an effective program. Any Accommodations Tax Funds remaining after allocation to the Promotion Fund, plus any interest earned on the "balance" (*i.e.*, 65% of the balance) must be allocated to a special fund that must be used for "tourism-related expenditures" ("Tourism-related Fund").

For example, assume that a county collects \$125,000 in Accommodations Tax Funds.

Step 1 - The first \$25,000 of Accommodations Tax Funds is allocated to the general fund of the county or municipality. This leaves a balance of \$100,000. (This \$100,000 will be referred to as the "balance" throughout this example.)

Step 2 - Five percent of the balance ($\$100,000 \times .05 = \$5,000$) is also allocated to the general fund of the county or municipality.

Step 3 - Thirty percent of the balance ($\$100,000 \times .30 = \$30,000$) is allocated to the Promotion Fund.

Step 4 - Any remaining money left after subtracting the \$25,000 allocated to the general fund, the five percent of the balance that is allocated to the general fund and the thirty percent of the balance allocated to the Promotion Fund, goes into the Tourism-related Fund and must be used for tourism-related expenditures. Any interest that has accrued on the Accommodations Tax Funds prior to the amounts being divided as described in steps (1) through (4) above, is also allocated to the Tourism-related Fund.

Requirements for Tourism-related Expenditures

As stated above, any money in the Tourism-related Fund must be spent on tourism-related expenditures. Section 6-4-10(4)(b)-(d) states:

(b)The funds received by a county or municipality which has a high concentration of tourism activity may be used to provide additional county and municipal services, including, but not limited to, law enforcement, traffic control, public facilities, and highway and street maintenance, as well as the continual promotion of tourism. The funds must not be used as a additional source of revenue to provide services normally provided by the county or municipality but to promote tourism and enlarge its economic benefits through advertising, promotion, and providing those facilities and services which enhance the ability of the county to attract and provide for tourists.

“Tourism-related expenditures” include:

1. advertising and promotion of tourism so as to develop and increase tourist attendance through the generation of publicity;
2. promotion of the arts and cultural events;
3. construction, maintenance, and operation of facilities for civic and cultural activities including construction and maintenance of access and the nearby roads and utilities for the facilities;
4. the criminal justice system, law enforcement, fire protection, solid waste collection, and health facilities when required to serve tourists and tourist facilities. This is based on the estimated percentage of costs directly attributed to tourists;
5. public facilities such as restrooms, dressing rooms, parks, and parking lots;
6. tourist shuttle transportation;
7. control and repair of waterfront erosion;
8. operating visitor information centers.

(c) Allocations to the special fund must be spent by the municipality or county within two years of receipt. If the allocations are not spent within two years, the municipality or county is subject to the provisions of Section 6-4-30(6). However, the time limit may be extended upon the recommendation of the county or municipality and approval of the South Carolina Accommodations Tax Oversight Committee in Section 6-4-30. An extension must include provisions that funds be committed for a specific project or program.

(d) In the expenditure of these funds, counties and municipalities are required to promote tourism and make tourism-related expenditures primarily in geographical areas of the county or municipality in which the proceeds of the tax are collected where it is practical.

Under the statute, in order to qualify as a “tourism-related expenditure” an expenditure must meet the following two tests:

- (1) The expenditure must be used to attract or provide for tourists.**
- (2) The expenditure cannot be used for an item that would normally be provided by the county or municipality.**

Additionally, if a county or municipality wishes to use Tourism-related Funds to provide additional county or municipal services, including, but not limited to, law enforcement, traffic control, public facilities and highway and street maintenance, the expenditure must also meet the following three requirements:

- (a) the expenditure must be for items that would normally not be provided by the county (i.e., if the item would be required even if the county or municipality had no tourist activity, then Tourism-related Funds may not be used to pay for the expenditure);**
- (b) the county or municipality must have a high concentration of tourism activity; and**
- (c) the amount of the expenditure must be based on the estimated percentage of costs attributable to tourists.**

Counties and municipalities that do not have a high concentration of tourism activity, may not use Tourism-related Funds to fund additional county or municipal services.

Filing with the Department of Revenue

Counties or municipalities that receive over \$25,000 in Accommodations Tax Funds in County Areas collecting more than \$50,000 are subject to additional requirements regarding their Accommodations Tax Funds. First, they must appoint a seven member advisory committee to make recommendations on how Tourism-related Funds should be used. Secondly, they are required to file certain information with the Accommodations Tax Oversight Committee. Code Section 6-4-25 provides that every year, municipalities and counties that receive over \$25,000 in Accommodations Tax Funds must submit information concerning how they spent Accommodations Tax Funds that were collected in the county or municipality to the Accommodations Tax Oversight Committee. During the 1997 Legislative Session, the duties of the Accommodations Tax Oversight Committee were transferred to the South Carolina Department of Revenue. Pursuant to Code Section 6-4-30, the Department of Revenue serves as a resource to answer questions of local advisory committees and local governments concerning the implementation of the accommodations tax. The Department of Revenue has recently received a number of requests questioning what are considered appropriate expenditures of Accommodations Tax Funds and more particularly, money accumulating in the Tourism-related Fund.

