

**19-28,111. Same; countywide entertainment tax; imposition, levy, collection, administration and enforcement; reports and records; penalty for unpaid taxes; disposition of revenues.** (a) The board of county commissioners of any urban area county in which a county sports authority has been created may impose a countywide entertainment tax as hereinafter prescribed in this section for a period of years not exceeding fifty (50), if prior thereto there shall be filed with the board of county commissioners:

- (1) A request by the authority that an entertainment tax be levied at a rate not to exceed three percent (3%);
- (2) An affidavit of the publication of a notice of intention pursuant to subsection (a) of K.S.A. 19-28,109;
- (3) A certificate executed by the commissioners of the authority certifying that no sufficient protest was filed within the sixty-day limit or, if an election was held, a certificate showing the results of said election and that a majority of the votes cast and counted at said election were in favor of the proposition submitted; and
- (4) A finding by the board that the facilities proposed to be constructed by the authority are financially feasible to the extent that not less than one-half (1/2) of the amount of money necessary to repay the principal of and interest on the proposed bond issue over the period of its entire maturity will be derived from the net income of the proposed facilities after deducting operation and maintenance expense but before depreciation.

(b) The rate of any entertainment tax proposed to be levied shall be fixed in the amount of one percent (1%), two percent (2%) or three percent (3%), and shall be fixed at a rate which will produce revenues in an amount which, when combined with the amount of revenues estimated by the authority to be derived from the operation of the facilities of the sports complex in the year for which said levy will be made, will be at least equal to the amount estimated by the authority to be necessary to pay the costs of operating the facilities of the authority in said year and the amount necessary to pay the principal and interest due in said year on outstanding bonds issued by the authority under this act. In no event shall the board levy a tax at a rate in excess of the rate prescribed in the notice of intention published by the authority pursuant to subsection (a) of K.S.A. 19-28,109 or, if an election was held, the rate prescribed in the published notice of election; and the board shall not levy any such tax for any calendar year whenever any revenue bond principal and interest reserve account established by the authority pursuant to a duly adopted resolution or trust indenture or covenant shall contain an amount equal to one hundred fifty percent (150%) of the amount required to pay the total debt service requirement of the authority which is due and payable in said year;

(c) Such entertainment tax shall be levied against:

(1) Every person engaged in the business of renting, leasing or letting living quarters, sleeping accommodations, rooms or a part thereof, in connection with any motel, hotel or tourist court, as a percentage of the gross rental receipts derived from or paid by transient guests for sleeping accommodations; and

(2) Every person engaged in the business of operating a cafe, cafeteria, lunchroom or restaurant, as a percentage of the gross receipts derived from the retail sales of food prepared on the premises and delivered to the purchaser in a condition fit for immediate consumption.

(d) Any entertainment tax levied under this section shall be based on the gross daily rental receipts and the gross daily receipts from the retail sales of food collected by any taxpayer during the preceding period of three (3) months ending, respectively, on the last day of December, March, June and September. As applied to food furnished to members and guests of any private club licensed pursuant to K.S.A. 41-2601 et seq., the value of any alcoholic liquor or cereal malt beverage, as said terms are defined by K.S.A. 41-102 and K.S.A. 41-2701, respectively, which is so furnished shall be included in the gross daily receipts from the retail sales of food collected by such club. Said tax shall be due and payable quarterly on or before the last day of January, April, July and October of each year, with the first payment due and payable on or before the last day of the month specified in the resolution of the board which levies the tax.

(e) Each taxpayer shall make a true report to the county treasurer, on a form prescribed by him, providing such information as may be necessary to determine the amounts to which the entertainment tax shall apply for all gross daily rental receipts and for all gross daily receipts from the retail sales of food for the applicable three-month period, which report shall be submitted with the taxpayer's quarterly payment. Records of the retail sales of food by which this entertainment tax is measured shall be kept separate and apart from the records of gross rental receipts and from the records of other retail sales made by the taxpayer, in order to facilitate the examination of books and records as provided herein.

(f) The county treasurer or his authorized representative shall have the right at all reasonable times during business hours to make such examination and inspection of the books and records of a taxpayer as may be necessary to determine the correctness of such reports.

(g) For each and every month, or any part thereof, any such entertainment tax provided for under this section remains unpaid after the same becomes due and payable, there shall be added to such tax, as a penalty, ten percent (10%) of the amount of such tax for the first month or any part thereof the same is unpaid, and for each and every month thereafter two percent (2%) of the amount of such tax shall be added until the same is fully paid. In no case shall the total penalty exceed thirty percent (30%) of said tax.

(h) All moneys collected by the county treasurer under the provisions of this section shall be credited to a "county entertainment tax fund," which fund shall be created and set aside by the county treasurer. All entertainment tax revenue collected by the county treasurer pursuant to this act and credited to the county entertainment tax fund shall be remitted at least quarterly to the county sports authority.

**History:** L. 1972, ch. 84, § 7; March 13.