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What is the Lodging Facility Sales and Use Tax?

There are two taxes imposed on users of an overnight lodging facility (such as a hotel, motel, campground, dude ranch, or guest ranch) which are collected by the facility and remitted to the Department of Revenue. These two taxes are a 4% lodging facility use tax (see 15-65-101 MCA through 15-65-131, MCA; 42.14.101, ARM through 42.14.112, ARM) and a 3% lodging facility sales tax (see 15-68-101, MCA through 15-68-820, MCA) for a combined 7% lodging facility sales and use tax.

The tax applies to charges paid for the use of the facility for lodging, and does not apply to charges for meals, transportation, entertainment or any other similar charge. In addition, the tax does not apply to a hotel, motel or bed and breakfast facility whose average daily accommodation charge for a single person is \$22.47 or less ($\$35.00 \times 7\% = \2.45 ; $\$35.00 + \$2.45 = \$37.45 \times 60\% = \22.47), for a facility or unit that is rented by the same user for a period of 30 consecutive days or more, or lodging paid directly by the federal government.

A facility that files and pays the lodging facility sales and use tax timely is allowed a 5% vendor allowance against the 3% lodging facility sales tax, not to exceed \$1,000 per quarter. There is no vendor allowance allowed against the 4% lodging facility use tax. In addition, each facility that is required to collect and remit the 3% sales tax is required to apply to the Department of Revenue for a seller's permit before they engage in business.

Revenues collected from the 4% lodging facility use tax are deposited to a state special revenue fund and is used by the Department of Commerce for tourism promotion and promotion of the state as a location for the production of motion pictures and television commercials. Revenues collected from the 3% lodging facility sales tax are deposited to the General Fund.

Registration

Every owner of a facility is required to register each individual facility. Multiple facilities under the same owner can be registered under one facility number if they are in the same geological locality (city and county) and approved by the department. Upon receipt of the registration form, the department will issue a special number for the individual facility. This number, used in conjunction with your federal identification number, will ensure the taxes you collect and remit are properly credited. You must re-register with the department whenever there is a change in ownership, organization type, FEIN or change in corporate officers.

If you purchase or acquire a facility previously registered business with the department, you must register for a new state lodging account number.

To register for a Lodging Facility Sales and Use Tax account, submit the paper form [GenReg Registration/Application for Permit](#) or electronically submit using the [Taxpayer Access Point](#) portal.

- From the Revenue home page, select "Taxpayer Access Point" and choose any option to access the TAP home page.
- Under "Business", select "Request Account ID"
- Complete the required steps and then "Submit"
- Applicant will be issued a tracking number indicating the request was successfully submitted
- A welcome letter and sales tax permit will be sent by mail once the account has been established.

Filing Returns

Taxpayers are encouraged to file and pay electronically through Taxpayer Access Point (TAP) at <https://tap.dor.mt.gov>. Once registered with a login account, taxpayers are able to file, pay and view returns and transactions. Paper returns are accepted. Returns must be filed in every quarter even if there is no tax liability.

- Due dates for the return and payments:
 - Payment is due on or before the last day of the month following the end of each quarter.
 - April 30th for 1st quarter (Jan-Mar)
 - July 31st for 2nd quarter (Apr-Jun)
 - October 31st for 3rd quarter (Jul-Sept)
 - January 31st for 4th quarter (Oct-Dec)
- Postmark Date
 - The postmark date is considered the date of filing. You must prepare and file your quarterly report before the last day of the month following the calendar quarter. If you choose to mail the report on the last day, it is important that it be postmarked to ensure timely filing/payment. Returns submitted in TAP are considered received on the day they are submitted.
- Penalty and Interest
 - Failure to file the return and/or pay the tax collected will result in the assessment of penalty and interest per statutory guidelines.
 - A late filing penalty of \$50 or the amount of the tax, whichever is less, may also be assessed. (HB-379 effective January 1, 2017 will change the late file penalty.)
- Extensions
 - There is no provision in the law for an extension.
- Records Audit
 - You must maintain records necessary to document gross receipts from accommodation charges. Records must include specific documentation of exempt charges.
 - Records must be maintained for a period of 5 years and will be subject to audit for that period.
 - If requested documentation is not provided, the department has the right to estimate and assess the tax, assess penalty and interest.
- Amended returns
 - Click on the return period button "View Return"
 - Select the "amend" button found in the left hand (green) section
 - Make changes to return then "submit" the return again
 - After an amended return is processed, the credit or bill will be created
 - A Misc. Tax specialist working the return must manually approve the refund – refunds are not automatic.

Exemptions

- **Exempt Facilities**

Some facilities are not required to collect the Lodging Facility Sales and Use Tax. Those facilities include (1) health care facilities such as hospitals,(2) rest homes (defined in 50-5-101 MCA), (3) youth camps owned or operated by nonprofit or religious organizations (501(c) (3)IRC) and primarily used for youth, under age 18, for camping, (4) hotels, motels, hostels, public lodging houses and bed & breakfast facilities charging an average (ADAC) rate that is 60% or less than the state reimbursement rate (15-65-101, MCA) for a single room. Contact the Department of Revenue for the current ADAC limit. (Current ADAC charge: $\$35.00 \times 7\% = \2.45 ; $\$35.00 + \$2.45 = \$37.45 \times 60\% = \22.47).

Resort, Condominium, Inn, Campground, Dude or Guest Ranches and Outfitters do not fall under the ADAC exemption. Private owners of condominiums who rent their condos out by the night or the week must be registered and collect the tax. If your condo is listed with a property management firm, the firm must be registered and remit the tax.

