

## **CHAPTER 11-09.2 COUNTY LODGING TAX**

### **11-09.2-01. County lodging tax - Imposition - Amount - Disposition.**

The board of county commissioners of any county, by ordinance, may impose a county tax, not to exceed two percent, upon the gross receipts of retailers on the leasing or renting of hotel, motel, or other accommodations within the county for periods of fewer than thirty consecutive calendar days or one month. The tax imposed by this section must be in addition to the state sales tax on rental accommodations provided in chapter 57-39.2. A county may not impose a county lodging tax under this section on the gross receipts of retailers located within the boundaries of a city within that county if the city has imposed a city lodging tax, or subsequently enacts and imposes a city lodging tax, under section 40-57.3-01. A county that imposes the tax in this section shall deposit all proceeds in the county visitors' promotion fund. Moneys deposited in the county visitors' promotion fund must be spent only as provided in this chapter. This chapter applies to all counties and does not limit the authority of a home rule county to levy any taxes authorized by other provisions of law.

### **11-09.2-02. County lodging and restaurant tax - Imposition - Amount - Disposition.**

In addition to the tax under section 11-09.2-01, the board of county commissioners of any county, by ordinance, may impose a county tax, at a rate not to exceed one percent, upon the gross receipts of retailers on the leasing or renting of hotel, motel, or other accommodations within the county for periods of fewer than thirty consecutive calendar days or one month and upon the gross receipts of a restaurant from any sales of prepared food or beverages, not including alcoholic beverages for consumption off the premises where purchased, which are subject to state sales taxes. For purposes of this section, "restaurant" means any place where food is prepared and intended for individual portion service for consumption on or off the premises and "prepared" includes heating prepackaged food. Accommodations, food, and beverages may all, each, or in any combination be subject to the tax under this section, if all items in any category which are taxable under state law are taxable, except as otherwise provided in this section. The tax imposed under this section is in addition to state sales taxes on rental accommodations and restaurant sales, and county lodging taxes under section 11-09.2-01. A county may not impose a county lodging and restaurant tax under this section on the gross receipts of retailers located within the boundaries of a city within that county if the city has imposed a city lodging and restaurant tax, or subsequently enacts and imposes a city lodging and restaurant tax, under section 40-57.3-01.1, on the gross receipts from the same transaction. A county that imposes the tax under this section shall deposit all proceeds in the county visitors' promotion fund. Moneys deposited in the county visitors' promotion fund may be spent only as provided in this chapter.

### **11-09.2-03. County visitors' promotion fund - Establishment - Purpose.**

The board of county commissioners of any county that imposes a county tax pursuant to section 11-09.2-01 or 11-09.2-02 shall establish a county visitors' promotion fund. The local destination marketing organization shall serve as an advisory committee to the board of county commissioners in administering the proceeds from the taxes available to the county under this chapter. The moneys in the visitors' promotion fund must be used generally to promote, encourage, and attract visitors to come to the county and use the travel and tourism facilities within the county. The local destination marketing organization shall receive, plan, execute, and review the expenditure of proceeds from the visitors' promotion fund and report its activities annually to the board of county commissioners.

### **11-09.2-04. Budget - Contracts.**

The board of county commissioners annually shall review the local destination marketing organization budget as proposed by the organization, if any, under which the organization operates. The board of county commissioners, in consultation with the local destination marketing organization, may contract with any person, firm, association, corporation, or limited

liability company to carry out the purposes of the county visitors' promotion fund created under section 11-09.2-03.

**11-09.2-05. Payment of tax - Collection by tax commissioner - Administrative expenses allowed - Rules.**

The taxes imposed under this chapter are due and payable at the same time the taxpayer is required to file a return under chapter 57-39.2 and must be collected and administered by the tax commissioner in the manner provided in chapter 57-39.2. The taxpayer shall add the taxes imposed under this chapter to the sales, lease, or rental price and shall collect the tax from the consumer. A retailer may not advertise or hold out or state to the public, or to any consumer, directly or indirectly, that the taxes or any part of the taxes imposed under this chapter are assumed, absorbed, or refunded by the taxpayer. The amount the tax commissioner remits monthly to each county as taxes collected for that county's visitors' promotion fund must be reduced by three percent as an administrative fee necessary to defray the cost of collecting the taxes and the expenses incident to collection. The administrative fee must be deposited in the general fund in the state treasury. The tax commissioner shall adopt rules necessary for the administration of this chapter. The penalties and liabilities provided in sections 57-39.2-18 and 57-39.2-18.1 specifically apply to the filing of returns and administration of the taxes imposed under this chapter. The taxes imposed under this chapter are not taxes subject to chapter 57-39.4. The tax commissioner may offset future distributions of a tax imposed and collected under this chapter if a previous overpayment of the tax was distributed to the county. The tax commissioner, after consulting the appropriate county official, may determine the offset amount and time period for recovery of the overpayment of the tax distribution.