

SUMMARY

Florida's economic well-being depends heavily on the well-being of the state's tourism industry. Substantiating this statement are sales tax figures from the Department of Revenue (DOR) and employment statistics from the Department of Labor and Employment Security. During 1999, DOR reports that the 14 tourism and recreation-related sales tax categories collectively totaled \$46.5 billion in taxable sales and more than \$2.8 billion in actual sales tax revenues. These amounts represent approximately 20% of the state's total sales tax collections, making the tourism and recreation category the largest single component of Florida's sales tax revenues. In the employment column, the Department of Labor and Employment Security reports that in 1999 approximately 839,541 persons were directly employed in travel-related industries in Florida. This figure represents 12.2% of the state's non-agricultural employment.

These statistics do not segregate the sales tax revenues contributed by the state's population from those directly attributable to tourists. However, there are other available statistics that should be taken into account when considering the economic impact of Florida's visitors. The state's public/private partnership responsible for marketing tourism, VISIT FLORIDA, reports in the 1999 Visitor Study that more than 58.86 million travelers visited Florida during calendar year 1999. That number, when compared to the state's resident population of over 15 million people, represents a substantial resource of out-of-state spenders. Relative to this revenue potential are additional 1999 Visitor Study estimates showing that domestic (U.S.) air travelers stayed in Florida for an average of 5.5 nights and spent an average of \$161.90 per person per day and domestic auto visitors stayed for an average of 5.0 nights and spent an average of \$92.60 per person per day. The most recent information (1999) available on overseas visitors from the U.S. Department of Commerce estimates that these guests stayed an average of 11.8 nights and spent approximately \$99 per day.

In addition to direct spending, a number of states, including Florida, have increased visitor revenue resources by enacting specific statewide and local taxes on a variety of tourist-related activities. A look at some of the laws enacted recently by other states indicates a growing trend toward taxing tourists to fund a

variety of governmental activities. The National Conference of State Legislatures' study, *Travel and Tourism A Legislator's Guide*, published in July 1999, indicated that 19 states impose a statewide hotel/motel or "bed" tax and 44 states authorize local governments to levy bed taxes. The information was based on a survey of state and local tax information for 1998. Since that study, at least one other state, Nevada, has imposed a statewide bed tax levy in addition to its authorized local lodging tax levy. Nevada imposes a 1% state tax with 3/8 being used by the state and 5/8 remaining with the counties.

The majority of states that dedicate tourist-related tax revenues to particular uses dedicate at least some portion of the funds to the promotion of tourism and tourist-related activities. Increasingly, states and municipalities have begun to include the financing of professional sports stadiums in their list of tourist-related activities. Those states that have enacted other tourist-related taxes on amusement/admission sales and food and drink sales, and have specifically dedicated the revenues, permit broader uses of those dollars. Capital improvement bonds, education, and general state revenue are a few of the examples.

Florida has taken a number of steps to insure that the economic value of tourist generated commercial activity and the corresponding tax revenues continue to be a critical component of Florida's central economic base. In July 1996, the Governor's Office of Tourism, Trade, and Economic Development signed an agreement authorizing the statutorily created direct support organization for the Florida Commission on Tourism, the Florida Tourism Industry Marketing Corporation which does business as VISIT FLORIDA, to assume responsibility for increasing Florida's market share of national and international visitors. Funding for VISIT FLORIDA's efforts is provided through the dedication of revenues from a portion of the surcharge on rental car leases and a required match of private dollars. It is hoped that by pairing governmental funds and official status with private funds and expertise, the eventual outcome of Florida's tourism promotion efforts will be economic growth for the state's tourism industry sector and, subsequently, the state's overall economy. At the close of 1997, VISIT FLORIDA had 936 private sector partners and an approximate infusion of \$885,532 in

direct funds and \$10,731,861 in cooperative advertising funds from those partners. At the close of 1999/2000, VISIT FLORIDA had over 2,300 private sector partners and an infusion of private sector direct funds of more than \$2.06 million and \$17,917,099 in cooperative advertising funds from the private sector.

A myriad of other public and private entities promote Florida's tourism assets, including the Department of Environmental Protection's Division of Parks and Recreation, the Department of Agriculture's Division of Forestry, the Department of State's Divisions of Historical Resources and Cultural Affairs, various statewide industry associations, individual tourism-related industries, and tourist development councils, and convention and visitors bureaus in 47 counties. Funding for the county tourism promotion activities is derived from the revenues of five local option tourist-related taxes.

