

# The A-Tax Update



Third Quarter, 2006

*The Official Newsletter of the Tourism Expenditure Review Committee*

## Committee Members

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Appointed by the Governor at Recommendation of the Hospitality Association of SC

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Appointed by the Governor at the Recommendation of the SC Association of Counties

### **Ed Riggs**

Governor's At-Large Appointee

### **Toni Nance**

Ex-Officio SCPRT

## *Answers to most often asked questions*

This past year TERC has discussed the tourism impact of various "new" expenditures which some municipalities have requested an opinion on or have inappropriately funded in FY 05-06. After seeking guidance from its advisors, TERC would like to offer the following answers to some of its most frequently asked questions.

Among the first is **lighting and landscaping at intersections**, which some local governments have funded through accommodations tax funds. TERC has previously stated that it does not believe that lighting and landscaping is the best use of funds. After careful examination of the law for the past several months, at its meeting on July 11, 2006, TERC drafted the following policy:

TERC may approve the installation, maintenance and operation of lighting and landscaping where the committee believes that such project improves or enhances the possibility that tourists will visit any tourism attraction located in the vicinity of the intersection or provides access to the facility.

Other policies/answers follow:

### **Are fireworks considered an appropriate expenditure of accommodations taxes?**

**Answer:** The promotion of fireworks through advertising in out of market areas is an allowable expenditure as is any advertising to attract tourism. The purchase of fireworks or funds expended to produce a fireworks display is not an allowable expenditure unless the event is a free standing event produced to attract tourism and not a part of an ongoing program. The exception would fall under Section 6-4-10 of the S.C. Code of Laws where it addresses the use of Accommodation tax funds for the benefit of civic or cultural events. TERC has found it appropriate to fund fireworks where it would have ties to such an event. i.e. July 4<sup>th</sup>, New Years Eve.

### **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 event and displayed in an effort to direct and attract tourists may be funded. Banners and welcome signs considered out of market advertising are fundable. Also, for example, a sign along the highway to identify the "Cotton Museum," even though within the market area is also acceptable when it is intended to draw tourists into a certain area.

### **Is 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 **advertise and promote** the event to **tourists**, 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.

### **Are historical markers or monuments fundable?**

**Answer:** To answer this question, the Committee 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 or recognize a specific historical location, 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.

## ... *The A-Tax Update, continued*



### ***A-Tax Reporting Packages Due by October 15***

Local governments should soon be receiving the state accommodations tax reporting packages from the Tourism Expenditure Review Committee. If you receive the package, then state law mandates that you **MUST COMPLETE AND RETURN IT BY OCTOBER 15**. After receiving them, our procedure is to review them for accuracy and then the Committee reviews them to verify all expenditures were appropriate in that they adhere to Section 6-4-10 of the S.C. Code of Laws and attract, provide for and promote tourism. In order to accomplish this task, the Committee is once again requesting additional information, such as budget, percentage of tourists, overall attendance, etc. This helps us gain a better understanding of how certain projects attract and promote tourists to the area. We understand that many municipalities and counties do not currently keep this data. In that case, we ask that you provide as much information as possible, especially a description of the project. Please note that the new forms also contain seven "project category numbers." **We ask for your help in submitting these "project numbers" as accurately as possible. This data is used by the S.C. Department of Parks, Recreation and Tourism to compile statistical reports, and the reports are only as accurate as the information provided.**

There are some additions to the guidelines this year. This includes TERC's policy on fireworks usage, welcome signs and lighting and landscaping, based on their adherence to the state statute. For more information, see [www.atax.sc.gov](http://www.atax.sc.gov).

To help with reporting, the forms may be e-mailed to you. The forms are also available on our website at [www.atax.sc.gov](http://www.atax.sc.gov). For more information, contact Damita Jeter, Staff Liaison, at [jeterd@sctax.org](mailto:jeterd@sctax.org) or call 803-898-5400.

### ***After receiving a tax funds, can one organization disburse those funds to another?***

TERC has determined that once funds are received by an organization, then it is only acceptable for that particular organization to spend the funds. Many times, an organization receives funds and then "re-grants" those funds to a smaller organization for disbursement. This is not an appropriate use of tourism monies per Section 6-4-10 of the S.C. Code of Laws. Over the years, the Tourism Expenditure Review Committee and its advisors have gleaned that according to Section 6-4-10 of the S.C. Code of Laws, there should not be a re-granting process. If you read the Section, you will notice that it clearly states the process in which funds should be granted. Funds are received by a municipality or county and the same municipality or county, after potential recipients go through a proper application and review process, awards funds to an eligible non profit, which in turn, has a responsibility to use the money for proper tourism-related expenditures within a certain time frame.

Title 6 of the S.C. Code of Laws gives the municipal and county government discretionary powers to disburse public funds and to maintain control over these funds to assure that these funds are used for their intended purpose for which they were authorized to be used. By allowing an entity to re-grant funds given to them, the local municipality or county government would in actuality give this authority to the entity doing the re-granting and would give discretionary power to disburse public funds to such entity. This is an unlawful process per the Code Section. Hence TERC has interpreted that it would not be an acceptable process to allow organizations, once they receive the funds, to simply "re-grant" them to other organizations. However, if a recipient would like to spend the funds on **advertising and promoting the various tourism events or aspects of these other organizations**, then it would be an acceptable expenditure under Section 6-4-10.

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