

12-1693. Same; tax levy by city or county; basis of tax; payment and collection; requirements prior to levy; election; reduction or increase in rate. (a) In order to provide revenues to promote tourism and conventions, the governing body of any county having a population of more than 300,000 or the governing body of any city, all or any portion of which is located within such county, is hereby authorized to levy a transient guest tax at not to exceed the rate of 2% upon the gross receipts derived from or paid directly or through an accommodations broker by transient guests for sleeping accommodations in any hotel, motel or tourist court. The percentage of such tax shall be determined by the governing body levying the same and shall be specified in the resolution authorizing the same.

(b) Any transient guest tax levied pursuant to this section shall be based on the gross rental receipts collected by any business or accommodations broker.

(c) The taxes levied pursuant to this section shall be paid by the consumer or user to the business and it shall be the duty of each and every business to collect from the consumer or user the full amount of any such tax, or an amount equal as nearly as possible or practicable to the average equivalent thereto. Each business collecting any of the taxes levied hereunder shall be responsible for paying over the same to the state department of revenue in the manner prescribed by K.S.A. 12-1694, and amendments thereto, and the state department of revenue shall administer and enforce the collection of such taxes.

(d) A transient guest tax authorized by this section shall not be levied until:

(1) The governing body of such county has either passed, or has received from the governing body of any city within such county, a resolution calling for an election for approval by the qualified electors of a transient guest tax;

(2) the governing body of the county has notified all of the incorporated cities, all or any portion of which are located within such county, of the intent to call such election. Incorporated cities, all or any portion of which are located within such county, shall have the option to decline participation in such election within 30 days of the date of such notification. The governing body of the county shall have the option to decline participation in such election within the same 30 day period as provided to incorporated cities, in which case individual cities may hold separate elections to submit the proposition to the qualified electors of such city and such propositions, if approved, would have force only in cities adopting the tax. If the governing body of the county resolves to participate in such election, it shall submit such proposition for approval by the qualified electors of the unincorporated portions of such county and all incorporated cities within such county which have not declined participation in the election; and

(3) the governing body of the county or, if the county declines to hold such election, the governing body of the city, has given notice of its intention to submit any such proposition for approval by the qualified electors in the manner required by K.S.A. 10-120, and amendments thereto, for giving notice of elections for the issuance of bonds. The notice shall state the time of the election and the rate and effective date of the proposed tax. If a majority of the votes cast and counted on any such proposition are not in favor thereof, such proposition may be resubmitted under the conditions and in the manner provided herein. If a majority of the votes cast and counted on any such proposition are in favor thereof, the governing body of the county or city shall provide by resolution for the levy of such tax. Any repeal of such tax or any reduction or increase in the rate thereof shall be accomplished in the manner provided herein for the adoption and approval of such tax.

(e) The collection of any county transient guest tax authorized at a primary or general election or a transient guest tax levied by a city authorized at a city primary or general election shall commence on the first day of the calendar quarter next following the 30th day after the date of the election authorizing the levy of such tax. The collection of any transient guest tax of a county or city approved at any other election shall commence on the first day of the calendar quarter next following the 60th day after the date of the election authorizing the levy of such tax.

History: L. 1975, ch. 490, § 2; L. 1989, ch. 60, § 1; L. 1997, ch. 185, § 3; July 1.