Since 1967, when Florida approved its first tourist-related tax, the municipal resort tax, four others have been enacted into law: the local option tourist development tax; the convention development tax; the tourist impact tax (all known as "bed" taxes), and the local option food and beverage tax. Those laws, which give local governing bodies the authority to levy a sales-related tax on transient rentals and food and beverages, have been amended over 70 times in the aggregate.

The initial concept for levying a "bed" tax was to generate a dedicated source of funds to advertise and otherwise promote the growth of tourism in a specific area, in order to fill more hotel and motel beds. The majority of substantive amendments to the original tourist-related tax statutes have been directed at the percentage of taxation and the authorized uses of tax revenues. Controversies continually arise over these issues as evidenced by the many court cases, and often-heated debate on bills annually introduced in the Legislature.

During the 1991-92 legislative interim, staff of the Committee on Tourism, Hospitality and Economic Development conducted a study of Florida's four tourist-related taxes: the municipal resort tax, the tourist impact tax, the local option tourist development tax, and the convention development tax. The study examined the laws authorizing the taxes, and

local governments use of the tax revenues and made recommendations for a comprehensive revision of the tourist-related tax statutes. These recommendations were extensively debated in committee workshop meetings prior to the 1992 Regular Session. Ultimately, the Legislature passed Chapters 92-175 and 92-204, Laws of Florida, establishing the Joint Study Committee on Tourist Related Taxes, hereinafter referred to as the Joint Study Committee, to address controversies surrounding the use of tourist-related tax revenues.¹

The 1993 Legislature considered the recommendations of the Joint Study Committee; but, a consensus could not be reached and the tourist-related tax statutes were left intact. During the 1994 Regular Session, several amendments to these statutes were passed which did not alter the overall nature of the statutes but, as in the past, added additional authorized uses for the tax revenues.

The 1996 Regular Session saw the enactment of Chapter 96-397, Laws of Florida, which amended the local option tourist-development tax statutes to further expand the statutorily expressed authorized uses of tax revenues. However, some parameters for tax revenue use were provided by defining the terms "tourist" and "promotion," by providing the caveat that one of the main purposes of any activity, service, venue, or event funded by tax revenues must be to attract tourists, and by prohibiting the use of tax revenues for any purpose not expressly authorized.

Although bills amending the tourist-related tax statutes were filed, the 1997 Regular Session did not see any substantive changes to those statutes. In 1998, Chapter 98-106, Laws of Florida, amended s. 125.0104(3)(l), F.S., by eliminating the caveat that only those counties that have elected to levy the additional penny authorized in paragraph (l) for planning and financing the capital costs of a professional sports franchise facility may subsequently use the proceeds of that levy for planning or financing the capital costs of a convention center. The statutes were also amended to authorize those counties that have elected to

¹ The work and final recommendations of that joint study committee are fully chronicled in a 1993 report submitted to the Legislature.

levy the additional penny for the purpose of planning and financing a convention center to use the tax for the payment of operation and maintenance costs of a convention center for a period of up to ten years. Although the provisions of Chapter 98-106, Laws of Florida, do not create a new category of additional taxing, they do have the effect of creating broader authority for use of this tax levy option.

In 1999, Chapter 99-2, Laws of Florida, amended s. 125.0104(5)(d), F.S., to correct a cross reference. Chapter 99-287, Laws of Florida, added a definition for "retained spring training franchise" to s. 125.0104(2), F.S., and amended s. 125.0104(3)(l) and (n), F.S., to provide that the additional local option tourist development taxes authorized to pay the debt service on bonds to finance the construction, reconstruction, or renovation of a professional sports franchise facility and to pay the planning and design costs incurred prior to the issuance of the bonds may also be used to finance the acquisition, construction, reconstruction, or renovation of a retained spring training franchise facility as well as the planning and design costs incurred prior to the issuance of such bonds.

In the 2000 Regular Session, changes were made to the statutes governing local option tourist development (s. 125.0104, F.S.) and convention development taxes (s. 212.0305, F.S.). Chapter 2000-312, Laws of Florida, amended s. 125.0104(7) and (10), F.S., to provide that the automatic expiration of an ordinance will occur upon the retirement of certain bonds or agreements or both, whichever is later; to allow amendment of an ordinance to extend the use of the tax for operation, maintenance, capital improvements, or facility replacement, rather than the ordinance expiring; and to authorize counties that self-administer the local option tourist development tax or the tourist impact tax to use certified public accountants to perform the functions associated with self-administration. Section 125.0104(3)(l), F.S., was amended to permit any county that elects, after July 1, 2000, to levy the tax authorized by that paragraph to pay the debt service on bonds issued to finance the construction, reconstruction, or renovation of a convention center, and to pay the planning and design costs incurred prior to the issuance of the bonds to use the proceeds of the tax to pay the operation and maintenance costs of a convention center for the life of the bonds. The

law governing convention development taxes was amended to repeal a provision authorizing the Department of Revenue to employ persons and incur other expenses (Chapter 2000-210, Laws of Florida) and to authorize counties that self-administer the convention development tax to use certified public accountants to perform the self-administration functions.

