

TITLE 17

GROSS RECEIPTS OF HOTEL, MOTEL, AND RESTAURANT

TAX

Chapters:

- 17.01 Tax Amounts
- 17.02 Collecting Agency
- 17.03 Advertising and Promotions Committee
- 17.04 Tax Use
- 17.05 Validity and Severability
- 17.06 Criminal Penalties

CHAPTER 17.01

TAX AMOUNTS

Sections:

- 17.01.01 Tax Amounts

17.01.01 Tax amounts

A. Hotel and motel A tax of three percent (3%) is hereby levied on the portion of the gross receipts or gross proceeds received from the renting, leasing or otherwise furnishing of hotel, motel, or short-term condominium rental accommodations for sleeping, meeting, or party room facilities for profit in the city of Centerton, Arkansas, but such accommodations shall not include the rental or lease of such accommodations for periods of thirty (30) days or more. (Ord. No. 2007-15, Sec. 1.)

B. Restaurant A tax of one percent (1%) is hereby levied on the portion of the gross receipts or gross proceeds received by restaurants, cafes, cafeterias delis, drive-in restaurants, carry-out restaurants, concession stands, convenience stores, grocery store delis, and similar businesses from the sale of prepared food and beverage for on or off-premises consumption, except that such tax shall not apply to such gross receipts or gross proceeds of organizations qualified under Section 501 C, 3, Internal Revenue Code. A.C.A. 26-75-602(a)(1)(d)(1)(B) (Ord. No. 2007-2, Sec. 1.)

CHAPTER 17.02

COLLECTING AGENCY

Sections:

17.02.01 Collecting Agency

17.02.01 Collecting Agency

A. **A&P Commission** The two percent (3%) and one percent (1%) tax described in this ordinance hereof shall be paid by the persons, firms and corporations liable therefore and shall be collected by the Advertising and Promotion Commission of the city (hereinafter the "Commission"), or by a designated agent of the Commission, in the same manner and at the same time as the tax levied by the Arkansas Gross Receipts Act, A.C.A. 26-52-101, et. seq., [A.C.A. 26-75-603(a)(1)]

B. **Forms** The person paying the tax shall pay and report said tax on forms provided by the Commission and as directed by the Commission. The rules, regulations, forms of notice, assessment procedures, and the enforcement and collection of the tax under the Arkansas Gross Receipts Act shall, so far as it is practicable, be applicable with respect to the enforcement and the collection of the tax described herein. However, the administration and enforcement and all actions shall be by and through the proper Commission officials or agents. The Commission shall have the authority to sue and be sued in its name. A.C.A. 26-75-603(b)

C. **Applicability** The tax levied by 17.01 shall be collected from the purchaser of food or accommodations by the person in the business of selling said food or accommodations. Such person shall pay to the city by the twentieth day (20th) of each month, all collections of the tax for the preceding month, accompanied by reports on forms to be prescribed by the Commission.

D. **Advertising and Promotion Fund** That from and after the date of this ordinance, all taxes collected by the city of Centerton, Arkansas, pursuant to the levy for advertising and parks purpose as authorized by statute, shall be placed in the Advertising and Promotion Fund. (Ord. No. 2007-2, Sec. 2.)

CHAPTER 17.03

ADVERTISING AND PROMOTIONS COMMITTEE

Sections:

17.03.01 Advertising and Promotion Committee

17.03.01 Advertising and Promotions Committee

A. There is hereby created by the city of Centerton Advertising and Promotion Commission, which shall be composed of seven (7) members as follows:

1. Four (4) members shall be owners or managers of businesses in the tourism industry which collect the hotel and restaurant tax levied pursuant to this chapter. Said members shall not be required to reside in the city of Centerton, provided, however, that in selecting such members, the Commission and City Council shall give preference to any person who is a resident of the city and who also meets the Commission's qualifications for membership. Three (3) of said members shall be owners or managers of hotels, motels, or restaurants. The four (4) tourism industry positions provided for in this section shall be filled by appointment made by the City Council.
2. Two (2) members of the Commission shall be members of the City Council and selected by the City Council.
3. One (1) member shall be from the public at large and shall be nominated by the Mayor of the city and approved by the City Council of the city for a term of four (4) years. A.C.A. 26-75-602(f)(1)(2)(3)

B. The four (4) hotel, motel, or restaurant members at the first meeting of the Commission, shall draw lots for terms so that:

1. One (1) member shall serve for a term of one (1) years.
2. One (1) member shall serve for a term of two (2) years.
3. One (1) member shall serve for a term of three (3) years.
4. One (1) member shall serve for a term of four (4) years. All successors to these members shall be appointed for terms of four (4) years. [A.C.A. 26-75-605(b)(1)(2)(3)(4)]

C. Whether resulting from expiration of a regular term of otherwise a vacancy on the Commission in any of the four (4) tourism industry positions or in the at-large position shall be filled by appointment made by the remaining members of the Commission, with the approval of the City Council. (Ord. No. 2007-2, Sec. 3.)

