



Montana Local Option Resort Tax

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## Introduction

The resort tax is a local option tax for small communities and areas that derive a major amount of economic activity from nonbusiness related travel. The resort tax must be approved by local voters and may be levied only on certain goods and services and luxury items. The resort tax provides funding for local government infrastructure and other services by recouping taxes from people who visit the area. In addition, a portion of resort tax proceeds must be used for municipal property tax relief.

## Local Option Resort Tax

Although Montana statute does not allow local communities to impose a general sales tax, certain designated incorporated communities and unincorporated areas may levy a resort tax under defined conditions. Funds raised by these taxes can be used for a variety of purposes, including developing and maintaining local infrastructure, and at least 5.0% of the proceeds must be used to provide property tax relief. The local option resort tax is authorized in sections 7-6-1501 through 7-6-1532, MCA.

## Process to Levy a Resort Tax

In order to levy a resort tax, a community or unincorporated area must first be designated as a resort community or area by the Montana Department of Commerce (MDOC). Statute requires MDOC to determine that the population of a community is fewer than 5,500 for an incorporated town and fewer than 2,500 for an unincorporated area using the most recent federal census (7-6-1501, MCA). In addition, MDOC must determine that a major portion of the community or area economic wellbeing is related to current employment from businesses providing recreational and personal needs of nonbusiness travelers. Once MDOC designates a resort community or area, then local voters must approve a resolution that details the tax rate, effective date and duration of the tax, and how the proceeds will be used (7-6-1504, MCA).

## Restrictions/Requirements of Resort Tax

The resort tax may be imposed on the retail value of all goods and services sold by the following types of businesses:

- Hotels, motels, and other lodging or camping facilities
- Restaurants, fast food stores, and other food service establishments
- Taverns, bars, night clubs, lounges, and other public establishments that serve beer, wine, liquor, or other alcoholic beverages by the drink
- Destination ski resorts and other destination recreational facilities

The tax may not be levied on items that are sold for resale. The tax must be levied on the sale of luxuries, which are defined in section 7-6-1501, MCA as "any gift or luxury item normally sold to the public or tourists with the exception of: unprepared food, medicine or medical supplies, appliances, hardware supplies and tools, or any necessities of life". Existing resort tax resolutions include sporting good rentals, books, magazines, souvenirs, and antiques as luxuries.

In addition to designating what items may be taxed (within statutory guidelines), resort communities and areas may also determine when to levy the tax. Collections may be limited to time periods within the calendar year, potentially encompassing only those months with the highest number of tourists.

## Property Tax Relief

At least 5.0% of revenue received from a resort tax must be used to provide property tax relief in the following year (7-6-1507(1), MCA). Property tax relief may be even greater than the statutory minimum

if a resort community receives more resort tax revenue than had been included in the annual municipal budget. Any excess resort tax revenue received above the amount included in the budget must be deposited into a special account and the entire balance in the fund must also be used for property tax relief the following year (7-6-1507(2), MCA).

## Communities and Areas with a Resort Tax

In Montana there are four communities with a resort tax (Whitefish, Red Lodge, Virginia City, and West Yellowstone) and there are six areas with a resort tax (St. Regis, Big Sky, Cooke City, Gardiner, Craig, and Wolf Creek). All resort taxes must be approval by local voters. The first community approved a resort tax in 1986 and the most recent one was adopted in 2014. All communities and areas impose a 3.0% tax, the maximum rate allowed under Montana statute.<sup>1</sup> All allocate at least 5.0% of tax proceeds to provide property tax relief, with Whitefish using 25.0% of its tax proceeds for property tax relief.

Phillipsburg was determined to meet statutory criteria to be a resort community by the MDOC in January 2015, but has not yet held a vote to authorize imposition of the tax. Fort Smith has submitted a request for resort area determination, which is being processed by the MDOC at this time.

## Use of Resort Tax Proceeds

Resort tax proceeds are used for a variety of purposes ranging from infrastructure needs to funding local government services. Some resort taxes are limited to primarily supporting a single project such as funding a new waste water system for Wolf Creek. Other areas and communities dedicate funding to infrastructure needs, including water and transportation systems, and funding for other functions such as performing arts (a small portion of Gardiner's tax proceeds).

Areas with robust tourism have particularly benefitted from resort tax proceeds. For instance, in 2015, Whitefish collected about \$2.0 million in resort tax revenue. The majority of the revenue was used to repair and maintain roads (65.0% of proceeds) and to provide property tax relief (25.0% of proceeds).<sup>2</sup>

## Summary

The resort tax has been adopted by four communities and six areas in Montana. Tax proceeds are used to fund infrastructure needs and other local government goods and services as well as property tax relief. All taxing jurisdictions levy 3.0%, the maximum allowed. The amount of revenue raised by the tax varies from about \$2.0 million per year to less than \$100,000 per year depending on the taxing jurisdiction, the number of months during a year that the tax is levied, and the level of tourism in the taxing jurisdiction.

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<sup>1</sup> Montana Department of Revenue. "Local Resort Tax", accessed August 1, 2016 from <https://revenue.mt.gov/localresort-tax>.

<sup>2</sup> Phillip Drake. "Many See Resort Taxes as Just Another Sales Tax", Montana Watch Dog Organization, August 16, 2012, accessed October 11, 2016 from <http://watchdog.org/49965/no-sales-tax-in-montana-well-it-all-depends/>.