

# Transient Guest Tax

## What is the Transient Guest Tax?

Tax on lodging rentals paid by guests renting for not more than 28 days  
Must be collected by businesses with more than 2 rooms to rent  
Levied by local gov'ts for financing tourism activities  
As of July 2016  
102 cities and 34 counties levy the tax  
Accounting for 817 establishments (636 in cities, 181 in counties)  
Amount Distributed – FY 2016  
Total \$45,631,776  
County \$3,233,804  
City \$42,397,972  
Highest Rate = 9% (Mission, Overland Park)

## Why 28 days and 2 rooms?

28 days – if more, conflicts with monthly boarding facilities  
2 rooms - probably didn't want to impose burden on a 1 or 2 room business

## How to Enact the Tax

A city or county can levy the tax  
Pass ordinance (city) or resolution (county), subject to protest period (vote can be held as well)  
Notify the department of the tax, includes sending copy of ordinance or resolution  
Tax starts on the 1st day of a calendar quarter, 30 days after notification to department  
Non-uniformity of statutes - Chartering out of the statute – Home rule authority

AG Opinion 1982-17 Home Rule Authority - Lenexa  
Can opt-out of rate limit, committee composition, use of funds.  
Can't change any aspects of the statute dealing with the administration of the tax

### Statutory limitation

If a county has a tax, the city can not  
If a city has a tax, the county can have one for the rest of the county, but not for that city  
Cities have worked with their county to work around limitation using interlocal agreements

## How can the money be used

For convention and tourism promotion:  
Activities to attract visitors into the community  
Support of those activities & organizations which encourage increased lodging  
Other purposes if detailed in charter ordinance  
Local gov't has a lot of leeway in determining what constitutes promotion.  
Attorney General Opinions  
2006-22 Fort Scott renovation of visitor center & Chamber of Commerce web site  
1987-195 Overland Park and use of tax for sales tax bonds  
2002-31 Bethany College and charging transient guest  
1991-110 Lawrence and handicapped accessibility

## Who has to pay?

A "transient guest" means a person who occupies a room (sleeping accommodation) from a hotel, motel or tourist court for not more than 28 consecutive days.

## Who doesn't pay?

Federal Government - direct purchases are exempt  
Room rentals for greater than 28 consecutive days are not taxable  
Corporation renting rooms at least 29 consecutive days for employees  
Individuals staying at least 29 consecutive days

## **Transient Guest Tax**

### **What Businesses have to collect the tax?**

Businesses holding themselves out to the public, with more than 2 bedrooms furnished for rent  
Hotels, motels, bed & breakfasts,  
Accommodation brokers: Businesses which maintains an inventory of two or more rooms in one or more locations which are offered for pay to a person for not more than 28 days.

### **What Businesses don't have to collect the tax?**

Kansas Dept of Wildlife & Park cabins - don't meet the definition of a Person  
RV parks - not renting out a structure or building  
Colleges and universities – not engaged in the business of renting room. Not a hotel, motel  
Lodges, B&B with only 1 or 2 sleeping rooms – don't meet the more than 2 room definition

### **Collection and Enforcement of the tax**

Returns due to the department by 25<sup>th</sup> of the following month (Sept sales due Oct 25<sup>th</sup>)  
Delinquent or under paid returns enter Tax Collection's processing  
Letters mail, then phone calls. Can lead to more aggressive action  
Usually, business delinquent in other taxes at the same time (sales tax)  
If you believe a business not paying:  
Contact city/county to have them check against tax entity report  
Contact the department and we will investigate.

### **Distribution of the Tax**

Transient Guest is a local tax, all money returned to the city or county, except 2% processing fee  
Distributions sent quarterly, 30 days after end of calendar year quarter (end of Jan., April, July, Oct.)  
Consists of data received during prior quarter with a received date within that quarter.  
Returns received late, or if not validated until 1st of next quarter, falls to next distribution

### **Reports and Confidentiality Restraints**

Tax Entity Reports available to city and county officials – lists tax by business  
Department can not divulge individual taxpayer data except to city/county officials  
Tourism offices do not have access to individual taxpayer data  
Statistical reports are available on our website (under Media/Statistics)  
Confidentiality statutes require we not divulge tax collections  
No data published when less than 5 reporting locations

### **Sales tax Connection**

Rooms are subject to state and local sales tax - must have 4 bedrooms vs. more than 2  
Local tax is distributed back to cities and counties  
There are more exemptions – all government, schools, churches  
Some cross checking occurs in processing between the two taxes

### **Contacts:**

Amy Kramer Phone: 785-291-3580 E-mail: [amy.kramer@kdor.ks.gov](mailto:amy.kramer@kdor.ks.gov)  
Lynn Robinson: Phone: 785-296-3082 E-mail: [lynn.robinson@kdor.ks.gov](mailto:lynn.robinson@kdor.ks.gov)  
Kansas Department of Revenue: <http://www.ksrevenue.org/>

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