Dormitory facilities are taxable unless the accommodation charges are for guest(s) involved in activities meeting any of the following 3 criteria: (1) person is enrolled in a regular academic program or a program of continuing education, (2) activities offered primarily for students enrolled in primary or secondary schools or universities, (3) participant is in an education program to improve the work of the educational institution by developing the professional knowledge and skills of the employees of the institution hosting the program.

- **Exempt Charges**

Some charges are exempt from collecting the Lodging Facility Sales and Use Tax. They include (1) Units or spaces rented 30 continuous days or more to the same user, (2) Units or spaces located on an Indian reservation and rented to an enrolled member of the same reservation. The enrollment number must be recorded on the billing, (3) Charges billed directly to and paid by the federal government. Tax exempt letters presented by federal employees are not valid, (4) some federal employees may have a credit card which is billed directly to the federal government, (5) Units or spaces rented to a diplomat who presents a tax exempt card issued by the US State Department. The card number must be recorded on the billing.

- **Federal Credit Card Payments**

- Federal Employee Credit Card Numbers
- Relates to Lodging Tax, State employees, school districts, city government, county government, and non-profit organizations whether from Montana or some other state, are subject to the tax. The Supremacy Clause (Article VI) of the United States Constitution implies that a state may not tax the federal government or any of its instrumentalities. As long as the federal government is paying the bill, the employees are tax exempt from the lodging tax.
- Being a federal employee doesn't make the employee exempt; the federal government has to be paying the bill directly. The federal government's smartpay.gsa card system helps us identify who is paying the bill (individually billed=taxable, centrally billed=tax exempt).
- Only cards centrally billed and paid by the Federal Government are considered tax exempt for lodging tax purposes based on the first 4 digits and the second digit in the second set of 4 numbers.
- VISA must begin with either 4486 or 4716 and the 2nd digit in the 2nd set of 4 numbers must be a 0, 6, 7, 8 or 9.
- MasterCard must begin with 5568 and the 2nd digit in the 2nd set of 4 numbers must be a 0, 6, 7, 8 or 9.
- To see the most accurate digit information go to the link to the website we use:
<https://www.smartpay.gsa.gov/businesses-vendors/tax-information/overview>
- (PLEASE NOTE: Even though the federal *smartpay.gsa* program is used by a number of federal agencies or instrumentalities of the federal government, the use of the *smartpay.gsa* card is NOT the controlling factor in determining federal government exemption. The controlling factor is the Supremacy Clause of the US Constitution, which prevents states from taxing the federal government.
 - Other methods of payment by the federal government for lodging may be exempt.

- For example, but not limited to: The American Red Cross is recognized by the United States Supreme Court to be an instrumentality of the United States Government and immune from state taxation of its operations. Department of Employment v. United States, 385 U.S. 355, 359-61 (1966).
- The American Red Cross does not participate in the federal government's *SmartPay* program but utilizes a Citibank Visa Card held by the American Red Cross Purchasing. Even though this card is not a part of the *SmartPay* card system it is an exempt transaction under the Supremacy Clause.

Combined Charges

Accommodation charges are often combined with food, beverage, recreation, transportation or other charges which are not subject to the Lodging Facility Sales and Use tax. When these other charges are a substantial portion of the total charge, the owner may allocate the accommodation charge portion using one of the following: (1) A flat rate of the state reimbursement rate per day per person, (\$35.00) (2) 25% of all charges, or (3) your own allocation based upon documented itemization of each charge. All methods of allocation are subject to review and may be disallowed by the department. (PLEASE NOTE: These additional charges MUST BE A SUBSTANTIAL portion of the total charge. For example, the expense for providing a continental breakfast is probably not a substantial portion of the total charge, therefore the combined charges allocation cannot be applied in this type of situation.)

Frequently Asked Questions

Q: What is the Lodging Facility Sales and Use Tax, unofficially known as the "Bed Tax"?

A: Montana's 4% Lodging Facility Use Tax is charged on overnight lodging by facilities such as hotels, motels, bed & breakfast inns, guest ranches, resorts, vacation rental properties and campgrounds. In June of 2003, an additional 3% Lodging Facility Sales and Use Tax was enacted and applies to fees collected for accommodations and campgrounds. This results in a total of 7% for the Lodging Facility Sales & Use Tax.

Q: I purchased an existing facility. May I use the same account identification numbers as the previous owner?

A: No. Any owner or operator who has acquired the business of another facility shall not use the predecessor's federal or state identification numbers. The owner or operator must register for their own state identification numbers before the due date of the first report. This applies to both new businesses and businesses which have been purchased. Not being registered does not relieve the seller from the collection and reporting requirements. You may register via a paper application form or online through the [New Business Registration](#) at Taxpayer Access Point.

Q: What is the average daily accommodation charge (ADAC)?

A: The ADAC is the average daily room rate for single occupancy for all units rented for single occupancy in a facility. You take the total number of units can be rented for single occupancy divided by the total daily rate charged for all units to come up with the ADAC.

Q: What does ADAC have to do with me?

A: If your ADAC is below \$22.47 (Current ADAC charge: $\$35.00 \times 7\% = \2.45 ; $\$35.00 + \$2.45 = \$37.45 \times 60\% = \22.47) for your daily single room rate then your facility is exempt from collecting the Lodging Facility Sales and Use Tax.

Q: What facilities are not required to collect the Lodging Facility Use Tax?

