Local Transient Lodging Taxes

The 2003 Legislature created the state lodging tax program. This program included new restrictions on the use of Transient Lodging Taxes (TLTs) at the local level. Specifically, local TLTs imposed or increased after July 1, 2003 are subject to certain restrictions. TLTs in place or approved on or before that date are generally grandfathered in but are subject to limits on subsequent changes. This document provides a brief description of these restrictions, primarily those prescribed in ORS 320.350.

Taxes in place or approved on or before July 1, 2003

Taxes in effect or approved on or before this date are grandfathered into state law (i.e. not affected) with one exception: the local authority may not decrease the percentage of revenue from these taxes that is dedicated to funding tourism promotion or tourism-related facilities. This requirement applies to fund uses that either existed or were formally agreed to by July 1, 2003.

Taxes first imposed or increased after July 1, 2003

Local governments that impose a new tax or increase a tax after July 1, 2003 are restricted in that the revenue can be used only for the following:

1. Tourism promotion or tourism-related facilities;
2. City or county services; or
3. To finance or re-finance debt on tourism-related facilities and pay associated administrative costs.

This requirement applies after businesses are reimbursed for tax collection services.

The 70/30 Distribution

Taxes first imposed or increased after July 1, 2003 must be used such that at least 70 percent of the net new revenue is spent on tourism promotion, on tourism-related facilities, or to finance or refinance debt for tourism-related facilities — items 1 and 3 above. Up to 30 percent may be used for general city or county services — item 2 above.

Grandfathered Taxes

Grandfathered taxes are those that were in effect or approved as of July 1, 2003. These taxes are subject to the restriction that the percentage of revenue spent on tourism promotion or tourism-related facilities may not be decreased. The taxes may be increased after July 1, 2003, but the incremental (or new) net revenue is subject to the 70/30 distribution described above.

Tourism Promotion

Tourism promotion is defined in statute to mean:

1. Advertising, publicizing or distributing information for the purpose of attracting and welcoming tourists;
2. Conducting strategic planning and research necessary to stimulate future tourism development;
3. Operating tourism promotion agencies; and
4. Marketing special events and festivals designed to attract tourists.

Tourism-Related Facilities

Tourism-related facilities are defined in statute to mean:

1. A conference center, convention center or visitor information center; and
2. Other improved real property that has a useful life of 10 or more years and has a substantial purpose of supporting tourism or accommodating tourist activities.

Local Infrastructure

There had been some question as to whether local infrastructure (e.g. roads and sewer systems) qualifies as "tourism-related facilities" for the purpose of spending this revenue. According to an AG opinion issued on November 14, 2008, the short answer is that they qualify only in a limited sense. The opinion states, in part, that such projects qualify "...only if they draw tourists themselves, directly serve a specific tourist attraction (such as an access road) or are part of the infrastructure of a specific tourist attraction (such as a restroom and the on-site sewer line.)"

Funds used as General Funds

At the time the law was changed in 2003, many local governments were using TLT revenues as part of their General Fund. To the extent these taxes were grandfathered into the law, they are still often used in this way today. Local governments have discretionary control over this spending, just as the Legislature does for the State's General Fund. Note that when establishing or changing the use of general-purpose funds, local governments remain subject to local budget law.