

Tourism Taxes – Limitations, Uses and Financing Options

IIMC Region III; MFOCTA

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Local Accommodations Tax (Fee)

- May not exceed 3 percent (both municipal and county governments combined).
- County may not impose accommodations tax exceeding 1.5% within the city without consent of the City.
- Applied to gross proceeds from the rental or charges for accommodations (rooms, campground spaces, lodgings or sleeping accommodations).
- Enacted by Ordinance through a positive majority of the entire governing body.



Local Accommodations and Hospitality Taxes

- The revenue must be used exclusively for the following purposes:
 - Tourism-related buildings including, but not limited to, civic centers, coliseums and aquariums;
 - Tourism-related cultural, recreational or historic facilities;
 - Beach access, renourishment, or other tourism-related lands and water access;
 - Highways, roads, streets and bridges providing access to tourist destinations;
 - Advertisements and promotions related to tourism development; or
 - Water and sewer infrastructure to serve tourism-related demand.

Local Accommodations and Hospitality Taxes

- In a county collecting at least \$900,000 in State Accommodations Taxes annually, the local accommodations and hospitality revenues may also be used for operation and maintenance of the tourism-related purposes and facilities that were listed previously.
- Additionally, the revenue may be used to deliver municipal services related to those purposes and facilities, including:
 - Police
 - Fire protection
 - Emergency medical services and
 - Emergency-preparedness operations
- Amendments in 2006 and 2010 later permitted other municipalities to use 50% of revenues for such purposes.

Beach Preservation Fee



- Fee imposed on the gross proceeds derived from the rental or charges for accommodations furnished to transients.
- Authorized by any “qualified coastal municipality” – a city bordering the Atlantic Ocean with a public beach (which does not have in excess of 1.5% local accommodations fee).
- Fee of up to 1% approved by Referendum.
- Revenue limited to:
 - Nourishment, Renourishment, Maintenance, Erosion Control and Monitoring
 - Dune Restoration and Maintenance
 - Maintenance of public beach access



Local Option Tourism Development Fee

- The tax is a general sales and use tax on all sales at retail (with a few exceptions) taxable under the state sales and use tax.
- Only may be implemented by a municipality located in a county which annually collects at least \$14mm in State accommodations taxes.
- Only applies to Charleston and Horry County; Myrtle Beach imposed it on August 1, 2009.
- All revenues and interest must be used exclusively for tourism advertisement and promotion directed at non-SC residents.
- Approved by 2/3 majority of council (by Ordinance) or by referendum.