A: (1) Health care facilities such as hospitals, rest homes (defined in MCA 50-5-101); (2) Youth camps owned or operated by nonprofit or religious organizations (501(c)(3) IRC) and primarily used for youths (under 18 years old) for camping; (3) Hotels, motels, hostels, public lodging houses and bed & breakfast facilities charging an ADAC rate for a single occupancy that is less than or equal to 60% of

the \$35 State reimbursement rate (Current ADAC charge: $\$35.00 \times 7\% = \2.45 ; $\$35.00 + \$2.45 = \$37.45 \times 60\% = \22.47); and (4) a campground that is temporarily located pursuant to a permit issued by an agency of the US government.

Q: Is a dormitory required to collect the Lodging Facility Sales and Use Tax?

A: Yes unless the accommodation charges are for person(s) involved in activities offered primarily for students enrolled in primary or secondary schools or universities or for college credit or for activities sponsored, staffed and taught exclusively by a university.

Q: I have a cabin I rent out on the weekends, do I need to set up an account and pay tax?

A: Yes, please visit our website and see our guide for information on this type of a tax account

Q: Are there instances that some charges are exempt from the Lodging Facility Use Tax?

A: Yes. (1) Units or spaces rented for 30 continuous days or more to the same user; (2) units or spaces located on an Indian reservation and rented to an enrolled member of the same Indian reservation; (3) charges billed directly to and paid by the federal government. Some federal employees may have a VISA or MasterCard that is billed directly to the federal government that qualify for an exemption; or (5) units or spaces rented to a diplomat who presents a tax exempt card issued by the US State Department. The Department can supply a list of Federal Employee Credit card numbers utilized under the federal government's *SmartPay* program that define whether the charge is exempt or taxable, however it is suggested that we provide the user with the federal government's *SmartPay* website <https://smartpay.gsa.gov> in order to assure that any changes or updates are addressed.

Q: Do I charge the tax on conference room rentals?

A: No. The tax is not required on charges for rooms used for purposes other than lodging.

Q: We charge a combined fee for lodging, food, beverage, telephone, television, recreation, or other charges. Do I collect the tax on the full amount charged?

A: Yes, only when these other charges are a substantial portion of the total charge you may allocate the lodging portion by either using the State Reimbursement flat rate of \$35, 25% of all charges, or a charge justified by reasonable documentation. You must maintain and have available for inspection, records to substantiate the itemized list of each charge to verify the correct amount of tax.

Q: As a campground, we charge for water, electrical and sewer hookups, and bathhouse facilities. Are those charges to be included in the amount that is subject to tax?

A: Yes.

Q: When do I report the money I receive as a down payment on a room reservation? Do I report in the quarter that I have received the money or in the quarter that the guest actually stays?

A: In the quarterly report that applies to when the guest actually stays. If you reported the down payment and the guest cancelled their reservation, then you would have to amend the report in which you claimed the money and wait to receive a refund.

Q: When do I file reports?

A: Quarterly. The report form and payment are due on or before the last day of the month following the end of the calendar quarter. The postmark date is considered to be the date of filing. Failure to file and/or pay the tax collected could result in penalty and interest being charged to your account.

Q: Can I get an extension?

A: There is no provision in the law for an extension.

Q: What is the vendor allowance?

A: The 5% vendor allowance applies to only the 3% sales and use tax. The maximum amount allowed per quarter is \$1,000. The practice, known by terms such as "vendor discount" and "vendor allowance," is essentially a service fee meant to compensate owners for the time and trouble of recording sales tax collections and remitting them to revenue agencies.

Q: How long do I keep my records?

A: The owner or operator of a facility shall maintain and have available for inspection any books, ledgers, registers, or other documents showing the collection of accommodation charges for a period of 5 years and shall be subject to audit by the department for that period.

Q: What is the tax revenue used for?

A: Revenues from the 4% Lodging Facility use tax are directed to the Montana Historical Society, the University System, the Department of Fish, Wildlife & Parks, Montana's tourism regions and visitor bureaus, and the Department of Commerce for tourism promotion and promotion of the state as a location for the production of motion pictures and television commercials. A portion of the bed tax currently supports tourism-related infrastructure around the state. The 3% tax goes to Montana's General Fund.

Q: Can I get my business advertised through the Department of Commerce's Office of Tourism?

A: Yes. As a valid Lodging tax account holder you will get a free listing in the Office of Tourism's Annual Travel Planner as well as a free listing on their website www.visitMT.com. For more information or to purchase additional services such as a clickable link to your website, contact Jan Wirak at 406-841-2788.

Q: Is the Resort and Local Option Tax the same as the Lodging Facilities tax?

A: No. Resort areas and resort area districts are certain Montana communities with populations under 5,500 that derive the primary portion of their economic well-being from recreation and are created by petition and election. These communities may levy their own resort tax and decide how the proceeds are spent. The fundamental idea behind resort taxes is to allow places with high numbers of visitors but relatively few residents to manage the wear-and-tear on local infrastructure without overburdening local citizens.

Q: Where are the Resort Areas?

A: Currently, Montana's resort tax communities are Whitefish, Red Lodge, Virginia City, and West Yellowstone, Big Sky and Craig. There may be others communities where a resort tax is implemented or is currently being considered.

Q: What is a TBID (Tourism Business Improvement District) and is it the same as the lodging facilities tax or the resort tax?

A: The TBID fee that is assessed and collected by a number of cities in Montana is not part of the 7% lodging sales and use tax found in Title 15, Chapters 65 and 68, or the same as the resort tax. The TBID fee is found in the Mont Code Ann § 7-12-101 et.seq. TBID's are created through local governments to aid in tourism, promotion, and marketing with the district.

ADMINISTRATIVE RULES OF MONTANA

42.14.101 DEFINITIONS

The following definitions apply to this subchapter:

(1) "Allowable state reimbursement" means the dollar amount stated in [2-18-501](#), MCA.