CHAPTER 17.04

TAX USE

Sections:

17.04.01 Tax Use

17.04.01 Tax Use

A. Authorized uses All local taxes collected pursuant to this ordinance shall be used for the following purposes:

1. The advertising and promotion of the city and its environs.
2. The pledging of the revenues derived from the tax for the purposes prescribed in this ordinance, or for the operation of tourist-oriented facilities including, but not limited to theme parks and other family entertainment facilities, or for the construction, reconstruction, repair, maintenance, improvement, equipping, and operation of public recreation facilities, including city parks, or for the construction, reconstruction, extension, equipment, improvement, maintenance, repair and operation of a convention center or for the operation of tourist promotion facilities in the city. These revenues shall be used or pledged for the purposes authorized in this ordinance only upon the approval of the Commission.
[A.C.A. 26-75-606(a)91)(b)(1) and (b)(2)]
3. If the Commission determines that funding of the arts is necessary for or supporting of its city's advertising and promotion endeavors, it may use its funds derived from the hotel and restaurant tax.

B. Restricted uses Provided further, however, that all local taxes levied as authorized in this ordinance shall not be used for:

1. General capital improvements within the city.
2. The costs associated with the general operation of the city.
3. General subsidy of any civic group or Chamber of commerce, except that the Commission may contract with such groups to provide actual services

to the Commission that are connected with tourism events. [A.C.A. 26-75-606(c)(1)(A)(B)(c)(2)(3)]

C. Further restriction

1. Ten percent (10%) of the annual revenues derived in any one year from the tax levied herein shall be allocated for advertisement and promotion purposes as set forth in 17.04.04 (A)(1), and ninety percent (90%) of said revenues shall be allocated for parks and other facilities as set forth in 17.04.04(A)(2).
2. One-half (½) of operating and administration costs shall come from each of the funds. (Ord. No. 2007-2, Sec. 4.)

CHAPTER 17.05

VALIDITY AND SEVERABILITY

Sections:

- 17.05.01 Validity and Severability
17.05.02 Effective Date

17.05.01 Validity and severability If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

17.05.02 Effective Date Imposition of the tax as levied in 17.01.01 takes effect on October 1, 2007. (Ord. No. 2007-2, Sec. 5.)

CHAPTER 17.06

CRIMINAL PENALTIES

Sections:

- 17.06.01 Criminal Penalties

17.06.01 Criminal Penalties Enforcement and collection

A. Any person required under this chapter to pay the hotel and restaurant tax of file reports of said tax who willfully fails to pay over said tax or file a report shall be guilty of a misdemeanor.

B. In addition to all other powers granted to the Commission pursuant to state law, the Commission shall have full enforcement and collection powers as set forth in A.C.A. 26-75-603, as well as the power to:

1. Assess penalties and interest against taxpayers who fail to timely report or pay the tax. The penalty shall be equal to five percent (5%) of the unpaid tax amount per month not to exceed a total assessment of thirty-five percent (35%) of the unpaid tax. Simple interest on unpaid taxes shall be assessed at the rate of ten percent (10%) per annum;
2. Assess unpaid or unreported tax within three (3) years of the date the tax is due;
3. Provide for judicial relief from proposed assessments in accordance with this section;
4. Issue certificates of indebtedness in accordance with this section.

C. In the administration of the hotel and restaurant tax authorized by this chapter, the Commission for the purpose of determining the accuracy of a report or fixing any liability under such tax provisions, may make an examination or investigation of the place of business, the tangible personal property, equipment and facilities, and the books, records, papers, vouchers, accounts, and documents of any taxpayer or other person. Every taxpayer or other person and his agents and employees shall exhibit to the Commission these places and items and facilitate any examination or investigation.

D. The Commission shall give the taxpayer notice of any assessment, demand, decision, or hearing before the Commission which directly involves that taxpayer.

E. All notices required to be given by the Commission to a taxpayer shall be either served by personal service or sent by mail to the taxpayer's last address on record with the Commission. If this mail is returned unclaimed or refused, then proper notice shall have been served and given, and the Commission may take any action permitted by this chapter and by A.C.A. 26-75-603.

A. If any taxpayer fails to file a report and remit the hotel and restaurant tax as provided for by this chapter, the Commission, from any information in its possession or obtainable by it, may determine the correct amount of tax through in accordance with the following procedure:

1. The Commission shall propose the assessment of tax due plus penalties, as the case may be, and shall give notice of the proposed assessment to the taxpayer. The notice shall explain the basis for the proposed assessment and shall state that a final assessment shall be made if the taxpayer does not protect such proposed assessment.

2. Any taxpayer who wishes to seek administrative relief from any proposed assessment of taxes shall do so pursuant to the following procedures:
 - a. A taxpayer may at his option either request the Commission to consider his request for relief solely upon written documents furnished by the taxpayer or upon the written documents and any evidence produced by the taxpayer at a hearing.
 - b. A taxpayer who requests the Commission to render its decision based on written documents is not entitled by law to any other administrative hearing prior to the Commission's rendering of its decision, and, if necessary, the issuing of a final assessment and demand for payment or issuing of a certificate of indebtedness.
3. If the taxpayer requests a hearing, the Commission shall set the time and place for hearing and shall give the taxpayer reasonable notice thereof.
4. Within thirty (30) days of the issuance and service on the taxpayer of the notice and demand for payment of a deficiency in tax established by
 - a. a proposed assessment which is not protested by the taxpayer under this chapter, or
 - b. a final determination of the Commission following administrative review, the taxpayer may seek judicial relief from the final determination in accordance with A.C.A. 26-75-603(d).

B. If a taxpayer does not timely and properly pursue his remedies seeking relief from a decision of the Commission, and a final assessment is made against the taxpayer, or if the taxpayer fails to pay the deficiency assessed upon notice and demand, then the Commission shall utilize the provisions of A.C.A. 26-75-603(c) to enforce payment in accordance with said provisions. (Ord. No. 2007-2, Sec. 6.)