Local Option Tourism Development Fee

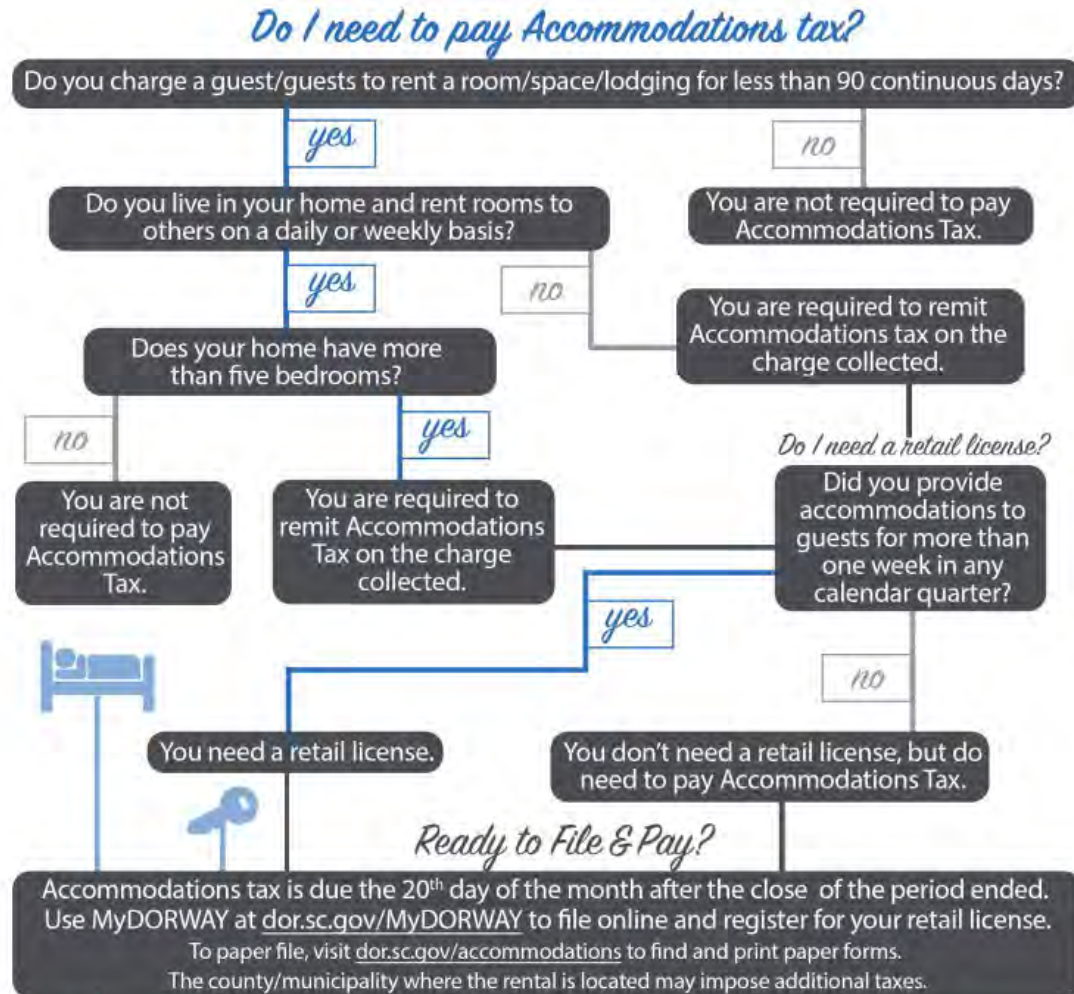
- Revenues in second and subsequent years must be used to promote tourism, but 20% may be retained by the municipality to:
 - At least 20% (of the 20%) must be used for property tax relief for owner-occupied residential property.
 - The balance of the money may be used for capital projects – involving the construction of new (or existing) tourism-related facilities to grow overnight tourism.
- The municipality must designate no more than 2 organizations (not for profits) to conduct promotional activities.



State Accommodations Fee

- 2% local accommodations tax imposed by the State and credited to the municipality or county in which it is collected.
- Applies to rental of transient accommodations – hotels, campgrounds, boarding houses, mobile home parks. Does not apply to persons staying for 90+ continuous days or boarding house with less than 6 rooms.
- First \$25,000 and 5% of the balance must be allocated to the municipality's general fund.
- Remainder must be used for tourism-related activities (Section 6-4-10).
- Municipal body must appoint an advisory committee to make recommendations on expenditures if more than \$50,000 is received.

State Accommodations Fee



Accommodations tax is due the 20th day of the month after the close of the period ended. Use MyDORWAY at dor.sc.gov/MyDORWAY to file online and register for your retail license.

To paper file, visit dor.sc.gov/accommodations to find and print paper forms.

The county/municipality where the rental is located may impose additional taxes.



Tax v. Fee

- Case law - (Brown v. Horry County) – Road Maintenance Fee; (CR Campbell Construction v. Charleston) – Real Estate Transfer Fee
- In Brown, the Court stated that a service charge is not a tax because it “is imposed on the theory that the portion of the community which is required to pay it receives some special benefit as a result of the improvement made with the proceeds of the charge.”
- Test of Fee v. Tax (CR Campbell): (1) the revenue generated is used to the benefit of the payers, even if the general public also benefits; (2) the revenue generated is used only for the specific improvement contemplated; (3) the revenue generated by the fee does not exceed the cost of the improvement; and (4) the fee is uniformly imposed on all the payers.