(2) "Average daily accommodation charge" (ADAC) is the average daily room rate for single occupancy for all units rented in a facility.

(3) "Facility" as defined in [15-65-101](#), MCA and "Accommodations" as defined in [15-68-101](#), MCA are synonymous and includes a building, group of buildings, or an area recognized as a single entity.

(4) "Gross receipts" means total gross sales received for use of a lodging unit, whether the charges were received in money or otherwise, including all receipts, cash, credits, and property or services of any kind or nature.

(5) "Lodging" means accommodation intended for the purpose of sleeping or resting.

(6) "Lodging facility sales and use tax" means the 4 percent lodging facility use tax, as it applies to Title 15, chapter 65, MCA, and the 3 percent sales tax, as it applies to Title 15, chapter 68, MCA.

(7) "Lodging unit" means an individual sleeping room or suite used within a facility. This also includes, but is not limited to a single area within a campground, dormitory, hostel, guest ranch, or vacation rental.

(8) "Nontaxable receipts" means exempt sales as defined in ARM 42.14.303. Also included are sales deemed uncollectible and written off during a specific quarterly period, and any discounts which may have been included in gross receipts but not part of the taxable sales charge to the user.

(9) "Outfitting facility" means a facility that may:

(a) use one or more permanent structures to furnish sleeping accommodations or bathhouse facilities to guests; and

(b) offer hunting, fishing, or recreational services in conjunction with the services of an outfitter.

(10) "Owner or operator of a facility" means any person or organization that rents a lodging facility to the public and is ultimately responsible for the financial affairs of the facility. Such person may be an individual, corporation, partnership, estate, trust, association, joint venture, vacation rental property manager, or other unincorporated group or entity. Owner or operator also includes all religious, education, charitable, and social organizations or societies which are not excluded by the provisions of Title 15, chapter 65, MCA, or Title 15, chapter 68, MCA, and all governmental entities at the federal, state, and local levels.

(11) "Permanent structure" means any structure that has an impermeable floor and is completely roofed and walled. This includes but is not limited to:

(a) cabins;

(b) bunkhouses;

(c) shacks;

(d) mobile homes;

(e) yurts; and

(f) luxury tents.

(12) "Public" or "general public" are synonymous and means a facility that charges for a lodging unit and other services, and is presumed to serve the general public unless proven otherwise.

(13) "Purchaser" as defined in 15-68-101, MCA is synonymous with the word "user".

(14) "Rental agreement" is an agreement between a seller and a user. Such an agreement provides lodging to the user for a specified period of time in exchange for a specified payment amount or other form of compensation.

(15) "Sales price" as defined in 15-68-101, MCA is synonymous with the term "accommodation charge" as defined in 15-65-101, MCA.

(16) "Seller" means a seller as defined in 15-68-101, MCA and includes an owner or operator of a facility.

(17) "User" means the person(s) renting and paying for the lodging facilities.

42.14.302 WHO MUST PAY THE TAX

(1) A user of a lodging unit in a hotel, motel, hostel, public lodging house, or bed and breakfast facility, whose ADAC is greater than 60 percent of the allowable state reimbursement is required to pay the lodging facility sales and use tax for the use of a lodging unit rented for a period of less than 30 consecutive days. In calculating the ADAC you cannot consider double occupancy rates, coupon discount rates, or other promotional rates.

(a) For example - A facility that has 40 units advertises the following rates:

(i) 10 units with one king bed rents for:

\$45.00 per night for single occupancy (one person);

(ii) 30 units with two queen beds rents for:

\$39.00 a night for single occupancy (one person);

(iii) ADAC calculation:

10 units rent for \$45.00/night = \$ 450.00

30 units rent for \$39.00/night = \$ 1,170.00

Total rate charged for all rooms = \$ 1,162.00

divided by number of unit 40 = \$ 40.50 ADAC

(iv) Allowable state reimbursement \$ 35.00

7 percent Lodging Facility Sales and Use Tax \$ 2.45

Total \$ 37.45

60 percent of allowable state reimbursement \$ 22.45

(b) The ADAC rate of \$40.50 is more than \$22.45 (60 percent of the allowable state reimbursement), therefore the user is not exempt from paying the lodging facility sales and use tax.

(2) A user of a lodging unit in a resort, condominium, inn, dude ranch, guest ranch, and vacation rental is required to pay the lodging facility sales and use tax for the use of a lodging unit rented for a period of less than 30 consecutive days.

(3) A user of a lodging unit in the outfitting industry is required to pay the lodging facility sales and use tax for the use of a lodging unit in a permanent structure rented for a period of less than 30 consecutive days.

(4) A user of a lodging unit in a campground is required to pay the lodging facility sales and use tax for the use of a lodging unit rented for a period of less than 30 consecutive days.

(5) A user of a lodging unit in a nonprofit or religious organization's facility that is not primarily used for camping by youth under 18 years of age, is required to pay the lodging sales and use tax for the use of a lodging unit rented for a period less than 30 consecutive days.

(6) A user of a lodging unit in a dormitory is required to pay the lodging facility sales and use tax for the use of a lodging unit rented for a period of less than 30 consecutive days when the user is not enrolled in a regular academic program or a program of continuing education.