This report, *2001 Report on Florida's Tourist-Related Taxes*, chronicles changes to the tax laws and documents which counties levy local option tourist-related taxes as well as their tax revenue collection status. To accomplish this, the report provides the following:

- ▶ A description of the current statutory authority to levy each type of tax;
- ▶ A legislative history of each tax;
- ▶ A statewide and regional overview of tax levying counties;
- ▶ A tax revenue collection and use profile for the 47 counties in Florida which have elected to levy one or more local option tourist-related taxes; and,
- ▶ A county-by-county profile of how tourism and recreation tax revenues compare to each county's overall sales tax revenue picture; tax collection and use by county.

Included in the appendices of this report is additional information relating to tourist taxes in Florida and other states.

DESCRIPTION OF TOURIST-RELATED TAXES

Florida's four tourist-related "bed taxes"—the municipal resort tax, the tourist impact tax, the local option tourist development tax and the convention development tax—while statutorily distinct, have a number of common elements.

The primary base on which these taxes are levied is the transient rental trade. A transient rental transaction is described in sections 212.0305 and 125.0104, F.S., as "any payment made by any person to rent, lease, or use for a period of six months or less any living quarters or accommodations in a hotel,

apartment hotel, motel, resort motel, apartment, apartment motel, roominghouse, tourist or trailer camp, mobile home park, recreational vehicle park, or condominium." A secondary base is the sale of food, beverages and alcoholic beverages for on the premises consumption in hotels and motels. This base is associated with the municipal resort tax and the local option food and beverage tax levied in Miami-Dade County.

The first tourist-related tax levied in Florida was the municipal resort tax authorized by the Legislature in 1967.² The law authorizes the levy of up to a 4% tax on transient rental transactions in certain cities and towns in Florida, dependent on population. The law also authorizes a levy of up to 2% in these cities on the sale of food, beverages or alcoholic beverages consumed on the premises of establishments licensed by the state hotel and restaurant agency or state beverage agency and on food or beverages sold for off-premises consumption (except certain catered foods) by licensed establishments. Revenues from these taxes may be used for tourism promotion activities, capital construction and maintenance of convention and cultural facilities, and for ad valorem tax relief for property tax dollars used for these purposes.

The local option tourist development tax, first enacted in 1977, may be levied on transient rental transactions in any county of the state.³ The base levy is set at 1% or 2%. The initial rate must be approved by the electorate in a referendum. Within that statute, a variety of conditions exist making it possible for the county governing board to raise the rate to 6% (see Table 1).⁴ Revenues from this tax may be used, under varying conditions, for certain types of capital construction, tourism promotion, beach and shoreline maintenance, beach park facilities, and athletic, museum, zoo and nature center facilities.

In 1986, the Legislature enacted the tourist impact tax⁵ to provide funds for counties

to purchase property in "areas of critical state concern" as designated by the Administration Commission and to offset ad valorem taxes lost to the county due to such purchases. This tax may be levied on transient rental transactions at a rate of 1% and is collected locally.

There are three types of convention development taxes, the authorizations for which are contained in section 212.0305, F.S. All three are levied on transient rental transactions at a variety of rates, the highest of which is 3%. Communities levying the municipal resort tax may not impose a convention development tax. The revenues from two of these taxes, the consolidated county and the charter county convention development taxes, are primarily authorized for the construction and maintenance of convention centers. The revenues from the special district and sub-county convention development tax is limited to funding convention and tourist bureaus and their tourism promotion activities. The special district tax, which has been enacted in Volusia County, is itself a combination of taxing authorities delegated to specific districts in the county. Each district⁶ currently has its own tourism promotion authority funded from the revenues of those taxes. Since October 1995, two of Volusia County's three districts have been levying the tax at the rate of 3% with the other district raising its rate of 2% to 3% on October 1, 2000.

