

This rule was filed as 2 NMAC 105.2.

**TITLE 2 PUBLIC FINANCE**  
**CHAPTER 105 LOCAL GOVERNMENT EXPENDITURES**  
**PART 2 LODGERS' TAX QUARTERLY REPORT**

**2.105.2.1 ISSUING AGENCY:** Department of Finance and Administration, Local Government Division, Bataan Memorial Building, Room 201, Santa Fe, NM 87503.  
[9-30-96; Recompiled 10/01/01]

**2.105.2.2 SCOPE:** Municipalities, counties and entities created by joint powers agreement which expend occupancy tax revenue. The purposes of these regulations are to establish guidelines for reporting occupancy tax collections and expenditures by municipalities and counties.  
[9-30-96; Recompiled 10/01/01]

**2.105.2.3 STATUTORY AUTHORITY:** Section 6-6-4.1 NMSA 1978 (1996 Supp.) requires the local government division to promulgate rules and regulations that require the governing body of any municipality or county imposing and collecting an occupancy tax pursuant to the Lodgers' Tax Act to report to the local government division on a quarterly basis any expenditure of occupancy tax funds pursuant to Sections 3-38-15 and 3-38-21 NMSA 1978. Section 3-38-17.2 NMSA 1978 (1996 Supp.) requires the governing body of any municipality or county imposing and collecting an occupancy tax to report to the local government division on a quarterly basis any expenditure of occupancy tax funds.  
[9-30-96; Recompiled 10/01/01]

**2.105.2.4 DURATION:** Permanent.  
[9-30-96; Recompiled 10/01/01]

**2.105.2.5 EFFECTIVE DATE:** September 30, 1996, [unless a later date is cited at the end of a section.]  
[9-30-96; Recompiled 10/01/01]

**2.105.2.6 OBJECTIVE:** The objective of Part 2 of Chapter 105 [now 2.105.2 NMAC] is to provide a uniform format for municipalities, counties and entities created by joint powers agreements to follow when reporting the expenditure of occupancy tax revenues to the local government division.  
[9-30-96; Recompiled 10/01/01]

**2.105.2.7 DEFINITIONS:**

- A. "Expenditure summary" means the amount of occupancy tax revenue expended by a reporting entity.
- B. "Local government division" means the local government division of the department of finance and administration.
- C. "Lodgers' tax quarterly report" means the form upon which reporting entities must provide revenue and expenditure information to the local government division.
- D. "Non-promotional fund" means the fund containing occupancy tax proceeds which may be used for any purpose authorized by Section 3-38-21 NMSA 1978 (1996 Supp.).
- E. "Percent imposed" means the percent of occupancy tax imposed by the reporting entity.
- F. "Promotional fund" means the fund containing occupancy tax proceeds which must be used for advertising, publicizing and promoting tourist-related attractions, facilities and events.
- G. "Quarterly" means September 30; December 31; March 31; and June 30.
- H. "Reporting entity" means any municipality, county or entity created by joint powers agreement that receives occupancy revenue directly or via intergovernmental transfer.
- I. "Revenue allocation" means the dedication of occupancy tax revenue to a particular fund or for a particular purpose.
- J. "Revenue summary" means the amount of occupancy tax revenue received by a reporting entity.

**2.105.2.8 ELIGIBLE USES OF TAX PROCEEDS:**

A. Sections 3-38-13 to 3-38-24 NMSA 1978, the Lodgers' Tax Act, authorizes municipal and county governments to adopt ordinances imposing occupancy tax for revenues on lodging establishments within municipal boundaries or within that part of the county outside of municipal boundaries.

B. Proceeds may be used to defray the costs of:

- (1) collecting and otherwise administering the tax;
- (2) establishing, operating, purchasing, constructing, otherwise acquiring, reconstructing, extending, improving, equipping, furnishing or acquiring real property or any interest in real property for the site or grounds for tourist related facilities, attractions or transportation systems of the municipality, the county in which the municipality is located or the county;
- (3) advertising, publicizing and promoting tourist-related attractions, facilities and events of the municipality or county and tourist facilities or attractions within the area;
- (4) providing police and fire protection and sanitation service for tourist-related events, facilities and attractions located in the respective municipality or county;
- (5) paying principal and interest on certain premiums due in connection with lodgers' tax revenue bonds; and
- (6) performing audits pursuant to Section 3-38-17.1 NMSA 1978.

[9-30-96; Recompiled 10/01/01]

**2.105.2.9 LIMITATION OF PROCEEDS USE:**

A. The occupancy tax may not exceed five percent of the gross taxable rent.

B. The following portions of occupancy tax proceeds must be used for advertising, publicizing and promoting tourist-related attractions, facilities and events.

(1) Municipalities or counties imposing a tax of no more than two percent must expend one-fourth of the tax proceeds for those purposes.

(2) Municipalities located outside of class A counties and counties not classified as class A counties imposing a tax of more than two percent must expend at least one-half of the proceeds from the first three percent of the tax and one-fourth of the proceeds in excess of three percent for those purposes.

(3) Municipalities located in class A counties and class A counties imposing a tax of more than two percent must expend at least one-half of all tax proceeds for those purposes.

C. Proceeds required to be used to advertise, publicize and promote must be used within two years of the close of the fiscal year in which they were collected and shall not be used for any other purpose.

D. The expenditure requirements of 9.2.2 [now Paragraph 2 of Subsection B of 2.105.9 NMAC] may be reduced, if necessary, to make principal and interest payments on lodgers' tax bonds issued prior to January 1, 1996.

[9-30-96; Recompiled 10/01/01]

**2.105.2.10 REPORTING REQUIREMENTS:**

A. All reporting entities must submit a lodgers' tax quarterly report to the local government division within 30 days following the end of the quarter.

B. All reporting entities must provide copies of the lodgers' tax quarterly report to their advisory board when they are filed with the local government division.

[9-30-96; Recompiled 10/01/01]

**2.105.2.11 LODGERS' TAX QUARTERLY REPORT FORM:** The lodgers' tax quarterly report shall include:

A. The percent imposed;

B. A revenue summary detailing the amount of lodgers' tax proceeds, investment income, intergovernmental transfers and other revenue received by a reporting entity as result of the occupancy tax;

C. A revenue allocation detailing the amount of revenue dedicated to the non-promotional fund, the promotional fund and administrative costs; administrative costs shall not exceed ten percent of the total revenue prior to allocation between promotional and non-promotional funds;

D. A cash balance summary stating the amount of cash on hand in the non-promotional and promotional funds;

E. An expenditure summary identifying the amount expended from the non-promotional fund for contractual services, operating expenses, capital outlay, debt service and net transfers and the amount expended

from the promotional fund for contractual services, tourist related events and net transfers; and for expenditures in the contractual services category, a description of the activity or event, the date of the activity or event, and name of the contractor must be included.

[9-30-96; Recompiled 10/01/01]

**HISTORY OF 2.105.2 NMAC:** [RESERVED]