42.14.303 EXEMPT LODGING FACILITIES

- (1) An occupant at a health care facility as that term is defined in [50-5-101](#), MCA is not required to pay the lodging facility sales and use tax.
- (2) A user of a lodging unit at a dormitory is not required to pay the lodging facility sales and use tax when the:
 - (a) Person is enrolled in a regular academic program or a program of continuing education; or
 - (b) Participant is in an education program to improve the work of the educational institution by developing the professional knowledge and skills of the employees of the institution hosting the program; or
 - (c) Participant is in an educational program reserved exclusively for students of accredited educational institutions.
- (3) A user of a lodging unit at a hotel, motel, hostel, public lodginghouse, or bed and breakfast facility whose average daily accommodation charge (ADAC) is less than or equal to 60 percent of the allowable state reimbursement per day is not required to pay the lodging facility sales and use tax.
 - (a) For example - A facility that has 40 units advertises the following rates:
 - (i) 10 units, with one king bed, rent for:
 - \$25.00 per night for single occupancy (one person);
 - \$38.00 per night for double occupancy (two people);
 - \$150.00 weekly rate; and
 - \$400.00 monthly rate;
 - (ii) 30 units, with two queen beds, rent for:
 - \$20.00 per night for single occupancy (one person);
 - \$28.00 per night for double occupancy (two people);
 - \$150.00 weekly rate; and
 - \$400.00 monthly rate;
 - (iii) ADAC calculation:
 - 10 units rent for \$25.00/night = \$ 250.00
 - 30 units rent for \$20.00/night = \$ 600.00
 - Total rate charged for all rooms = \$ 850.00
 - divided by number of units 40 = \$ 21.25 ADAC
 - (iv) Allowable state reimbursement \$ 35.00
 - 7 percent Lodging Facility Sales and Use Tax \$ 2.45

- Total \$ 37.45
- 60 percent of allowable state reimbursement \$ 22.45
- (b) The ADAC rate of \$21.25 is less than \$22.45 (60 percent of the allowable state reimbursement rate), therefore the facility is exempt from collecting the lodging facility sales and use tax from the user.
- (4) A user at a nonprofit or religious organization's facility that is primarily used by youth (under the age of 18) for camping is not required to pay the lodging sales and use tax.
- (5) The user of a camping area which is temporarily located pursuant to a permit issued by an agency of the U.S. government is not required to pay the tax.

42.14.304 EXEMPT LODGING SALES

(1) A user is not required to pay the lodging facility sales and use tax for lodging if the lodging unit is rented for a period of 30 consecutive days or more. Nonconsecutive rental agreements cannot be combined for the purpose of determining the length of the rental period. Intention to rent for a period of 30 or more continuous days is documented by a lease, contract, or historical evidence of continuous rental.

(2) A user of a lodging unit is not required to pay the lodging facility sales and use tax if the accommodation charge is billed directly to the federal government and paid directly by the federal government. Users who are individually billed and pay for a lodging unit and who are subsequently reimbursed by the federal government are not exempt from paying the lodging facility sales and use tax.

(3) An enrolled member of a federally recognized Indian tribe, who stays in a facility located within the exterior boundaries of the enrolled member's Indian reservation, is exempt from paying the lodging facility sales and use tax. The seller must record the individual's enrollment number on the record.

(4) A foreign diplomat, entitled under international law or a bilateral treaty, is exempt from the lodging facility tax upon showing of a tax-exempt card issued by the U.S. State Department as follows:

- (a) a blue stripe at the bottom indicates the bearer is entitled to full tax exemption; or
- (b) a yellow stripe indicates there is some type of restriction on the full tax exemption, which will be indicated in the yellow stripe area.

(5) A lodging facility room used for the purpose other than lodging (such as meeting rooms) is not subject to the tax.

42.14.202 COMBINED CHARGE FOR SERVICES

(1) When lodging sales are combined with food, beverage, recreation, or other charges which are a substantial portion of the charge, the seller shall collect the lodging facility sales and use tax by establishing an accommodation charge using one of the following methods:

- (a) the allowable state reimbursement for the standard cost of in-state lodging each day for each person;
- (b) 25 percent of all charges each day for each person; or
- (c) a charge justified by reasonable documentation.

(2) As required by [15-65-113](#), MCA, and [15-68-502](#), MCA, a seller must maintain and have available for inspection, records to substantiate the items referred to in (1)(a) through (c). The department may request the seller to substantiate the method used and itemize each charge to verify the correct amount of tax.

(3) Lodging facility sales and use taxes do not apply to separately stated charges which are not an integral part of the use or occupancy of the room or campground space, such as but not limited to:

- (a) telephone;
- (b) Wi-Fi access;
- (c) faxes/copies;
- (d) television;
- (e) food;
- (f) beverage;
- (g) pet charge; or
- (h) personal laundry charges.

(4) The department may disallow a seller's method of allocating the lodging facility sales and use tax under (1) if:

(a) the department has reasonable cause to believe that the method of allocation was chosen solely to qualify the facility for a tax exemption as provided in ARM 42.14.103; or

(b) a charge allocated under (1)(c) is not supported by reasonable documentation or itemization.

(5) Lodging facility sales and use taxes include amounts charged for bathhouse facilities or temporary use of tangible personal property used in conjunction with the room, such as a charge for an extra bed.

(6) If campgrounds charge for water, electrical or sewer hookups, and bathhouse facilities, those charges are included in the amount that is subject to tax.

(7) If the facility charges for electricity as a separate or additional charge, this charge must be included in the amount that is subject to the tax.

42.14.106 REGISTRATION AND PERMIT

(1) Every seller required to collect the lodging facility sales and use tax must register and file Form GenReg, provided by the department or available on the department's web site at <http://www.mt.gov/revenue> and apply for a state account identification number for each facility owned or operated in Montana.

(2) A seller who is registering multiple locations and who has elected to file a combined return may file one application listing separately each location. The combined return can only include facilities that are located:

(a) within the same county; or

(b) within a recognized Convention and Visitors Bureau (CVB).

