



A short guide to short-term rentals

The sharing economy, also called “collaborative consumption,” lets consumers share access to products or services, rather than having individual ownership. Today’s most well-known collaborative options include Uber, Rideshare, Lyft, Airbnb and HomeAway.

The same concept, but with a different business model, was possible in the past by posting services or products for rent, in a newspaper or in magazine ads, and through internet posts. What’s changed is that transactions now take place through an app on smartphones allowing easier, more convenient and more frequent transactions. The frequency of these transactions creates regulatory and tax issues for the state and local governments.

South Carolina addressed the regulation of ride-booking services with the passage of “transportation network company” legislation in 2015. Now, the challenge is how to accommodate short-term residential rental services, such as Airbnb, Vacation Rentals by Owner, and similar services, while balancing traditional residential property owner and tenant rights, protecting quality of life, and collecting fees and taxes that are due on these business activities.

Since home sharing has the potential to alter the character of established neighborhoods, many communities are carefully considering the best way to accommodate the demand for these new types of lodging, while still protecting the safety of housing, neighborhood character and land planning goals.

Understanding South Carolina’s regulations and tax treatments for short-term residential rentals is an important step before developing sharing-economy rental policies.

For tax purposes, South Carolina has five general types of short-term rentals:

- **Hotels and motels.** Owners of these commercial properties pay property taxes based on a 6 percent assessment of the value of the property. All taxes, including business license, state accommodations, sales and local accommodations, are owed.
- **Rentals of second homes and investment properties.** Owners of these properties pay property taxes based on a 6 percent assessment of the value of the property. All taxes, including business license, state accommodations, sales and local accommodations are owed.

- **Rentals of primary residential homes between 15 and 72 days per year.** The rental days can be consecutive or nonconsecutive. Property owners maintain their primary residential 4 percent property tax assessment. All taxes, including business license, state accommodations, sales and local accommodations are owed.
- **Rentals of primary residential homes for up to 14 days a year.** Property owners maintain their primary residential 4 percent property tax assessment. Owner revenue from these rentals is exempt from all taxation, including business license, state accommodations, sales and local accommodations. However, a travel company, such as Airbnb, HomeAway and VRBO, through which a rental property is booked and paid, owes taxes including business license, state accommodations, sales and local accommodations. Examples include renting a primary residence during the Masters or RBC Heritage golf tournaments or renting a home for seven college football weekends per year.
- **Rentals of six bedrooms or less in a residential home occupied by the home owner.** Typically these are home owners who rent out a single bedroom or couch in their primary home through Airbnb or other internet platform. The homeowner maintains his 4 percent property tax assessment. Owner revenue from these rentals is exempt from sales taxes and state and local accommodations taxes. Business license taxes are not exempt under state law, therefore, the homeowner is responsible for paying the tax.
Regardless of the type of short-term rental, travel companies, such as Airbnb and Expedia, through which the rental is booked and paid, owe taxes, including business license, state accommodations, sales and local accommodations. Currently, the S.C. Department of Revenue collects state sales and accommodations taxes from Airbnb. Although travel companies owe these taxes, they are not consistently paying business license taxes or local accommodations taxes to local governments.

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND
COUNCIL OF THE CITY/TOWN OF _____,
SOUTH CAROLINA PROVIDING FOR THE
IMPLEMENTATION OF THE PROVISIONS OF
THE FAIRNESS IN LODGING ACT

WHEREAS, the Mayor and City/Town Council recognize that providing lodging accommodations for tourists is an important component of the local economy; and

WHEREAS, there may be instances where individuals who rent residential accommodations to tourists are failing to collect and remit the local accommodations tax imposed pursuant to Article 5 of Title 6 of the South Carolina Code of Laws and the state sales tax on accommodations imposed pursuant to Section 12-36-920 of the South Carolina Code of Laws; and

WHEREAS, those who fail to collect and remit local and state taxes on accommodations provided to transients are competing unfairly against those who dutifully meet these legal obligations; and

WHEREAS, the South Carolina General Assembly has enacted the Fairness in Lodging Act (the "Act"), providing municipalities and counties the option to exercise additional enforcement authority regarding the aforementioned taxes and to engage in active cooperation with the South Carolina Department of Revenue in data sharing for the purposes articulated in the Act; and

WHEREAS, the city/town has imposed the local accommodations tax provided pursuant to Article 5 of Title 6 of the South Carolina Code of Laws; and

WHEREAS, in order to avail itself of the authority provided in the Act, the governing body must by ordinance implement the provisions of the Act.

NOW, THEREFORE, BE IT ORDAINED THAT THE CITY/TOWN OF _____ DOES HEREBY:

1. Implement the provisions of the Act, as found in Article 7 of Title 6 of the South Carolina Code of Laws; and
2. Set, pursuant to the Act, a one-time civil penalty of [amount not less than five hundred nor more than two thousand] dollars for failure to collect and remit local accommodations tax for each seven days a single rental property was rented; and
3. Direct that a certified copy of this implementation ordinance be provided to the director of the South Carolina Department of Revenue.

This Ordinance shall be effective on the date of final reading

DONE AND RATIFIED IN COUNCIL, DULY ASSEMBLED, THIS _____ DAY OF _____, 20____.

_____, Mayor

ATTEST: _____, Clerk

(Notice to be included in annual property tax bill for 6 percent assessed residential property and 4 percent assessed residential property being rented for more than 15 days but less than 72 days.)

Notice of South Carolina Sales Tax Rates on Accommodations

for the City/Town of

State Sales Tax	5%
State Accommodations Tax	2%
Local Accommodations Tax	%
Local Option Sales Tax (LOST)	%
Local Capital Projects Tax	%
Local Education Capital Improvement Tax	%
Local School District Tax	%
Local Transportation Tax	%
<u>Local Tourism Tax</u>	<u>%</u>
TOTAL	%

Each property owner who rents a residential accommodation to tourists is responsible for collecting the taxes listed above from the renters and submitting the taxes to the appropriate state and local agencies. The owner is also required to pay any applicable business license tax to the city/town.

For questions, forms or additional information concerning the taxes please contact:

Name
Address
Phone Number

Instructions for Administering the Fairness in Lodging Act of 2014

- 1- Adopt the ordinance.
- 2- Send an official copy of the adopted ordinance to the Department of Revenue.
Shannon Attaway
Local Government Section
SC Department of Revenue
PO Box 125
Columbia, SC 29214
- 3- Create the Notice of Tax Rates to be included in the annual property tax bill of all residential property assessed at 6 percent and 4 percent assessed residential property rented for more than 15 days but less than 72 days.
 - a. Must include every state and local sales tax rate applicable in the city or town.
 - b. Must include the name, address and phone number of the person in the city who can assist the property owner in complying with the local accommodations tax requirements.
- 4- Send an official copy of the adopted ordinance and the Notice of Tax Rates to the county auditor.
- 5- The county auditor is to include the Notice in the annual property tax bill for all residential real property assessed at 6 percent and 4 percent assessed residential property rented for more than 15 days but less than 72 days.
 - a. County must be compensated for the additional cost of including the Notice in the property tax bills.
 - b. City must confirm with the county the distribution of the Notice.
 - c. If the Notice is not distributed with the property tax bills then the city cannot impose the penalty to the property owner for not complying with the local accommodations tax requirements.
- 6- The penalty is deemed property tax on the rental property.