QUESTIONS AND ANSWERS:

QUESTION 1: Must the amounts allocated to the general fund of the county or municipality be used for tourism-related expenditures?

ANSWER: No. Code Section 6-4-10 specifically provides that Accommodations Tax Funds allocated to the general fund are specifically exempted from the requirements of Chapter 4 of Title 6, including any requirements as to how those funds must be spent.

QUESTION 2: Does the county or municipality's advisory committee oversee the expenditure of revenues in the Promotion Fund?

ANSWER: No. The monies in the Promotion Fund are overseen by the non-profit organization or organizations chosen by the county to administer the Promotion Fund. However, if there is no non-profit organization to whom the county or municipality can grant its Promotion Fund, the county or municipality must create an organization using the same membership standard as those used for appointing members to the advisory committee. Additionally, the non-profit organization that is chosen to oversee the Promotion Fund is required to submit a budget and an accounting to the county or municipality on an annual basis for approval. Nothing, of course, prevents the county or

municipal council from consulting with other organizations, including the Accommodations Advisory Committee, concerning proposed expenditures from the Promotion Fund.

Question 3: What is the definition of “tourism” or “tourist”?

ANSWER: Under Code Section 6-4-5, “travel” and “tourism” means the action and activities of people taking trips outside their home communities for any purpose, except daily commuting to and from work. Thus, under this definition, a “tourist” would be a person who is taking trips outside his or her home community for any purpose other than daily commuting to and from work.

QUESTION 4: When will a county or municipality be considered to have a “high concentration of tourism activity”?

ANSWER: Chapter 4 of Title 6 does not provide any guidance as to when a county or municipality will be deemed to have a high concentration of tourism activity. However, Code Section 53-1-150, which exempts certain counties from the Sunday “blue laws”, appears to be relevant to this inquiry. Code Section 53-1-150(A) reads as follows:

“The General Assembly finds that certain areas of the State would benefit greatly from a complete exemption from Chapter 1 of Title 53 [the Sunday “blue laws”]. This benefit would be a result of an expanded tax base thereby reducing the burden placed on property owners through the property tax. Allowing the operation of establishments on Sunday in these areas also would reduce the property tax burden through additional accommodations tax revenue which allows these areas to provide necessary governmental service from these revenues”[emphasis added].

Code Section 53-1-150(B) reads, in part:

“The provisions of Chapter 1 of Title 53 do not apply to any county area, as defined in Section 6-4-5(1), which collects more than nine hundred thousand dollars in one fiscal year in revenues from the accommodations tax provided for in Section 12-36-2630(3) and imposed in Section 12-36-920(A)....”

These two provisions read together conclude that “county areas” collecting over \$900,000 would benefit from additional accommodations tax revenues which would allow these areas to provide necessary governmental service from these revenues. Under Code Section 6-4-10, only counties or municipalities with a high concentration of tourism activity are allowed to use Accommodations Tax Funds for providing county or municipal

services. Accordingly, the Department concludes that counties and municipalities in county areas collecting over \$900,000 in accommodations tax revenues are considered to have a high concentration of tourism activity.

QUESTION 5: Can the Department provide some guidance on the different categories of tourism-related expenditures?

ANSWER: For purposes of determining what qualifies under the different categories of tourism-related expenditures, the Department has adopted the following descriptions of qualifying expenditures in each of the categories listed in the statute.

1. Advertising and Promotion of Tourism

Under Code Section 6-4-10(4)(b)(1), monies in the Tourism-related Fund can be used for advertising and promotion of tourism to increase tourism in the county or municipality. Expenditures that would qualify under this category would include monies spent on magazine, newspaper, radio or television advertising in an attempt to promote the county or municipality to tourists. Qualifying expenditures also include revenues spent to promote the county or municipality to entities that specialize in tourism, such as bus tour companies and travel agencies. Examples of qualifying expenditures under this category include advertising in magazines such as *Southern Living*.

2. Arts and Cultural Events

Under Code Section 6-4-10(4)(b)(2), monies in the Tourism-related Fund can be used for the promotion of the arts and cultural events. Expenditures that can qualify under this category include money used for advertising or promotion of a particular festival (examples of such festivals might be the Spoleto Festival, the Lexington Peach Festival, or the Salley Chitlin Strut) or, money used for advertising and promoting arts and cultural events held in the county or municipality in an effort to attract tourists. Examples of events qualifying under this category include symphony orchestras, art shows, theater productions, home and garden or touring shows.