(3) An application registering multiple locations must include the following information on each location:

(a) business name and address of each location; and

(b) the federal employer identification number or social security number assigned to the owner of each location.

(4) A seller who is registering multiple locations in more than one county or CVB is required to complete a separate application for each county or CVB and include only those locations within the county or recognized CVB.

(5) A seller who has acquired an existing facility from a previous seller shall not use the predecessor's state account identification number. The seller must register and file Form GenReg to obtain a new state account identification number upon acquiring the existing business.

(6) A seller who establishes a new facility separate from an existing facility shall not use the existing account identification number, except for those owners or operators listed in (2). The owner or operator must register each facility separately and file Form GenReg to obtain a new state account identification number before operating the new facility.

(7) When completing Form GenReg, each seller must provide the federal employer identification number assigned to them by the Internal Revenue Service. For a sole proprietorship, this number may be a social security number if the sole proprietor is not required to apply for a federal employer identification number. Any entity change requiring a new federal employer identification or social security number requires a new facility registration.

(8) No registration is considered complete unless the federal employer identification or social security number appears on the application.

(9) A seller who fails to register with the department for reporting and remitting the lodging facility sales and use tax is not relieved from the collection and reporting requirements.

42.14.113 SEASONAL REGISTRATION AND PERMIT

(1) A person who is engaged in the business of selling lodging accommodations to the general public and is not open for business all 12 months of a calendar year may apply for a seasonal seller's permit.

(2) A person may apply for a seasonal seller's permit by completing Form GenReg indicating that the business is seasonal and listing the calendar months the business operates.

(3) If a seller operates at any time within the four, three-month quarters of January through March; April through June; July through September; and October through December, they cannot apply for a seasonal seller's permit.

(a) Example: A seller is operating and is open for business April 15 through October 11 of each year. This seller can apply for a seasonal seller's permit as they operate and are open for business within only three, three-month quarters (April through June; July through September, and the partial month of October.)

(b) Example: A seller is operating and is open for business March 15 through October 11 of each year. This seller cannot apply for a seasonal seller's permit as they operate and are open for business within each of the four, three-month quarters (March 15 through March 31; April through June; July through September; and October through October 11).

42.14.203 COLLECTING, REPORTING, AND PAYING THE TAX

(1) A seller of a lodging unit located in Montana must collect the lodging facility sales and use tax from the user and file a return with the department as required in this rule, except for a seller exempt under ARM 42.14.303 and for sales exempt under ARM 42.14.304.

(2) Every seller, except for a seller identified in (4), is required to complete and file Form LFT with the Department of Revenue, P.O. Box 5835, Helena, MT 59604-5835, for each calendar quarter or portion of a quarter in operation.

(3) The seller shall remit the amount of the tax with Form LFT. The report will cover quarterly periods ending March 31, June 30, September 30, and December 31, and is due on or before the last day of the month following the close of the quarter.

(4) A seller who has obtained a seasonal permit is required to only complete and file Form LFT for the quarters they are opened for business.

(5) If a seller has no revenue to report for a quarter, and the seller does not have a seasonal permit, the seller must file a quarter return reporting zero revenue and tax for the quarter.

(6) A seller who is required to file Form LFT may file and pay electronically their quarterly return through the department's web site at <https://tap.dor.mt.gov>. When filing electronically the return and payment is considered filed on the confirmation date provided upon submitting the return.

42.14.204 PENALTIES AND INTEREST

- (1) Upon request, the late pay and late file penalty may be waived pursuant to ARM 42.3.101, 42.3.102, 42.3.103, 42.3.104, 42.3.105, 42.3.106, 42.3.107, 42.3.108, 42.3.109, 42.3.110, 42.3.111, 42.3.113, 42.3.115, and 42.3.120.

42.14.205 APPLICATION OF TAX PAYMENT

(1) All payments of the 4 percent lodging facility use tax and the 3 percent lodging facility sales tax are applied in the following manner:

(a) When the seller remits full payment of the taxes, 4/7 of the amount is applied to the 4 percent lodging facility use tax in Title 15, chapter 65, MCA, and 3/7 of the amount is applied to the 3 percent lodging facility sales tax in Title 15, chapter 68, MCA.

(b) When the seller remits less than full payment of the tax, the tax payment is first applied to the 4 percent lodging facility use tax in Title 15, chapter 65, MCA, with any remaining balance being applied to the 3 percent lodging facility sales tax.

(2) When a partial payment is made, the 5 percent vendor allowance only applies to the paid tax balance of the lodging facility sales tax, after the payment is applied to the full amount of the 4 percent tax due. If there are no funds available to apply to the 3 percent lodging facility sales tax, the seller is not entitled to a vendor allowance.

(3) If the seller amends a prior period, or the department adjusts a prior period and the seller now owes additional tax, the original payment will be adjusted to first apply all tax to the 4 percent lodging facility use tax, with any remaining balance to the 3 percent lodging facility sales tax.

(4) When reapplying a payment the vendor allowance will be adjusted to 5 percent of the timely paid amount that is applied to the 3 percent lodging facility sales tax.

42.14.206 RECORDS REQUIRED - AUDIT

(1) Each seller shall maintain records necessary to document gross receipts for the lodging facility sales and use tax. A seller may be required to substantiate gross receipts reported for a particular quarter. For audit purposes, the seller may be required to reconstruct the reported gross receipts from the original lodging facility sales and use tax receipts.

(2) Such records shall include specific documentation of exempt charges.

(3) The seller must notify the user of the 4 percent lodging facility use tax and the 3 percent lodging facility sales tax. The tax shall be separately stated on the receipt, invoice, or other document provided to the user to ensure there is a record of the amount of tax charged.

