

The A-Tax Update



First Quarter, 2005

The Official Newsletter of the Tourism Expenditure Review Committee

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Lee Prickett
Appointed by the Governor at the
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Association of Counties

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TERC Speaks at Recent Governor's Conference on Travel and Tourism

TERC once again had the privilege of speaking at this year's Governor's Conference on Travel and Tourism, which was held February 2-4, 2005 at the Myrtle Beach Marriott Resort at Grande Dunes.

Participants at the Governor's Conference included state/county representatives, regional tourism agencies, local governments, visitors' bureaus and those involved in accommodations and hospitality.

TERC's panel spoke to a room of about 80 attendees in an informative question and answer session. John Curry, CEO of the Curry Company, discussed the founding legislation that has now formed Chapter 4, Title 6, dealing with state accommodations taxes.

Below are a sampling of some of the questions and answers discussed during the meeting. Watch for an update of TERC's website, www.atax.sc.gov, which will list these in our FAQ section:

1. 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.

2. 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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... The A-Tax Update, continued



Question and Answers, continued...

4. 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.

5. 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.

Committee Welcomes New Member

In November, TERC welcomed a new member to its Committee. Lee Prickett, county administrator to Calhoun County, was appointed by the Governor's Office at the Recommendation of the S.C. Association of Counties. He will fulfill a seat that was vacated by Steven Stewart, formerly of Greenville County.

Mr. Prickett will assist Committee members on reviewing accommodations tax expenditures for adherence with Section 6-4-10 of the S.C. Code of Laws and also serve to correspond with various local governments on state accommodations tax issues.

TERC Staff on Leave

Please be aware that TERC's staff person will be on leave from approximately March 28-May 15. Email messages and phone calls will be checked periodically.

All issues generated from correspondence sent from January-March will be taken up again mid-May.

Should an emergency arise, please contact our Chairman, Frans Mustert, at 843-445-5901.