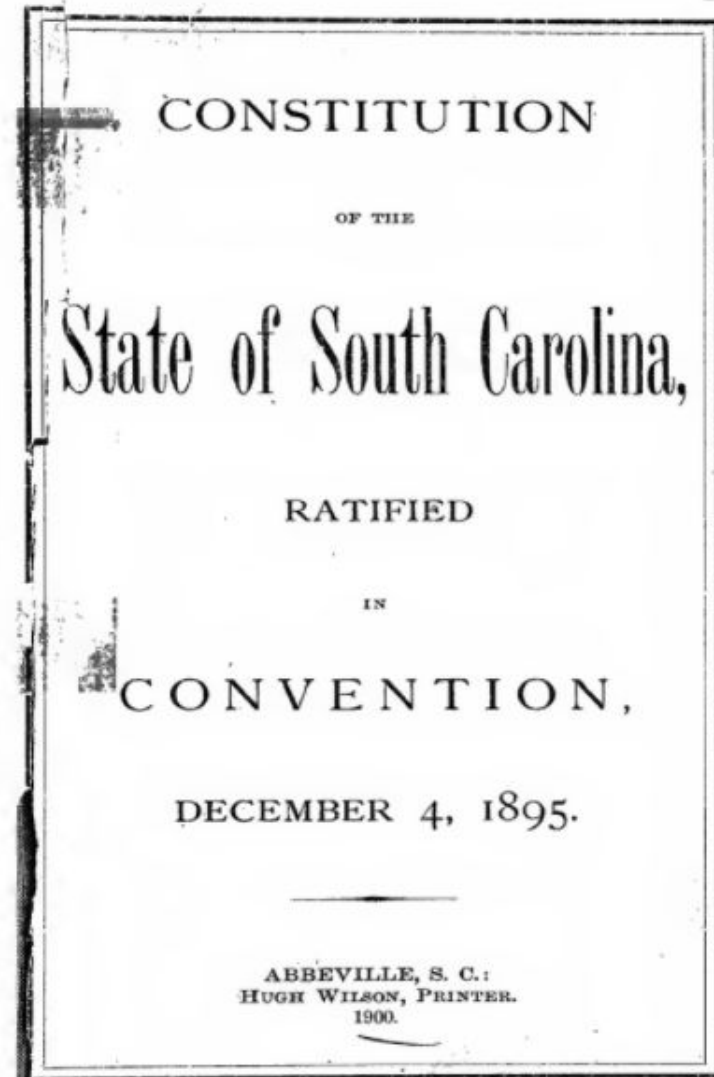


New Fees

- Section 6-1-300: “Service or user fee” means a charge required to be paid in return for a particular government service or program made available to the payer that benefits the payer in some manner different from the members of the general public not paying the fee.
- Section 6-1-310 prohibits imposing new types of local taxes (unless authorized by the general assembly).
- Section 6-1-330 – a new service or user fee must be imposed by ordinance (acting in a positive majority) after a public hearing.
- Fees imposed prior to 12/31/1996 remain in force until repealed by governing body (Columbia, Richland, Lexington, Hilton Head).
- Fees must be used for the services for which the fees are paid and if revenues generated is 5 percent or more of the prior fiscal year budget.



- SC Constitution (1895):
Article X, Section 14(10):
“[i]ndebtedness payable solely from a revenue-producing project or from a special source, which source does not involve revenues from any tax or license, may be issued upon such terms and conditions as the General Assembly may prescribe by general law.”
- Revenue bonds otherwise authorized by statute may be issued so long as they are secured by a fee and not a tax.