3. Facilities for Civic and Cultural Events

Under Code Section 6-4-10(4)(b)(3), monies in the Tourism-related Fund can be used for the construction, maintenance and operation of facilities for cultural and civic activities including construction and maintenance of access and other nearby roads and utilities for the facilities. Eligible expenditures under this category can include the costs incurred in building a civic center, a museum, or a coliseum. Tourism-related monies can also be

used to fund the continued operation of such facilities including management fees or to pay the salaries of those who work at the facility, as well as the cost of repairs and necessary additions to such facilities. Please note, the facility must enhance the ability of the county or municipality to attract and provide for tourists and cannot provide a purely local function or benefit.

4. Municipality and County Services

Under Code Section 6-4-10(4)(b)(4), monies in the Tourism-related Fund can be used for the criminal justice system, law enforcement, fire protection, solid waste collection, and health facilities when required to serve tourists and tourist facilities. The amount that may be expended on this category must be based on the estimated percentage of costs directly attributable to tourists. Tourism-related funds cannot be used for these purposes by counties or municipalities that do not have high concentration of tourism activity. Examples of qualifying expenditures under this category would include salaries for extra police during the peak tourist season, monies spent to hire extra garbage service around tourist facilities during the tourist season or to provide other services that are required because of the high concentration of tourism.

When considering the percentage of costs that are attributable to tourism, the Department of Revenue will consider the number of permanent residents for the county or municipality as compared to the number of tourists that visit the locality, taking into consideration the average length of stay for such tourists.

5. Public Facilities

Under Code Section 6-4-10(4)(b)(5), monies in the Tourism-related Fund may be used for public facilities such as restrooms, dressing rooms, parks and parking lots. These public facilities must enhance the ability of the county to attract and provide for tourists. Tourism-related funds cannot be used for these purposes by counties or municipalities that do not have high concentration of tourism activity. Example of a qualifying expenditures under this category might include dressing rooms and restrooms at a public beach, a public park that would be frequented by tourists or a public parking lot adjacent to a major tourist attraction.

6. Tourist Transportation

Under Code Section 6-4-10(4)(b)(6), monies in the Tourism-related Fund may be used for tourist shuttle transportation. Qualifying expenditures in this category will include any monies spent to provide public transportation to tourists, such as shuttle buses or trolleys.

For example, shuttles to transport persons from the airports to hotels or from the hotels to tourists attractions would qualify, as well as transportation from conventions or tourist attractions to other tourist facilities.

7. Waterfront Erosion

Under Code Section 6-4-10(4)(b)(7), monies in the Tourism-related Fund may be used for control and repair of waterfront erosion. Repairs for waterfront erosion are a municipal or county service. Thus, in order to use Tourism-related Funds for this purpose, a county or municipality must have a high concentration of tourism. Expenditures qualifying under this category include monies spent for beach renourishment projects, and other ocean front repairs in those areas frequented by tourists.

8. Visitors Centers

Under Code Section 6-4-10(4)(b)(8), monies in the Tourism-related Fund may be used for operating visitors centers. Expenditures that will qualify under this category are any monies spent to operate and maintain centers whose primary purpose is to provide information, brochures, and other services to tourists.

QUESTION 6: Are the eight categories listed in the statute, all inclusive, or might there be other items that could qualify as tourism-related expenditures?

ANSWER: The use of the term “includes” in the statute leads to the conclusion that the listed items are not all inclusive, therefore, there are other items that may qualify as tourism-related expenditures. Under the statute, in order to qualify as a tourism-related expenditure an expenditure must meet the following two tests: (1) The expenditure must be used to attract or provide for tourists. (2) The expenditure cannot be used for an item that would normally need to be provided by the county or municipality. Additionally, if a county or municipality wishes to use Tourism-related Funds to provide additional county or municipal services, including, but not limited to, law enforcement, traffic control, public facilities and highway and street maintenance, the expenditure must: (a) be for items that would normally not be provided by the county; (b) the county or municipality must have a high concentration of tourism activity; and (c) the amount of the expenditure must be based on the estimated percentage of costs attributable to tourists.

Some items that might qualify as tourism-related expenditures which are not listed in the statute include, the development of a public garden designed to attract tourists, a major exhibition which is designed to attract tourists, or the acquisition of a historical landmark designed to attract tourists.

QUESTION 7: Is there a formula that would dictate what percentage of Tourism-related Funds should be spent on the different categories of tourism-related expenditures?

ANSWER: The statute does not require that the Tourism-related Fund be divided in any particular way. Provided that the expenditure meets the requirements of the law as described in the discussion, a county or municipality can use all of its Tourism-related Funds on a single category of eligible expenditures.