(4) The records shall be maintained by the seller for a period of five years and shall be subject to audit by the department for that period.

42.14.207 FAILURE TO FURNISH REQUESTED INFORMATION

(1) The department, for the purpose of determining the correctness of any return, may request additional information to verify amounts or items on the return.

(2) If a return is not filed or information is not supplied, the department will estimate the tax from available information.

MONTANA CODE ANNOTATED

15-65-101. Definitions.

For purposes of this part, the following definitions apply:

(1) "Accommodation charge" means the fee charged by the owner or operator of a facility for use of the facility for lodging, including bath house facilities, but excluding charges for meals, transportation, entertainment, or any other similar charges.

(2) (a) "Campground" means a place, publicly or privately owned, used for public camping where persons may camp, secure tents, or park individual recreational vehicles for camping and sleeping purposes.

(b) The term does not include that portion of a trailer court, trailer park, or mobile home park intended for occupancy by trailers or mobile homes for resident dwelling purposes for periods of 30 consecutive days or more.

(3) "Council" means the tourism advisory council established in [2-15-1816](#).

(4) (a) "Facility" means a building containing individual sleeping rooms or suites, providing overnight lodging facilities for periods of less than 30 days to the general public for compensation. The term includes a facility represented to the public as a hotel, motel, campground, resort, dormitory, condominium inn, dude ranch, guest ranch, hostel, public lodging house, or bed and breakfast facility.

(b) The term does not include any health care facility, as defined in [50-5-101](#), any facility owned by a corporation organized under Title 35, chapter 2 or 3, that is used primarily by persons under the age of 18 years for camping purposes, any hotel, motel, hostel, public lodging house, or bed and breakfast facility whose average daily accommodation charge for single occupancy does not exceed 60% of the amount authorized under [2-18-501](#) for the actual cost of lodging for travel within the state of Montana, or any other facility that is rented solely on a monthly basis or for a period of 30 days or more.

(5) "Nonprofit convention and visitors bureau" means a nonprofit corporation organized under Montana law and recognized by a majority of the governing body in the city, consolidated city-county, resort area, or resort area district in which the bureau is located.

(6) "Regional nonprofit tourism corporation" means a nonprofit corporation organized under Montana law and recognized by the council as the entity for promoting tourism within one of several regions

established by executive order of the governor.

(7) "Resort area" means an area established pursuant to [7-6-1508](#).

(8) "Resort area district" has the meaning provided in [7-6-1531](#).

[15-65-111. Tax rate.](#)

(1) There is imposed on the user of a facility a tax at a rate equal to 4% of the accommodation charge collected by the facility.

(2) Accommodation charges do not include charges for rooms used for purposes other than lodging.

[15-65-112. Collection and reporting.](#)

(1) The owner or operator of a facility shall collect the tax imposed by [15-65-111](#).

(2) The owner or operator shall report to the department of revenue, at the end of each calendar quarter, the gross receipts collected during that quarter attributable to accommodation charges for the use of the facility. The report is due on or before the last day of the month following the end of the calendar quarter and must be accompanied by a payment in an amount equal to the tax required to be collected under subsection (1).

[15-65-113. Audits -- records.](#)

(1) The department of revenue may audit the books and records of any owner or operator to ensure that the proper amount of tax imposed by [15-65-111](#) has been collected. An audit may be done on the premises of the owner or operator of a facility or at any other convenient location.

(2) The department may request the owner or operator of a facility to provide the department with books, ledgers, registers, or other documents necessary to verify the correct amount of tax.

(3) The owner or operator of a facility shall maintain and have available for inspection by the department books, ledgers, registers, or other documents showing the collection of accommodation charges for the preceding 5 years.

(4) Except in the case of a person who, with intent to evade the tax, purposely or knowingly files a false or fraudulent return violating the provisions of this part, the amount of tax due under any return must be determined by the department within 5 years after the return is made, and the department thereafter is barred from revising any such return or recomputing the tax due thereon, and no proceeding in court for the collection of the tax may be instituted unless notice of any additional tax is provided within such period.

(5) An application for revision may be filed with the department by an owner or operator of a facility within 5 years from the original due date of the return.

[15-65-114. Registration number -- application to department.](#)

(1) The owner or operator of a facility shall apply to the department of revenue for a registration number.

(2) The application must be made on a form provided by the department.

(3) Upon completion of the application and delivery of the application to the department, the department must assign a registration number to the owner, operator, or facility, as appropriate.

[15-65-115. Failure to pay or file -- penalty and interest -- review -- interest.](#)

(1) An owner or operator of a facility who fails to file the report as required by [15-65-112](#) must be assessed a penalty as provided in [15-1-216](#). The department may waive any penalty as provided in [15-1-206](#).

(2) An owner or operator of a facility who fails to make payment or fails to report and make payment as required by [15-65-112](#) must be assessed penalty and interest as provided in [15-1-216](#). The department may waive any penalty pursuant to [15-1-206](#).

(3) (a) If an owner or operator of a facility fails to file the report required by [15-65-112](#) or if the department determines that the report understates the amount of tax due, the department may

determine the amount of the tax due and assess that amount against the owner or operator. The provisions of [15-1-211](#) apply to any assessment by the department. The taxpayer may seek review of the assessment pursuant to [15-1-211](#).

(b) When a deficiency is determined and the tax becomes final, the department shall mail a notice and demand for payment to the owner or operator. Penalty and interest must be added to any deficiency assessment as provided in [15-1-216](#).