Leveraging Funds



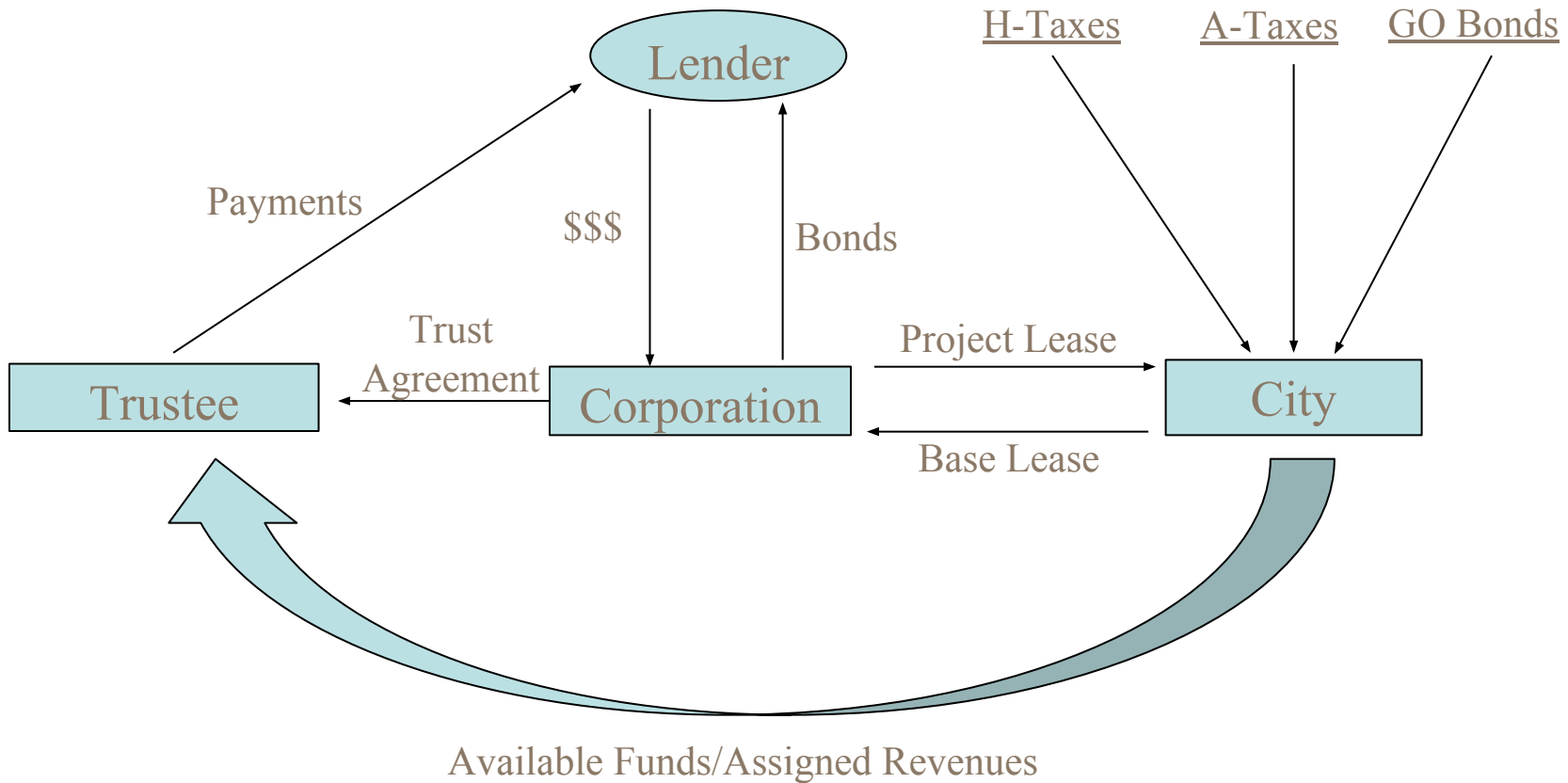
- Is their statutory authorization to issue debt for tourism purposes?
 - No, then Yes – Local Accommodations and Hospitality Taxes (Section 6-1-760)
 - Maybe – Beach Preservation Fee (in combination with a Section 6-1-760 borrowing)
 - Maybe – Local Option Tourism Development Fee (same)
 - Yes - State Accommodations Tax (Section 6-4-15 and Section 6-1-760)
 - Maybe – Local Fees



Leveraging Funds

- Critical Inquiries for Local Accommodations Taxes and Local Hospitality Tax borrowings:
 - Does facility serve a statutorily enumerated purpose?
 - Civic Center, Coliseum, Aquarium
 - Cultural, Recreational, Civic Facilities
 - Beach Access and Renourishment
 - Highways, Roads, Streets and Bridges
 - Advertisements and Promotions
 - Water and Sewer Infrastructure
 - Police, Fire Protection, Emergency Medical and Emergency Preparedness
 - Is the facility sufficiently “tourism-related?”
 - Does the revenue stream meet the *Brown v. Horry* test?

Leveraging Funds – Installment Purchase



WARNING TO TOURISTS

**DO NOT LAUGH
AT THE NATIVES**





Leveraging Funds

- Section 6-1-760: Municipality may issue bonds for purposes provided in Section 6-1-530 and pledge as security and retire such bonds with the proceeds of (1) Local Accommodations Taxes; (2) Local Hospitality Taxes; (3) State Accommodations Taxes (except for required advertising and promotional monies); and (4) other nontax revenues as may be available for those purposes for capital projects used to attract and support tourists.

- Security limitations:
 - Statutory discretion
 - Limitations on amount
 - Drop in demand
 - Failure of revenue providers
 - Project finance limitations

- Potentially combine with other (more secure) revenue sources.



POPE FLYNN
GROUP

Leveraging Funds

- Hartsville Water Park – Piratesville





Questions/Comments/Contact

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