QUESTION 8: Is there a formula for determining whether a specific expenditure benefits tourism and tourists?

ANSWER: No. Under the statute, there is no specific formula that determines whether a particular expenditure benefits tourists.

QUESTION 9: What will the Department consider important in determining whether an expenditure for an event or a facility enhances the ability of the county or municipality to attract or provide for tourists?

ANSWER: If the expenditure is incurred in connection with an event, the Department will look at all the facts and circumstances including where and how the event will be advertised, the number of tourists that an event has attracted in the past, the nature of the event, where the event will occur, and the purpose of the event to determine if the event is designed to attract tourists. If the expenditure is incurred for a facility, the Department will look at all the facts and circumstances including the nature of the facility, where the facility is located and the purpose of the facility to determine if the facility is designed to attract and serve tourists.

QUESTION 10: Can Accommodations Tax Funds be used to promote events staged by colleges, senior centers or local choirs?

ANSWER: Whether Accommodations Tax Funds can be used to promote such an event depends on what, if any, effect such a show would have on tourism. If the show is strictly a local event attended **primarily** by those in the community, Accommodations Tax Funds could not be spent on the show. However, if the show was advertised and was intended to attract tourists from outside the community, then Accommodations Tax Funds could be used to advertise the show.

QUESTION 11: Can Tourism-related Funds be used for acquisitions by local museums?

ANSWER: Possibly, provided that the acquisition can be shown to enhance the ability of the county or municipality to attract tourists. Tourism-related Funds must be used to promote tourism and enlarge its economic benefits through advertising, promotion, and providing those facilities and services which enhance the ability of the county or municipality to attract and provide for tourists, thus the expenditure of Tourism-related Funds must be guided by this principle. Whether the museum acquisition is designed to enhance the ability of the county and municipality to attract tourists is a question of fact to be determined from all the facts and circumstances.

QUESTION 12: Can Tourism-related Funds be used to support local art or music programs, such as Jazz in the Schools, that improve the cultural climate of the county or municipality?

ANSWER: No. While such arts programs are educational and promote culture, they do not enhance the ability of the county or municipality to attract and provide for tourists. These types of programs primarily benefit the local population by exposing them to new experiences, however, tourists rarely participate or experience the benefits of these programs.

QUESTION 13: Is it proper to use Tourism-related Funds for promotion of conventions or meetings?

ANSWER: Yes, provided that the convention or meeting is designed to attract tourists to the community and the expenditure is found to serve a public purpose. Note, that the Department of Revenue will consider all the facts and circumstances in determining whether the expenditure qualifies as a tourism-related expenditure included whether such meeting is designed to attract tourists to the county or is primarily a local event.

QUESTION 14: In a small town with a large amount of Tourism-related Funds and a high concentration of tourism activity, is there a limit on how many police cars, fire trucks, and related equipment can be purchased over a five or ten year period of time?

ANSWER: The first question that must be answered is whether Tourism-related Funds may be used for tangible property such as police cars and fire trucks. The statute states that "funds received by a county or municipality which has a high concentration of tourism activity may be used to provide additional county and municipal services, including, but not limited to, law enforcement, traffic control, public facilities, and highway and street maintenance as well as the continual promotion of tourism". While the use of the term "services" in a statute generally connotes "the performance of activities benefiting another", this is not the exclusive use of the term. The American

Heritage Dictionary (2nd College Ed. 1985) includes among the definition of “services” the following definition: “a facility providing the public with the use of something such as water or transportation”. The statute specifically contemplates the application of this definition of services in the statute by using the term “public facilities” in listing those items of county or municipal services which may be paid for with tourism-related funds. Thus, the Department concludes that county and municipal services, for purposes of this statute, may include using tourism-related funds to pay for tangible property of the county or municipality when such property is necessary to serve tourists.

However, not all expenditures for police car, fire trucks, public facilities, etc. may be paid for from Tourism-related funds. ***Tourism-related Funds may only be used to provide additional county and municipality services, such as fire and police protection, in areas with a high concentration of tourism activity and such expenditures may not pay for services that would normally be provided by a county or municipality. Thus, to the extent that a county or municipality would have been required, or planned to buy, a police car or fire truck irrespective of the number of tourists that visit the municipality or county, Tourism-related Funds could not be used to fund that purchase.*** In order to use Tourism-related Funds to provide for fire trucks or police cars, the county or municipality must show that: (1) it has a high concentration of tourism and (2) the trucks and cars are only needed because of the additional tourist activity. Even though there is no set numerical limit on the number of police cars or fire trucks that may be purchased using Tourism-related funds, the county or municipality must be guided by the principles stated above.

Additionally, to the extent that Tourism-related Funds will be used to provide additional services, such as extra police or additional firemen or garbage collectors, there is an additional requirement. The costs spent on wages and salaries for such personnel must be based on the estimated percentage of costs attributable to tourists.

