

PART 1: FINANCIAL RESOURCES

Part 1 Chapter 11: Mississippi Tourism Rebate Program

Rule 11.1 Purpose. The Mississippi Tourism Rebate Program, administered by the Mississippi Development Authority (MDA) is a program designed to provide a Rebate to qualified Applicants of new tourism-oriented projects within the State of Mississippi. The Mississippi Tourism Rebate Program allows a portion of the sales tax paid by visitors to the eligible tourism-oriented enterprise project to be paid to the Applicant to reimburse the Applicant for eligible costs incurred during the construction of the project.

Source: Miss. Code Ann. § 57-26-1 *et seq.* (Rev. 2008); Senate Bill 2463, 2013 Regular Session

Rule 11.2 Eligible Project. Eligibility to receive assistance through the Mississippi Tourism Rebate Program will be determined by capital investment, type of attraction and the location of the tourism-oriented enterprise in the State as provided in Section 57-26-1 *et. seq.*, Mississippi Code of 1972, as amended. Eligible Projects must meet the following minimum criteria:

- A. Tourist attractions with a minimum private investment of not less than \$10,000,000.00. Attractions that qualify are:
 - (i). Theme parks
 - (ii). Water parks
 - (iii). Entertainment parks or outdoor adventure parks
 - (iv). Cultural or historical interpretive educational centers or museums
 - (v). Motor speedways
 - (vi). Indoor or outdoor entertainment centers or complexes
 - (vii). Convention centers
 - (viii). Spas
 - (ix). Attractions created around a natural phenomenon or scenic landscape, and
 - (x). Marinas open to the public;
- B. Hotels with a minimum private investment of \$40,000,000.00 in land, buildings, architecture, engineering, fixtures, equipment, furnishings, amenities and other related soft costs approved by the Mississippi Development Authority. The facility must have a minimum private investment of One Hundred Fifty Thousand Dollars (\$150,000.00) per guest room. The room investment may be included in the minimum total private investment of \$40,000,000.00;
- C. Public golf courses with a minimum private investment of \$10,000,000.00;
- D. A full service hotel with a minimum private investment of \$15,000,000 in land, buildings, architecture, engineering, fixtures, equipment, furnishings, amenities and other related soft costs approved by the Mississippi Development Authority. The facility must have a minimum private investment of Two Hundred Thousand Dollars (\$200,000) per guest room or suite, a minimum of twenty-five (25) guest rooms or suites and guest amenities such as restaurants, spas and other amenities as determined by the Mississippi Development Authority. The room investment may be included in the minimum total private investment of \$15,000,000;
- E. A tourism attraction located within an “entertainment district” as defined in Section

17-29-3 et. seq., Mississippi Code of 1972, as amended. The attraction must be open to the public, have seating to accommodate at least forty (40) persons, is open at least five (5) days per week from at least 6:00pm until midnight, serves food and beverages, and provides live entertainment at least three (3) nights per week; for information regarding “entertainment districts” please refer to Section 17 Chapter 29 of the Mississippi Code of 1972, as amended, at the following website,

<http://michie.com/mississippi/lpext.dll?f=templates&fn=main-h.htm&cp=>, or;

F. Resort Developments with a minimum investment of \$100,000,000 and which consist of a hotel with a minimum of 200 guest rooms with a private investment of \$200,000 per guest room. The development must also include guest amenities such as restaurants, golf courses, spas, entertainment activities, and other amenities.

G. A tourism attraction located within a historic district where the district is listed in the National Register of Historic Places, where the tourism attraction is open to the public, has seating to accommodate at least forty (40) persons, is open at least (5) days per week from at least 6:00 pm until midnight, serves food and beverages, and provides live entertainment at least three nights per week.

