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# City of Detroit

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**TO:** Detroit City Council

**FROM:** David Whitaker, Director  
Legislative Policy Division 

**DATE:** October 23, 2019

**RE:** Information Regarding State Lodging Tax

The Legislative Policy Division (LPD) along with the Office of the Chief Financial Officer (OCFO) has been requested by Council Member Janee' Ayers to provide a report on the annual state lodging taxes received from Detroit hotels, along with how those dollars are allocated. In addition, the report is to include information from the past 10 years on the annual funds the City receives from the lodging tax and what is forecasted for the next 5 years.

LPD has reviewed the Michigan statutes relative to lodging taxes and have identified two that are relevant to the assigned request. The two statutes are Public Act 94 of 1937, the Use Tax MCL 205.91 et seq., and Public Act 106 of 1985, the State Convention Facility Development Act, MCL 207.621 et seq. The application of the two statutes are outlined below.

Entities that provide rooms or lodging are subject to taxation under Public Act 94 of 1937, the Use Tax Act. The Use Tax under Section 205.93a provides in pertinent part:

1) The use or consumption of the following services is taxed under this act in the same manner as tangible personal property is taxed under this act:

(b) Rooms or lodging furnished by hotelkeepers, motel operators, and other persons furnishing accommodations that are available to the public on the basis of a commercial and business enterprise, irrespective of whether or not membership is required for use of the accommodations, except rooms and lodging rented for a continuous period of more than 1 month. As used in this act, "hotel" or "motel" means a building or group of buildings in which the public may obtain

accommodations for a consideration, including, without limitation, such establishments as inns, motels, tourist homes, tourist houses or courts, lodging houses, rooming houses, nudist camps, apartment hotels, resort lodges and cabins, camps operated by other than nonprofit organizations but not including those licensed under 1973 PA 116, MCL 722.111 to 722.128, and any other building or group of buildings in which accommodations are available to the public, except accommodations rented for a continuous period of more than 1 month and accommodations furnished by hospitals or nursing homes.

The rate of taxation by the State on rooms and lodging are set forth under MCL 205.93

(1) There is levied upon and there shall be collected from every person in this state a specific tax, including both the local community stabilization<sup>1</sup> share and the state share, for the privilege of using, storing, or consuming tangible personal property in this state at a total combined rate equal to 6% of the price of the property or services specified in section 3a or 3b.

One of the stated objectives of the Local Community Stabilization Authority (LCSA) is to provide revenue to local governments dedicated for local purposes, including police safety, fire protection, and ambulance emergency services. As such a portion of the use tax for rooms and lodging will go into the LCSA which will be distributed in accordance with that Act to municipalities. LPD does not have the resources to ascertain the annual funds received by the City over the past 10 years or what is forecasted for the next five years. The Office of the Chief Financial Officer may be able to provide this information and has been requested by this Honorable Body to do so.

In addition to the Use Tax that is levied upon rooms and lodging in general, the State also imposes an excise tax on "Convention Hotels<sup>2</sup>" in accordance with the Public Act 106 of 1985, the State Convention Facility Development Act (SCFD), MCL 207.624 which provides:

(1) There is hereby levied upon and there shall be collected from any person engaged in the business of providing accommodations to transient guests in a

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<sup>1</sup> MCL 123.1347 identifies the local Community Stabilization Authority Section and provides the following (1) The local community stabilization authority is established as a metropolitan government for the metropolitan areas of this state under section 27 of article VII of the state constitution of 1963. The authority is a public body corporate and a special authority. The authority is not an agency or instrumentality of state government. (2) The property of the authority is public property devoted to an essential public and governmental purpose. Any income of the authority is for a public and governmental purpose. (3) Property of the authority and its income, activities, and operations are exempt from all taxes and special assessments of this state or a political subdivision of this state. Property of the authority is exempt from any ad valorem property taxes levied under the general property tax act, 1893 PA 206, MCL 211.1 to 211.155, or other law of this state authorizing the taxation of real or personal property. The authority is an entity of government for purposes of section 4a(1)(a) of the general sales tax act, 1933 PA 167, MCL 205.54a, and section 4(1)(h) of the use tax act, 1937 PA 94, MCL 205.94. (4) The validity of the creation of the authority is presumed unless held invalid by the court of appeals in an original action filed in the court of appeals not later than 60 days after the establishment of the authority under this section. The court of appeals has original jurisdiction to hear an action under this subsection. The court shall hear the action in an expedited manner.