The only county that meets the statutory requirements to levy the local option food and beverage tax is Miami-Dade County due to its particular charter county status. The 2% food and beverage tax was originally added to the provisions of the local option tourist development "bed tax" statutes (s. 125.0104, F.S.) in 1989, with a choice of two levy options. The first option authorized the county to levy the tax only in hotels and motels in which case the proceeds would be used exclusively for promoting county tourism. Option two authorized the tax to be levied in freestanding establishments also, and provided for a percentage distribution of tax revenues for promoting tourism, revitalizing blighted areas, and any other lawful purpose. In 1993, this tax authority was removed from s. 125.0104, F.S., and placed in a separate and distinct section of

² Chapter 67-930, Laws of Florida.

³ Section 125.0104, F.S.

⁴ A rate restriction is placed on those counties levying a convention development tax.

⁵ Section 125.0108, F.S.

⁶ Defined in statute by geographic descriptions which in the aggregate cover the entire county.

law (s. 212.0306, F.S.) Additionally, the second levy option was reduced by 1% and the authorized uses were revised to provide for the distribution of revenues to serve the homeless and victims of domestic violence.

Local county governing boards are responsible for deciding how and where the revenues from these taxes are to be spent, within the confines of statutorily authorized uses, and with the advice and direction of statutorily authorized advisory councils. Such councils take the form of a "tourist development authority" for the administration of the municipal resort tax, the "land development authority" for the tourist impact tax, the various "authorities" sanctioned to make decisions regarding convention development taxes, and "tourist development councils" which must be established 60 days prior to levying the local option tourist development tax. A description of these taxes as they now exist is outlined in Table 1.

Currently, the \$2 a day surcharge on rental car leases of 30 days or less is the only statewide levy specifically focused on a tourist-related transaction.

HISTORY OF TOURIST-RELATED TAXES

As originally enacted, the municipal resort tax, the convention development tax, and the local option tourist development tax revenues were generally limited to the promotion of tourism for those specific areas in which the taxes were levied and the development of specifically defined facilities designed to enhance potential tourism for those areas. The tourist impact tax revenues were and still are limited to the purchase of land for preservation purposes (or the offset of property tax losses on such land) in areas of critical state concern. In addition to increasing levy authority since the time the Legislature authorized the levy of the first local option tourism-related tax in 1967, most substantive amendments to the laws reflect a change in the authorized uses of tourism tax revenues. A chronology of these amendments can be found in Table 2.

The tourism tax issue has become increasingly controversial as more and more attempts have been made to broaden the statutorily authorized uses of such revenues. The nature of tourism in Florida is as varied as

the state's 67 counties. The tourism environment in Escambia County is vastly different from the tourism environment in Orange or Miami-Dade Counties. Each county commission and tourist development council has been faced with tailoring the statutorily authorized uses of tourist-related tax revenues to their county's particular tourism development needs.

As Florida's tourism environment has evolved, the concept of what constitutes tourism development and promotion has become increasingly varied. In some instances, county commissions and tourist development councils have taken the perspective that enhancing the county's overall environment is part of the development and promotion of tourism for their county. On the other hand, hoteliers, upon whose trade the taxes primarily fall, maintain that their industry initially agreed to being taxed because the proceeds were to be used to advertise and market tourism in their communities and to construct convention centers and public arenas that would have a positive effect on their businesses. Tourist taxes, they now argue, have increased almost to the point of making Florida non-competitive with neighboring states. Further, hoteliers feel they suffer doubly since, in some cases, the tax revenues are not being used in a manner that will specifically increase their businesses.

COUNTY PARTICIPATION

As of September 2000, 47 of Florida's 67 counties levied one or more of the five tourist-related taxes, although the rate varies. Annual revenues collected by these counties range from a high of over \$105.86 million in Orange County to a low of \$5,010 in the newest county to levy the tax, Baker County. The combined tax revenues for FY 1999/00 for the local option tourist development tax, the tourism impact tax, and the convention development tax totaled \$358,254,500.⁷ This does not include the food and beverage tax levied in Miami-Dade County or the Municipal Resort Tax levied in Miami Beach, Bal Harbor, and Surfside.

⁷ These tax receipt figures are derived from the Department of Revenue's FY 1999/00 Form 3b.

A listing of the 47 counties, which taxes they levy, and at what rate, is found in Table 3. A statewide overview of counties levying one or more taxes is presented in Figure 1 with a graphic depiction for each tax.

Figure 2 divides the state into six regions which correspond to the geographic regions established for an equitable distribution of the 17 general tourism-industry-related members appointed to the Florida Commission on Tourism. Reporting on revenue collections by region has been done to provide perspective on the amount of tourist-related tax dollars generated by those six regions in FY 1999/00.