For example, assume that the City of North Myrtle Beach wishes to use some of their Tourism-related Funds on their police department. Tourism-related Funds could not be used to fund the police chief’s salary, since this is a county expense that would be need to be funded whether North Myrtle Beach had any tourists or not. However, the money could be used to hire additional police because of the high concentration of tourism in North Myrtle Beach. The amount that can be spent on additional police must be based on the estimated percentage of costs attributable to tourists.

QUESTION 15: May a county or municipality which does not have a high concentration of tourism activity, use Tourism-related Funds for fire and police protection?

ANSWER: No. See discussion in question 14.

QUESTION 16: Can Tourism-related Funds be used for local transportation for senior citizens' programs, or programs related to drug abuse, AIDS awareness or similar items for residents?

ANSWER: No. While such programs do benefit the local community, they do not fit into any of the categories of tourism-related expenditures and they do not attract or promote tourism within the county or municipality. However, to the extent that a particular program is primarily designed to serve tourists, the program would be eligible as a tourism-related expenditure. For example, senior citizens transportation for elderly tourists may be able to qualify as a tourism-related expenditure.

QUESTION 17: Is it appropriate to use Tourism-related Funds to fund monuments?

ANSWER: It will depend on the nature of the monument and the impact it will have on tourism. If it is a single statute dedicated to a local figure, it is unlikely that such a monument will have any impact on tourism. However, if the monument is in the nature of a large structure designed to honor a group or entity, then it may be permissible to use Tourism-related Funds for such monument. For example, a monument along the lines of the United States Holocaust Memorial Museum or the Vietnam Veterans Memorial may have a sufficient impact on tourism to warrant receiving Tourism-related Funds.

QUESTION 18: Can Tourism-related Funds be used to pick up garbage and debris?

ANSWER: Garbage removal is a county or municipal service that is ordinarily funded by the county or municipality. In order to use Tourism-related Funds for garbage and yard debris removal, the county or municipality must show that: (1) it has a high concentration of tourism; (2) the trash removal and clean-up services are only needed because of the additional tourist activity (they are not a normal service provided by the county or municipality) and (3) the amount that they spend on such costs are based on the estimated percentage of costs directly attributable to tourists. For example, Tourism-related Funds may be able to be used to pick up trash at a public beach in Myrtle Beach, however, those same funds could not be used to pick up garbage and trash from yards in a small private subdivision in Myrtle Beach.

QUESTION 19: Can Accommodations Tax Funds be used to fund local government salaries?

ANSWER: As a general rule, no unless the county or municipality can show that the

employee's position is necessary to attract or provide for tourists. Additionally, since these employees are providing a county or municipal service, the salary or wage must: (a) be for services that would normally not be provided by the county; (b) the county or municipality must have a high concentration of tourism activity; and (c) the amount of Tourism-related Funds spent on the salary or wages must be based on the estimated percentage of costs attributable to tourists. To the extent that only a portion of the employee's salary or wages meets the requirements listed above, only that portion of the salary or wages that would satisfy these requirements may be paid for out of Tourism-related Funds. If a staff person's entire time is not devoted to the promotion of tourism or the furnishing of services to tourists, the Department would expect the employee and the county or municipality to determine the amount of time the employee devotes to tourism and to treat an appropriate amount of the employee's salary as a tourism-related expenditure.

For example, Tourism-related Funds could not be used to pay for the mayor's salary even if a portion of his time is spent on tourism matters, since this is a position that would need to be filled, whether or not the municipality had any tourism activity at all.

QUESTION 20: Is it appropriate to use Accommodations Tax Funds to fund billboards or advertising relating to anniversaries or other non-tourist related promotions for schools, colleges, universities, or towns and municipalities?

ANSWER: As a general rule, no. However, if the billboard was designed to advertise the area and attract tourists to the county or municipality, then Accommodations Tax Funds could be used. For example, a billboard that reads "Come see Charleston and celebrate our 350th Anniversary" listing events to be held celebrating the anniversary, would qualify for the use of Accommodations Tax Funds, however, a billboard recognizing the anniversary of a private high school would not.

QUESTION 21: Can Tourism-related Funds be used to pay the expenses (such as trash removal and police protection) of local markets?

ANSWER: Generally, no. In order to use Tourism-related Funds to fund expenses of farmers' markets the county or municipality must show that: (1) it has a high concentration of tourism; (2) the services are only needed because of the additional tourist activity (they are not a normal service provided by the county or municipality); and (3) the amount that they spend on such costs are based on the estimated percentage of costs directly attributable to tourists. For example, the market in historic Charleston functions as much as a tourist attraction as it does a local farmer's market, thus Tourism-related Funds could be used to offset expenses of running and upkeep on that market. However,

a local market in Lexington probably would not be eligible to receive Tourism-related Funds since it does not generally attract tourists.

