City Council Work Session

448 E 1st Street, Room 190 Salida, Colorado 81201
August 18, 2025 at 6:00 PM

Agenda

Please register, **BY 4:30 pm the day of the meeting**, for City Council Work Session
https://zoom.us/webinar/register/WN_AlrC-BslRNiigokU1E5K4w
After registering, you will receive a confirmation email containing information about joining the webinar. To watch live meetings:
http://www.youtube.com/@cityofsalidacolorado

Discussion Items

1. Regional Sustainability Update

2. Chaffee County Lodging Tax Question Discussion

Adjourn

Individuals with disabilities needing auxiliary aid(s) may request assistance by contacting the City Clerk at 448 E. 1st Street, Ste. 112, Salida, CO 81201, Ph.719-530-2626 at least 48 hours in advance.

CITY COUNCIL WORK SESSION MEMO

DEPARTMENT	PRESENTED BY	DATE
Administration	Christy Doon - City Administrator	August 18, 2025

AGENDA ITEM

County Lodging Tax Discussion

BACKGROUND

HB25-1247 is the Lodging Tax expansion approved by state legislature this session, which would allow for local governments to increase local lodging tax from the present 1.9% to a 6% tax and expand the allowable uses of such funds. Should the County Commissioners elect to proceed with bringing the measure to the voters, and the voters so approve, the revenue generation for the local Lodging Tax could be increased an estimated $2.7 million annually.

The current 1.9% lodging tax produces approximately $1.2m annually and helps fund the Chaffee County Visitor's Bureau and supports the Chaffee Housing Authority as well as other housing and childcare projects and programs. The new law, should the County bring it to the local voters and it passes, would increase revenues and allow for expanded use to also address "infrastructure" needs.

Specifically, the legislative summary says:
Subject to local voter approval, the act increases the maximum allowed rate of a county lodging tax levied on the purchase price paid or charged to persons for rooms or accommodations from 2% to 6% and expands the allowed uses of lodging tax revenue to include:

● Public infrastructure maintenance or improvements; or
● Enhancing public safety measures by funding local law enforcement, fire protection services, and emergency medical services.

If a county received voter approval before January 1, 2025, to specifically allocate portions of revenue from the lodging tax to allowed uses for designated purposes, the act clarifies how those previously approved allocations are preserved and how revenue attributable to an increase in the tax rate may be allocated by the county.

It is the County's position that this proposed increase would not be in conflict with the Occupational Tax in place in Salida and would, in fact, be in addition to the taxes already collected within the City limits. A letter from the Department of Revenue is also attached.

REQUESTED DIRECTION FROM COUNCIL

Council requested this discussion be brought forward. County staff will be in attendance at the meeting to discuss plans for the additional revenue.

STATE OF COLORADO

DEPARTMENT OF REVENUE
State Capitol Annex
1375 Sherman Street, Room 409
Denver, Colorado 80261
Phone (303) 866-3091
FAX (303) 866-2400

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Bill Ritter, Jr.
Governor

Roxanne Huber
Executive Director

Jenny Davis
Chaffee County Attorney
104 Crestone Ave.
P.O. Box 699
Salida, CO 81201

Dear Ms. Davis,

Chaffee County has asked the department to review the application of the Chaffee County lodging tax within the City of Salida in light of the City's recent passage of its Occupational Lodging Tax. This letter summarizes the department's conclusions.

Chaffee County imposes a 1.9% county lodging tax pursuant to §30-11-107.5 C.R.S. At the November election of 2008, the voters of the City of Salida approved an "Occupational Lodging Tax"[1] of $4.82 per occupied room per night on all lodging facilities within the City of Salida.

Section 30-11-107.5 C.R.S. contains two limitations on the imposition of the county lodging tax authorized by that section. Subsection (1) of that statute indicates that "No [such] tax shall apply within any municipality levying a lodging tax." Subparagraph (3)(b)(II) reads, in part, as follows: "If any additional lodging tax or statewide tax on lodging facilities is enacted or levied after January 1, 1987," then the amount of the county lodging tax may be reduced or eliminated.