TOURIST-RELATED TAX EXPENDITURES BY COUNTY

Specific information on each county levying a tourism-related tax is set forth on the Tourist Development Tax Update Form. In addition to identifying the type and amount of tax levied, the form completed for each county includes the name, address, and contact person for the local authority administering the activities funded by the tax revenues. These authorities are configured in a variety of ways. In some counties a "tourist development council" is created as an arm of county government to administer promotion activities; in others, the county contracts with an independent "convention and visitors bureau" to handle the county's tourism promotion activities.

The section of this report entitled "Tourist-Related Tax Revenue Expenditures by County" profiles tax collection and revenue use for each county during the past five years. It shows total collections, percentages spent on certain activity categories, and a general project description.⁸ According to the information

⁸ The information was gathered from a combination of sources including the 1999 Report on Tourist-Related Taxes and DOR. The reprinted information was then sent to each county's fiscal officer for updating. The charts included with this report are the result of the responses received from each county. For that reason, the degree of information on each county varies. There are two sets of revenue collection figures provided since the county fiscal year runs from October 1 to September 30, and the state fiscal year runs from July 1 to June 30. Department of Revenue figures are in brackets. An attempt was made to categorize the expenditures by percentage according to the allowable use categories provided by statute. In certain cases, expenditures such as grants to produce community-based special, cultural, and sporting events and funds designated for certain construction were difficult to categorize.

submitted by the counties, 46.8% of the 47 counties that levy these taxes dedicate at least half of their tax revenues to some form of tourism marketing and promotion. This represents an increase of almost 9% over the percentage of counties indicating this type of revenue expenditure reported in the last update of this tax report. It is also interesting to note that since the last report three counties have increased their tax levies by 1% (Clay, Okeechobee, and Walton) and one increased the tax levy by 2% (Okaloosa). Additionally, Santa Rosa County amended its initial 2% tax levy that had covered only a portion of the county to cover the entire county. The area south of East River in Santa Rosa County collects an additional 1% tax levy provided by earlier ordinances (total of 3%). Fourteen of the counties dedicate some portion of their tax revenues to beach renourishment and 32 have committed a portion of their revenues to bonding for capital projects such as convention centers, sports arenas, and tourism information centers.

The Advisory Council on Intergovernmental Relations (ACIR) previously compiled a county-by-county table for the Joint Study Committee, identifying the amount of tourist development tax revenues used for capital bonding projects. The ACIR information has been updated and is presented in Table 4.

TOURISM AND RECREATION SALES TAX COMPARISONS BY COUNTY

Approximately 20% of Florida's general sales tax revenue is generated by tourism-related businesses. Table 5 includes a county-by-county breakdown of sales tax revenues for the tourism-related tax codes identified by the Department of Revenue with a comparison between those totals and total sales tax revenues collected in each county.⁹

Table 5 also shows that 15 counties (22.4%) meet or exceed the statewide average of total sales tax revenues attributable to tourism and recreation categories. The highest percentage is reported by Franklin County at

⁹ This list of business categories has been criticized as being more broadly based than to capture just tourist expenditures. While this may be true, many note that rental car transactions and gasoline tax codes are not included in this group.

47% and the lowest percentage is reported by Union County at 4.9%. An additional thirty counties (44.8%) indicate that between 15% and 20.4% (the state average for Calendar Year 1999) of their sales tax revenues are tourist-related, and 22 counties (32.8%) state that less than 15% of their total sales tax revenues come from this source. Table 5 also provides percentages of total sales tax revenues on a county-by-county basis and by category; for example 21.3%, 12.6%, 21.8%, and 27.1% sales tax revenues in Monroe, Orange, Nassau and Walton County, respectively, come from the transient rental category.

APPENDICES

Although the statutes governing the levy of tourist-related taxes do provide a list of authorized uses each county must interpret the statutes in its own way as evidenced by the diversity charted in the Tourist Development Tax Update Form. At times several interpretations are expressed at the county level and the Attorney General is called upon to render an opinion as to the appropriate interpretation. A synopsis of Attorney General's opinions and court cases related to tourist-related taxes are included in Appendix C of this report, grouped according to the related tax law.

The appendices also describe tourism-related tax issues in other states. The National Conference of State Legislatures (NCSL) has compiled a comprehensive report on tourism taxes in other states that, with the permission of NCSL, is provided in Appendix A. Increasingly, public funding in general and tourist-related tax revenues in particular are being used to finance professional sports franchise facilities. The rationale and efficiency of this action has been actively debated in a number of forums recently. To provide a comprehensive set of data for this issue, NCSL compiled a report that charts how professional sports franchise facilities are funded in the District of Columbia and the states that have teams. Permission was also given for the inclusion of this NCSL report in Appendix B.

Appendix D contains a copy of the Florida tourist-related tax laws.