[15-65-116. Credit for overpayment -- interest on overpayment.](#)

(1) If the department determines that the amount of tax, penalty, or interest paid for any year is more than the amount due, the amount of the overpayment must be credited against any tax, penalty, or interest then due from the taxpayer and the balance refunded to the taxpayer, to the taxpayer's successor through reorganization, merger, or consolidation, or to the taxpayer's shareholders upon dissolution.

(2) Except as provided in subsection (3), interest is allowed on overpayments at the same rate as is charged on unpaid taxes, as provided in [15-1-216](#), from the due date of the return or from the date of overpayment, whichever is later, to the date the department approves refunding or crediting of the overpayment.

(3) (a) Interest does not accrue during any period in which the processing of a claim for refund is delayed more than 30 days by reason of failure of the taxpayer to furnish information requested by the department for the purpose of verifying the amount of the overpayment.

(b) Interest is not allowed:

(i) if the overpayment is refunded within 6 months from the date the return is due or from the date the return is filed, whichever is later; or

(ii) if the amount of interest is less than \$1.

(c) Only a payment made incident to a bona fide and orderly discharge of actual tax liability or one reasonably assumed to be imposed by this chapter is considered an overpayment with respect to which interest is allowable.

[15-65-121. Distribution of tax proceeds.](#)

(1) The proceeds of the tax imposed by [15-65-111](#) must, in accordance with the provisions of [17-2-124](#), be deposited in an account in the state special revenue fund to the credit of the department. The department may spend from that account in accordance with an expenditure appropriation by the legislature based on an estimate of the costs of collecting and disbursing the proceeds of the tax. Before allocating the balance of the tax proceeds in accordance with the provisions of [17-2-124](#) and as provided in subsections (2)(a) through (2)(f) of this section, the department shall determine the expenditures by state agencies for in-state lodging for each reporting period and deduct 4% of that amount from the tax proceeds received each reporting period. The department shall distribute the portion of the 4% that was paid with federal funds to the agency that made the in-state lodging expenditure and deposit 30% of the amount deducted less the portion paid with federal funds in the state general fund. The amount of \$400,000 each year must be deposited in the Montana heritage preservation and development account provided for in [22-3-1004](#).

(2) The balance of the tax proceeds received each reporting period and not deducted pursuant to the expenditure appropriation, deposited in the state general fund, distributed to agencies that paid the tax with federal funds, or deposited in the heritage preservation and development account must be transferred to an account in the state special revenue fund to the credit of the department of commerce for tourism promotion and promotion of the state as a location for the production of motion pictures and television commercials, to the Montana historical interpretation state special revenue account, to the Montana historical society, to the university system, and to the department of fish, wildlife, and parks, as follows:

(a) 1% to the Montana historical society to be used for the installation or maintenance of roadside

historical signs and historic sites;

(b) 2.5% to the university system for the establishment and maintenance of a Montana travel research program;

(c) 6.5% to the department of fish, wildlife, and parks for the maintenance of facilities in state parks that have both resident and nonresident use;

(d) 64.9% to be used directly by the department of commerce;

(e) (i) except as provided in subsection (2)(e)(ii), 22.5% to be distributed by the department to regional nonprofit tourism corporations in the ratio of the proceeds collected in each tourism region to the total proceeds collected statewide; and

(ii) if 22.5% of the proceeds collected annually within the limits of a city, consolidated city-county, resort area, or resort area district exceeds \$35,000, 50% of the amount available for distribution to the regional nonprofit tourism corporation in the region where the city, consolidated city-county, resort area, or resort area district is located, to be distributed to the nonprofit convention and visitors bureau in that city, consolidated city-county, resort area, or resort area district; and

(f) 2.6% to the Montana historical interpretation state special revenue account established in [22-3-115](#).

(3) If a city, consolidated city-county, resort area, or resort area district qualifies under this section for funds but fails to either recognize a nonprofit convention and visitors bureau or submit and gain approval for an annual marketing plan as required in [15-65-122](#), then those funds must be allocated to the regional nonprofit tourism corporation in the region in which the city, consolidated city-county, resort area, or resort area district is located.

(4) If a regional nonprofit tourism corporation fails to submit and gain approval for an annual marketing plan as required in [15-65-122](#), then those funds otherwise allocated to the regional nonprofit tourism corporation may be used by the department of commerce for tourism promotion and promotion of the state as a location for the production of motion pictures and television commercials.

(5) The tax proceeds received that are transferred to a state special revenue account pursuant to subsections (2)(a) through (2)(e) are statutorily appropriated to the entities as provided in [17-7-502](#).

(6) The tax proceeds received that are transferred to the Montana historical interpretation state special revenue account pursuant to subsection (2)(f) are subject to appropriation by the legislature.

[15-65-122. Qualification of nonprofit entities for receipt of funds -- limitation on administrative costs.](#)

(1) The department of revenue shall provide the council with quarterly reports of regional tax proceeds and tax proceeds of cities, consolidated city-counties, resort areas, and resort area districts that qualify for disbursement of funds under [15-65-121](#).

(2) Funds may not be disbursed to a regional nonprofit tourism corporation or nonprofit convention and visitors bureau until that entity has submitted an annual marketing plan to the council and that plan has been approved by the council.

(3) A maximum of 20% of the funds received by a regional nonprofit tourism corporation or nonprofit convention and visitors bureau may be used for administrative purposes as defined by the council.

[15-65-131. State agencies to account for in-state lodging expenditures.](#)

Each state agency shall account for in-state lodging expenditures in a manner that will enable the department to determine total expenditures for in-state lodging by state agencies in order to make a deposit of a portion of the tax proceeds imposed by [15-65-111](#) in the state general fund and distribute the portion of taxes paid with federal funds to the agency that made the in-state lodging expenditure.