QUESTION 22: Can Tourism-related Funds be used to fund buildings or operations for the local chamber of commerce?

ANSWER: As a general rule, no. Chambers of commerce usually benefit the local members and are not designed to accommodate or benefit tourists. However, if the local chamber of commerce operates the Visitor's Bureau or Visitor's Center it may be possible that Tourism-related Funds could be used for the operations of the Visitor Center.

QUESTION 23: Can Tourism-related Funds be used for the county's or municipality's employees to attend educational workshops, conferences or programs involving tourism?

ANSWER: No. While the county or municipality may receive an indirect benefit from its employees attending workshops, conferences, or programs that discuss tourism issues, these programs do not directly contribute to the county's or municipality's ability to attract or provide for tourists.

QUESTION 24: Can Tourism-related Funds be used for the administrative expenses of advisory committees?

ANSWER: No. While the law requires that the Accommodations Tax Advisory Committee meet and take actions, it does not provide for the reimbursement of the expenses incurred by such a committee. Additionally, the Accommodations Tax Advisory Committee does not directly contribute to the county's or municipality's ability to attract or provide for tourists, but merely provides guidance as to the allocation and expenditure of Tourism-Related Funds. Unfortunately, the statute does not appear to allow Tourism-related Funds to be used to cover the expenses of such committees. Note, however, this does not prevent a county or municipality from paying for expenses of the Accommodations Tax Advisory Committee from other sources.

QUESTION 25: May Tourism-related Funds be used for mosquito control?

ANSWER: No. Mosquito control is a health service that would normally be provided by the county or municipality. Furthermore, this is not the type of service that will need to be varied depending on the number of tourists that visit the county or municipality. Accordingly, Tourism-related Funds may not be used for mosquito control.

QUESTION 26: May Tourism-related Funds be used for travel and lodging expenses of

local high school bands that perform in events such as the Macy's Thanksgiving Day parade?

ANSWER: No. These events do not serve to attract tourists to the band's county or municipality, rather they only serve to attract tourists to the locality where such event is being held.

QUESTION 27: A sporting or other type of similar event which otherwise qualifies for Accommodations Tax Funds for promoting its events, wishes to use Tourism-related Funds to fund scholarships to attract better players and teams. May Tourism-related Funds be used to provide these scholarships?

ANSWER: No. The scholarships do not qualify as tourism-related expenditures under the statute.

QUESTION 28: Can Accommodations Tax Funds be used to develop a formal training program to attract and train entry level positions in the hospitality industry?

ANSWER: No. The training program does not qualify as a tourism-related expenditure under the statute. Such a training program does not directly effect the ability of the county to attract and provide for tourists, although it may provide an indirect benefit to those tourist facilities that hire graduates of such a program.

QUESTION 29: May Accommodations Tax Funds be used for a county's or municipality's supplies such as checks, paper, copier machines, etc.?

ANSWER: As a general rule, no, these do not qualify as tourism-related expenditures. However, if paper or postage is used to advertise or promote tourism, Tourism-related funds could be used to pay for these expenditures. For example, if a county or municipality used paper and postage to send brochures about upcoming events to tourists that have visited the area in the past, this would be an appropriate tourism-related expenditure.

QUESTION 30: A county wishes to grant Tourism-related Funds to a local clinic. A quarter of the patients seen by this clinic are employed in the tourism industry, a low paying industry that typically does not provide health insurance to its employees. Is this an appropriate expenditure of Tourism-related Funds?

ANSWER: While the statute does allow the use of Tourism-related Funds for health facilities, these facilities must be required to serve tourist or tourist facilities. The statute

does not allow the use of such funds for providing health care to the tourism industry's employees.

QUESTION 31: May a county or municipality use Tourism-related Funds for beautification projects?

ANSWER: It depends. Two factors must be evaluated. First, is the project designed to attract or provide for tourists. Secondly, is the beautification a service that would normally be provided by the county or municipality. For example, beautification projects around county or municipal service buildings (such as the courthouse) is a county or municipal service that is normally provided by the county or municipality, therefore, it cannot be paid for with Tourism-related Funds. However, the creation of a public garden such as Edisto Gardens in Orangeburg or Brookgreen Gardens in Horry County is the creation of destination tourist facility and would not be considered a normal county or municipal service. Provided such a location was designed to attract tourists or enhance the ability of the county or municipality to attract and provide for tourists, Tourism-related Funds could be used to cover the expenses of the garden.

QUESTION 32: Is a county required to allocate and spend all of its Tourism-related Funds accumulated during the fiscal year?

