

STATEMENT OF POLICY REGARDING REQUESTS FOR ADVISORY OPINIONS AND GUIDANCE

The Tourism Expenditure Review Committee (“TERC”) is frequently requested to provide guidance in the form of advisory opinions regarding potential or anticipated expenditures of the accommodations tax (“A-Tax”) revenues generated under S.C. Code Ann. §§12-36-920 and 12-36-2630(3) which are subject to review by TERC under S.C. Code Ann. §§6-4-5, *et seq.* (the “Statute”). Of these requests, TERC is most frequently asked to opine regarding proposed or anticipated expenditures of monies from the A-Tax revenues allocated to the two special funds created under S.C. Code Ann. §6-4-10(3) & (4).

The statutory provisions governing TERC and its functions do not authorize TERC to give advisory opinions. To the contrary, the Statute authorizes TERC to only review expenditures of A-Tax by municipalities and counties which have already been made as shown in either the annual reports they are required to make to TERC or a complaint to TERC. *See* S.C. Code Ann. § 6-4-25(D) and §6-4-35(B)(1)(a) & (B)(2). *See also Tourism Expenditure Review Committee v. City of Myrtle Beach*, 403 S.C. 76, 742 S.E.2d 371 (2013).

Accordingly, **TERC’s policy is that will not issue advisory opinions and the cooperation of stakeholders is requested in this regard by refraining from directing questions to TERC Staff for a written or oral response which involves proposed or anticipated expenditures of A-Tax revenues.** The submission of such questions to TERC Staff will result in a referral to this Statement of Policy.

Although it will not issue advisory opinions, TERC believes it is appropriate to publish on its website guidance consisting of answers **to frequent or recurring general questions** regarding expenditures of A-Tax revenues. Therefore, stakeholders may submit general questions in writing to TERC Staff, which will acknowledge the receipt of same **subject to the provisions of this Statement of Policy** and inform the submitter that questions may or may not be answered depending upon the subject matter and its commonality with other questions submitted to TERC Staff. If TERC determines that the frequency or recurrence of a particular general question warrants it, then TERC may direct Staff to develop and publish a response to same without attribution to the stakeholder making such a request.

Published responses to such general questions will not constitute any opinion of TERC (advisory or otherwise) with respect to the issues addressed therein but will represent only the view of TERC Staff. Such responses will not in any way be binding upon TERC or any municipality or county in connection with any prior or subsequent A-Tax expenditure compliance review by TERC. Published responses are for guidance purposes only and do not establish any binding norm with respect to the interpretation or application of the Statute. (It should be noted that TERC is not empowered by the legislature to adopt regulations.) Thus, **TERC expressly reserves the right to interpret and apply the Statute in a manner inconsistent with any Staff responses** permitted under this Statement of Policy.

TERC will continue to publish on its website information concerning compliance determinations made by TERC, previous guidance documents issued by the South Carolina Department of Revenue, decisions by the South Carolina Administrative Law Court and opinions of appellate courts concerning A-Tax compliance determinations of TERC.

Effective Date: _____