<sup>2</sup> MCL 207.629 defines a "Convention Hotel" as being a hotel located within a Qualified Governmental Unit that has a Convention Facility with a capacity of 350,000 sq. ft. of total exhibit space within its jurisdiction. Qualified local governmental unit includes a metropolitan authority that leases, develops, operates, and maintains a qualified convention facility under the regional convention facility authority act, 2008 PA 554, MCL 141.1351 to 141.1379. The Detroit Regional Convention Facility Authority (DRCFA) is a qualified governmental unit under the Act.

convention hotel, whether or not membership is required, an excise tax at the following rates:

(a) For a convention hotel located within a qualified local governmental unit under section 9(4), the following:

(i) A rate of 3% of the room charge for accommodations in a convention hotel with 81 to 160 rooms.

(ii) A rate of 6% of the room charge for accommodations in a convention hotel with more than 160 rooms.

(b) For all other convention hotels not subject to the tax rates imposed by subdivision (a), the following:

(i) A rate of 1.5% of the room charge for accommodations in a convention hotel with 81 to 160 rooms.

(ii) A rate of 5% of the room charge for accommodations in a convention hotel with more than 160 rooms.

The taxes collected pursuant to the State Convention Facility Development Act are deposited in the state treasury to the "convention facility development fund" under MCL 207.628. Subsection (2) provides:

The convention facility development fund shall be distributed for certain state purposes and to local governmental units for use only for 1 or more of the following purposes:

(a) Acquiring, constructing, improving, enlarging, renewing, replacing, or leasing a convention facility.

(b) In conjunction with an activity listed in subdivision (a), repairing, furnishing, and equipping the convention facility.

(c) Refinancing an activity listed in subdivision (a) or (b).

(d) General fund expenditures.

(e) In the case of a local governmental unit that is a metropolitan authority, for any purpose authorized under the regional convention facility authority act, 2008 PA 554, MCL 141.1351 to 141.1379.

The distribution of the taxes collected and placed into the convention facility development fund are made in accordance with MLC 207.629 and provides:

(1) Except as provided in subsection (5) or (6), on or before the thirtieth day of each month, the state treasurer shall make a distribution from the convention facility development fund to a qualified local governmental unit. The distribution shall be an amount equal to the sum of the collections from the excise tax levied for accommodations under this act for the previous month from the convention hotels in the county in which the convention facility is or is to be located and in any county in which convention hotels are located that is contiguous to the county in which the convention facility is located, or is to be located, the additional tax imposed under section 1207 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.2207, for the previous month received in the fund, and any distribution received under section 5(b)(iii) of the health and safety fund act, 1987 PA 264, MCL 141.475, and from the 21st century jobs trust fund under section 8(4). However, distributions for any state fiscal year to any qualified local governmental unit under this section shall not exceed an amount equal to the

amount pledged, assigned, or dedicated by the qualified local governmental unit pursuant to section 11 for the payment during that state fiscal year of bonds, obligations, or other evidences of indebtedness incurred for the purposes specified in this act or the regional convention facility authority act, 2008 PA 554, MCL 141.1351 to 141.1379, plus operating deficit cost expenditures and other expenditures authorized under section 10, plus any amount necessary to maintain a fully funded debt reserve or other reserves intended to secure the principal and interest on the bonds, obligations, or other evidences of indebtedness as contained in the resolution or ordinance authorizing their issuance.

Pursuant to the SCFD, the taxes generated are to be utilized as set forth under the Act. It is LPD's understanding that the Detroit Regional Convention Facility Authority is the entity that receives the distribution from the convention facility development fund as it is the qualified local governmental unit (metropolitan authority) that leases, develops, operates, and maintains a qualified convention facility under the regional convention facility authority act. As stated with regard to the use tax distribution, the Office of the Chief Financial Officer may be able to provide information regarding the allocation of taxes over the past 10 years and what is forecasted for the next 5 years.

If we can be of further assistance please feel free to call upon us.