ANSWER: No. Pursuant to Code Section 6-4-10(4)(c), allocations to the Tourism-related Fund must be spent within two years of receipt. The two year time limit may be extended upon the recommendation of the county or municipality and must be approved by the Department of Revenue. Any extension must include information about the specific project or program to which the funds will be committed.

QUESTION 33: Is the county or municipality required to expend all of its Tourism-related Funds in the geographical area or areas where the proceeds of the tax are collected?

ANSWER: No. However, counties and municipalities are required to make such expenditures primarily in the geographical areas of the county or municipality where the tax was collected, if practicable. In Thompson v. County of Horry, 294 SC 81, 362 SE 2d 646 (S.C. App. 1987) the court considered language in Code Section 12-35-720 that is substantially similar to the current language of Code Section 6-4-10(4)(d). The court found that the statute did not require that all Tourism-related Funds be returned exclusively to the area from which they are collected. It was sufficient if the funds were for the most part spent in these geographic areas.

QUESTION 34: Can Tourism-related Funds be used to pay the legal fees of a county or municipality?

ANSWER: No. This expense, even if incurred in connection with issues relating to the accommodations tax, is for an activity that does not attract, or provide for, tourists.

SOUTH CAROLINA DEPARTMENT OF REVENUE

s/_____
Burnet R. Maybank, III, Director

Columbia, SC
October 27, 1998

Accommodations Tax Reporting Form

Side A

Name of Government:		Contact Person:	Phone #:
			Email:
Summary of Total Accommodations Tax Funding:			
Allocation of Fiscal Year Revenues	Total Accommodations Tax Revenue for Fiscal Year Ending: _____		1 \$
	First \$25,000 to the General Fund:		2 \$ (25,000.00)
	Balance:		3 \$ (Line 1 minus line 2)
	5% of Balance to General Fund:		4 \$
	30% of Balance to Special Fund: Advertising and Promotion:		5 \$
	Remaining 65% to Special Fund: Tourism Related Expenditures:		6 \$ (Line 3 minus lines 4 & 5)
Reconciliation of 65% Fund	65% Funds Carried Forward from Prior Year:		7 \$
	Interest Earned (Required):		8 \$
	Expenditures (Total Disbursed as Reported on Side B):		9 \$
	Balance Carried Forward to Following Year:		10 \$ (Line 6 plus lines 7 & 8 minus line 9)
30% Advertising and Promotion Special Fund:			
Organization(s) Designated to Receive Special Fund			Amount
			\$
Total:			\$

I attest this report is a true account of the disbursement of all Accommodations Tax revenues received during the period indicated.

Signature (Required) _____ Date _____

Title _____

In order to give detailed information on how the project promotes and attracts

65% Tourism-Related Expenditures Special Fund:

All organizations making application to the local Accommodations Tax Advisory Committee must be reported whether funding was approved or not. Please duplicate this form as necessary.	Amount Requested by	Amount Recommended by Advisory	Amount Approved** by Local	Amount Disbursed by Local

[illegible]

*Project Name/Description should address the specific use of requested funds. Please also specify how the project/event attracts and promotes tourists. (SEE EXAMPLE). A summary of the organization's request may also be attached.

^{**} Amount Approved must be based exclusively on the estimated percentage of costs directly attributed to attracting or serving tourists.

Project Categories - All must attract or provide for tourists.

- | | |
|---|--|
| 1 - Destination Advertising/Promotion | 4 - Tourism-Related Public Services |
| 2 - Tourism-Related Events | 5 - Tourist Public Transportation |
| 3 - Tourism-Related Facilities | 6 - Waterfront Erosion/Control/Repair |
| include in project category 1 all promotion/advertising for events and facilities | 7 - Operation of Visitor Information Centers |

Return to: Accommodations Tax Expenditure Review Committee, PO Box 125, Columbia, SC 29214-0120

Accommodations Tax Detail Form

Use the following space to record information regarding your FY 11-12 Accommodations Tax expenditures. For easier completion, this form may be e-mailed to you. Make copies of this form as necessary.

Organization/Event/Project name: _____ Non profit status: _____

Project/Event Description: _____

	Previous year	Current year
Total budget of event/project	\$.....	\$.....
Amount funded by accommodations taxes	\$.....	\$.....
Amount funded by A-tax from all sources*	\$.....	\$.....
Total attendance		
Total tourists**		

Organization/Event/Project name: _____ Non profit status: _____

Project/Event Description: _____

	Previous year	Current year
Total budget of event/project	\$.....	\$.....
Amount funded by accommodations taxes	\$.....	\$.....
Amount funded by A-tax from all sources*	\$.....	\$.....
Total attendance		
Total tourists**		

Organization/Event/Project name: _____ Non profit status: _____

Project/Event Description: _____

	Previous year	Current year
Total budget of event/project	\$.....	\$.....
Amount funded by accommodations taxes	\$.....	\$.....
Amount funded by A-tax from all sources*	\$.....	\$.....
Total attendance		
Total tourists**		

* Includes all a-tax funded from all sources

** Tourists are generally defined as those who travel at least 50 miles to attend, however, the Committee considers every project/event on a case by case basis.