The Colorado Department of Revenue must direct lodging facilities within the City of Salida as to whether the Chaffee County lodging tax should continue to be collected within the boundaries of the City of Salida given the City's new occupational lodging Tax.

We note as an initial matter that, when construing the application of exemptions, taxation is the rule and exemption the exception. The legislature must clearly indicate its intention to confer an exemption. Thus, the department presumes that the Chaffee County lodging tax should be continued to be collected unless clearly prohibited by the application of the exemption language in either subsection (1) or subparagraph (3)(b)(II).[2]

The central question to be answered in order to determine whether the county lodging tax should continue to be collected is whether Salida's Occupational Lodging Tax is a "lodging tax" referenced in subsection (1) and subparagraph (3)(b)(II) of the Statute. The tax statutes do not contain a definition of "lodging tax".

[1] Imposed pursuant to 31-15-501(1)(c)

[2] Although subparagraph (3)(b)(II) requires a reduction rather than a pure exemption, because of the amount of the per room/night charge, the charge would operate as an exemption on rooms being sold for less than $241 per night.

Section 30-11-107.5 refers to the tax imposed by this section as a lodging tax. Therefore, the department concludes that the term "lodging tax" refers only to a similar type of sales tax lodging tax and does not extend to a tax imposed under 31-15-501(1)(c).[3]

Because the department concludes that the Salida occupational lodging tax does not preempt the application of Chaffee County's lodging tax, the department will instruct vendors within the city limits of Salida to continue to collect the Chaffee County lodging tax.

Sincerely,

Phil Horwitz
Director
Office of tax policy analysis

[3] Occupational taxes imposed pursuant to this section are taxes on the privilege of engaging in a particular occupation.

impose an income tax. To distinguish the two types of taxes, the City's occupational lodging tax ballot question is drafted as a flat fee on room price, while an income tax on lodging is based upon the percentage of gross proceeds of a lodging establishment. Lodging establishments also have other sources of income not taxed by the proposed occupational tax such as concessions and movies. In addition, the City's proposed occupational lodging tax must be collected from the person to whom the accommodations are rented, not the owner.

In *Town of Eagle v. Scheibe*, the leading case on point, Eagle, a statutory town, adopted an occupational lodging tax pursuant to C.R.S. 31-15-501(1)(c) of two dollars per day, per occupied room "on all individuals and businesses furnishing short-term accommodations in the Town of Eagle, payable monthly." *Id.* at 649. The Colorado Court of Appeals held that the tax could not be characterized as an occupation tax because it would fluctuate monthly based on the number of rooms rented. *Id.* at 650. The Supreme Court reversed, reasoning that an occupation tax should be interpreted broadly, and that it may be used to compensate a municipality for the use of its services and facilities. *Id.* at 651. A tax on a hotel based on the number of rooms rented is a reasonable approximation of the amount of use that the hotel, through its employees and customers, makes of the town's services and facilities. *Id.* at 654. In summary, the Supreme Court held that that the lodging occupation tax imposed by the Town of Eagle was not an "income tax;" that it complied with the occupation tax statute and the cases construing it; and that even though the amount of tax paid by a hotel might fluctuate depending on how many rooms were rented each month, it was a valid and enforceable tax.

Based on this authority, the City of Salida's proposed occupational lodging tax is not a "lodging tax" authorized by C.R.S. §30-11-107.5. Thus, if approved by the City's registered voters at the 2008 General Election, the City tax will have no impact on collections of the County's lodging tax. The language on the Department of Revenue County Lodging Tax Return prohibiting collection when municipalities levy their own lodging tax is a generic clause which would only apply if Salida was a home rule municipality imposing a percentage tax on rooms and accommodations.