
CITY COUNCIL AGENDA ITEM

TO: Mayor & City Council

DATE: April 23, 2010

FROM: John McDonough, City Manager

AGENDA ITEM: Proposed Ordinance to amend Chapter 54, Article III, Section 54-51 to add a subsection (c) setting forth the deduction allowed the collector of the hotel-motel tax

MEETING DATE: For Submission onto the May 4, 2010, City Council Regular Meeting Agenda

BACKGROUND INFORMATION: (Attach additional pages if necessary)

See attached:

Memorandum
Ordinance

APPROVAL BY CITY MANAGER: J.M. APPROVED

_____ NOT APPROVED

PLACED ON AGENDA FOR: 5/4/2010

CITY ATTORNEY APPROVAL REQUIRED: () YES () NO

CITY ATTORNEY APPROVAL: [Signature]

REMARKS:



To: Honorable Mayor and City Council Members

From: Wendell K. Willard

Date: For Submission onto the May 4, 2010 City Council Meeting Agenda

Agenda Item:

Proposed Ordinance to amend Chapter 54, Article III, Section 54-51 to add a subsection (c) setting forth the deduction allowed the collector of the hotel-motel tax

City Attorney's Recommendation:

The City Attorney's office recommends that the Council approve the attached proposed Ordinance amending Chapter 54, Article III, Section 54-51.

Background and Discussion:

O.C.G.A. Section 48-13-50, et seq. authorizes each county and municipality in the State of Georgia to levy certain excise taxes on rooms, lodgings, and accommodations as provided thereafter in that article.

Pursuant to O.C.G.A. Section 48-13-51(a)(5), the City is authorized to impose, assess, and levy an excise tax of 7% of the rent for every occupancy of a guestroom in a hotel, as defined by the ordinance.

O.C.G.A. Section 48-13-52 provides that when this tax is paid when due, the collector of the tax is allowed a reimbursement in the sum of three percent in the form of a deduction, but only if the amount due was not delinquent at the time of payment.

Payment of this tax to Sandy Springs is made on a monthly basis, and although the form used by the City references the deduction, the deduction is not, but should be, set forth in the ordinance. Since the ordinance provides in subsection (b) of Section 54-51 "the tax shall not apply to charges or transactions excluded or exempted from the tax by state law", it appears that what should be subsection (c) was either overlooked or inadvertently omitted.

Alternatives:

To do nothing and leave as is, would leave in question whether the ordinance as currently stated adequately complies with state law authorizing the imposition of this tax according to the guidelines set forth in the applicable state statutes.

*City
Attorney*

STATE OF GEORGIA
COUNTY OF FULTON

**AN ORDINANCE TO AMEND CHAPTER 54, ARTICLE III, SECTION 54-51 TO
ADD A SUBSECTION (C) SETTING FORTH THE DEDUCTION ALLOWED
THE COLLECTOR OF THE HOTEL-MOTEL TAX AND THE CIRCUMSTANCES
IN WHICH ALLOWED**

WHEREAS, the City of Sandy Springs (the "City") previously enacted an ordinance, as authorized by O.C.G.A. Section 48-13-50, et seq., imposing an excise tax on rooms, lodgings, and accommodations, effective January 3, 2006; and

WHEREAS, O.C.G.A. Section 48-13-52 provides for the collector of the tax to be allowed a reimbursement in the form of a deduction of the amount due, but only if the amount due is not delinquent at the time of payment; and

WHEREAS, although the form supplied by the City, and completed on a monthly basis by the collectors of this tax, references the deduction, it appears that the language regarding this deduction was either overlooked or inadvertently omitted when the original ordinance was enacted; and

WHEREAS, adding a subsection (c) to Section 54-51 would inform of the deduction and the circumstances under which the deduction is allowed to be taken;

NOW, THEREFORE, in order to accomplish the foregoing, the Mayor and City Council of the City, pursuant to their authority, do hereby amend Chapter 54, Article III, Section 54-51 of the City's Code of Ordinances by adopting the following subsection, to be known as Section 54-51(c):

- "(c) Operators collecting the hotel-motel tax imposed by this article shall be allowed a reimbursement, in the form of a deduction, for collecting, submitting, reporting, and paying the amount due. The rate of the deduction shall be three percent of the amount due, but only if the amount due is not delinquent at the time of payment."

SO ORDAINED, this the _____ day of _____, 2010.

Approved:

EVA GALAMBOS, Mayor

Attest:

Michael Casey, City Clerk
(SEAL)