Attach to your a-tax reporting form (to be sent) and return to:
Tourism Expenditure Review Committee, PO Box 125, Columbia, SC 29214-0120.
RETURN BY OCTOBER 1

LOCAL ACCOMMODATIONS TAX ADVISORY COMMITTEE MEMBERSHIP

(Please be advised that you do not have to form this committee if your accommodations tax receipts are fifty thousand dollars or less. However, you may form the committee, or continue with the committee, if you so desire.)

Pursuant to Section 6-4-25, Code of Laws of South Carolina, there shall be a local advisory committee consisting of seven members. The majority of these members shall be selected from the hospitality industry, of which at least two must be from the lodging industry, and one member shall represent the cultural organizations. Please place an asterisk (*) to indicate the chairperson.

PLEASE LIST MEMBERS AT TIME GRANTS WERE AWARDED. COPY PAGES, THEN LIST CURRENT MEMBERS. YOU SHOULD TURN IN TWO COPIES OF THIS FORM.

Lodging Sector of the Hospitality Industry (Two Representatives)

1. _____
(Name) (Business Name AND DESCRIPTION OF
BUINSESS IF NOT CLEAR HOW IT RELATES TO
INDUSTRY)

(Address) (City, State, Zip)

(Phone) (FAX)

(E-Mail Address)

2. _____
(Name) (Business Name AND DESCRIPTION OF
BUINSESS IF NOT CLEAR HOW IT RELATES TO
INDUSTRY)

(Address) (City, State, Zip)

(Phone) (FAX)

(E-Mail Address)

Local Accommodations Tax Committee Membership Form, Continued...

Two Other Representatives from Hospitality Industry

3. _____
(Name) (Business Name AND DESCRIPTION OF
BUINSESS IF NOT CLEAR HOW IT RELATES TO
INDUSTRY)

(Address) (City, State, Zip)

(Phone) (FAX)

(E-Mail Address)

4. _____
(Name) (Business Name AND DESCRIPTION OF
BUINSESS IF NOT CLEAR HOW IT RELATES TO
INDUSTRY)

(Address) (City, State, Zip)

(Phone) (FAX)

(E-Mail Address)

Please list below the designated cultural interest representative and affiliation:

5. _____
(Name) (Cultural Affiliation)

(Address) (City, State, Zip)

(Phone) (FAX)

(E-Mail Address)

Local Accommodations Tax Committee Membership Form, Continued...

Please list below the other two at-large of the committee:

6. _____
(Name) (Business Name)

(Address) (City, State, Zip)

(Phone) (FAX)

(E-Mail Address)

7. _____
(Name) (Business Name)

(Address) (City, State, Zip)

(Phone) (FAX)

(E-Mail Address)

Please return to: Damita Jeter, Tourism Expenditure Review Committee, P.O. Box 125, Columbia, South Carolina 29214-0120, by no later than October 15. Please call 803-898-5400 with questions or email damita.jeter@dor.sc.gov

Submitted by: _____ E-Mail: _____
(Name and Title)

Phone: _____ Date: _____

Name of County/Municipal Government: _____

**FY 2011/2012 Accommodations Tax Funding
Final Report**

You may record information directly on this form or create a separate document for more detailed responses.

I. PROJECT INFO:

Organization Name: _____

Project Name: _____

Contact Name: _____ Phone: _____

II. PROJECT COMPLETION:

Were you able to complete the project as stated in your original application? _____

If no, state any problems you encountered. _____

III. PROJECT SUCCESS:

Please share any additional comments regarding the project. (e.g., lessons learned, successes, problems encountered, etc.) _____

IV. PROJECT ATTENDANCE:

Record numbers in table below, as requested by the Tourism Expenditure Review Committee. Numbers are to reflect attendance and funds received for projects for current and previous years.

		2010-2011		2011-2012
Total budget of event/project				
Amount funded by A-tax				
Amount funded by A-tax from all sources				
Total attendance				
Total tourists*				

* Tourists are generally defined as those who travel at least 50 miles to attend; however, the Committee considers every project/event on a case by cases basis.

V. METHODS:

Please describe the methods used to capture the attendance data listed above (license plates, surveys, etc.) _____

VI. PROJECT BUDGET:

Attach report indicating project expenses of Accommodations Tax FY11-12 grant.

VII. ORGANIZATION SIGNATURE:

Provide signature of official within organization, verifying accuracy of above statements.

Name

Title

Signature

Date

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