

POLICY ON THE INTERPRETATION OF "TOURISM RELATED EXPENDITURES"

Chapter 4, of Title 6 the South Carolina Code of Laws provides for the allocation of the Accommodations Tax revenues collected by a county or municipality and provides that a portion of the Accommodations Tax be allocated by the municipality or county for a special "Tourism-related Fund" to be used for "tourism related expenditures."

The law also establishes a Tourism Expenditure Review Committee, which is charged with "oversight authority on all questionable tourism related expenditures," §6-4-35 (B) (1) (a). As stipulated in the statute, all reports [pursuant to §6-24-(D) 3 "listing how accommodations taxes are spent,"] "must be forwarded to the Committee for review to determine if they are in compliance with this chapter." The committee is required to review these reports to clarify and determine if the expenditures are "tourism related" in keeping with the statute.

The law defines tourism to mean "the activities of people taking trips outside their home communities for any purpose, except daily commuting to and from work" [§6-4-5 (4)]. However, the law does not provide a definition of "home community." Thus, it is the challenge of the Tourism Expenditure Review Committee to arrive at a policy, which provides guidance to counties and municipalities on the appropriate use of Accommodations Tax funds to attracting people from "outside their home communities," or to provide additional services, which may be needed because of their presence in the community.

In seeking to meet its obligations, the committee has considered adopting the geographical definition used by the national Tourism Industry Association and the South Carolina Department of Parks Recreation and Tourism. While it is acknowledged that there is no commonly accepted definition of travel in use at this time, these entities define tourism "as activities associated with all overnight trips away from home in paid or unpaid accommodations and day trips to places 50 miles or more, one way, from the traveler's origin."

While anyone meeting this test clearly is a "tourist," the committee has found that it does not sufficiently address the realities of patterns of visitation and the economic benefits derived from visitation to communities in South Carolina.

In the absence then, of a single geographic test to define "outside their home communities," the Committee is left with the challenge of distinguishing those who are local to the community from those non-residents who are drawn to visit an area and are providing economic benefit to that community through expenditures related to tourism activities.

In fulfilling its duty to determine if an expenditure is "tourism related," the Committee, in addition to considering the above-mentioned 50-mile radius, takes into consideration two

additional guiding principles derived from the tests outlined in Revenue Ruling #98-22 (p.4):

- 1) That 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*.

With respect to the first test, the committee seeks 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. Thus, the geographic breadth and extent of such promotion is seen as 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.

To determine whether an item (or a facility) would normally be provided regardless of the extent of visitation, the Committee looks to see how the item addresses the needs of visitors relative to the needs of residents. The question is whether the item is consumed or used in the process of attracting visitors, by the visitors themselves, or by the community on their behalf; or if the item is consumed or used primarily by the resident population or on their behalf.

In addition, as articulated in Revenue Ruling #98-22 (p.4), "If a county or municipality wishes to use tourism related funds to provide additional county or municipal services not directly related to a particular event or project, the expenditure must also meet the following 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.

In its review, the Committee seeks to provide guidance that is in keeping with the law and the Ruling on this question, and will benefit the county or municipality in the

allocation of these funds to increase the benefits of tourism by bringing new money into the economies of their areas.

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. Thus the committee has looked to other provisions of law to inform its policy in this regard. Code Section 53-1-150, which exempts certain counties from the Sunday "blue laws" appears to be relevant in identifying areas of the state in which local taxpayers may be alleviated of the financing of services to visitors through the collection of additional accommodations tax revenue.. Specifically, Code Section 53-1-150 (A) provides an exemption from "Sunday Blue Laws" for certain areas of the state in order to " reduce the property tax burden through additional accommodations tax revenue which allows these areas to provide necessary governmental service from these revenues."

Code Section 53-1-150 (B) exempts from the Sunday Sales law (Blue Laws) areas that "collect more than \$900,000 in one fiscal year in accommodations tax revenue."

Accordingly, the Committee considers the above to be interpreted that any county or municipality that is exempt from Sunday blue laws and collects more than \$900,000 in accommodations tax revenue in one fiscal year to have a high concentration of tourism.

Presently, the following counties (and municipalities within those counties) have a high concentration of tourism: Beaufort, Charleston, Georgetown, Greenville, Horry and Richland.