H. A cultural retail attraction project which combines destination shopping with cultural or historical interpretive elements specific to Mississippi with a minimum private investment of Fifty Million Dollars (\$50,000,000), is located in a qualified resort area, is part of a master-planned development with a total investment of not less than One Hundred Million Dollars (\$100,000,000), has a minimum of fifty (50) retail tenants with a minimum of three hundred thousand (300,000) square feet, a minimum of One Million Dollars (\$1,000,000) in one or more of the following: Art created by Mississippi artists or portraying themes specific to Mississippi, memorabilia, signage or historical markers which serve to promote the State of Mississippi, audio/visual equipment used to showcase Mississippi artists, a minimum of one-thousand two hundred and fifty (1,250) square feet of heated and cooled space available to the Mississippi Development Authority or its assignee for a period of not less than ten (10) years.

Source: Miss. Code Ann. § 57-26-1 *et seq.* (Rev. 2008), Senate Bill 2463, 2013 Regular Session

Rule 11.3 Exceptions. The following activities cannot be qualified as an eligible project for the Tourism Rebate Program:

- A. Expansions of any existing projects previously approved by MDA;
- B. Facilities that are primarily developed for retail sales that are not certified as a Resort Development by MDA. Pro shops, souvenir shops, gift shops, concessions, and similar retail activities may be included within the definition of the project.

Source: Miss. Code Ann. § 57-26-1 *et seq.* (Rev. 2008), Senate Bill 2463, 2013 Regular Session

Rule 11.4 Eligible Applicants. In order to receive benefits under the Mississippi Tourism Rebate Program, an Applicant must meet the following requirements:

- A. The applicant must be a corporation, limited liability company, partnership, sole proprietorship, business trust or other legal entity authorized to do business in the State.
- B. In the event that the applicant is licensed by the State Gaming Commission, only eligible costs in excess of the required non-gaming development will be included as

eligible costs.

C. The applicant must plan to own all the components of the tourism project in order for the costs of the components to be included in the initial capital investment requirements or as a facility from which sales tax will be rebated.

D. The municipality and/or the taxing district where the tourism-oriented enterprise will be located must support and approve the facility. Such approval must be in the form of a resolution of the governing authority acknowledging support of the project and acknowledging that 80% of the sales tax collected from the project will be diverted to the Sales Tax Rebate Fund for a period of up to ten (10) years for projects approved on or before on or before June 30, 2013 and up to fifteen (15) years for projects approved on or after July 1, 2013 and will not be available for the standard city diversions.

E. Retail related to a Resort Development must consist primarily of upscale brands or their equivalent. Retail not eligible for rebate includes:

- (i). Department stores
- (ii). Convenience stores
- (iii). Grocery stores
- (iv). Liquor and Tobacco Stores
- (v). Discount stores,
- (vi). Multiplex Theaters,
- (vii). Facilities that perform cleaning, repairing, or alteration services, or
- (viii) Facilities that perform personal services such as tanning, nail and beauty salon

F. Approval of retail facilities will be approved on a case-by-case basis by the executive director of MDA.

Source: Miss. Code Ann. § 57-26-1 *et seq.* (Rev. 2008), Senate Bill 2463, 2013 Regular Session

Rule 11.5 Types of Costs That May Be Included. The actual costs incurred by the applicant may be included in the total costs that are required to meet Mississippi Tourism Rebate Program initial capital investment requirements. Eligible costs related to the following are allowed:

- A. Land acquisition;
- B. Construction;
- C. Engineering;
- D. Design;
- E. Costs of contract bonds and insurances;
- F. Installation of utilities paid by the Applicant (including project-specific off-site extensions);
- G. Equipping of the attraction;
- H. Infrastructure paid by the Applicant; and
- I. Other costs comparable to those described above can be approved on a case-by-case basis.

Source: Miss. Code Ann. § 57-26-1 *et seq.* (Rev. 2008), Senate Bill 2463, 2013 Regular Session

Rule 11.6 Capital Investment Exemptions. Costs for advertising, marketing, inventory, or working capital are not included in calculating the capital investment. In no instance will costs

related to gaming activities be treated as eligible project costs.

Source: Miss. Code Ann. § 57-26-1 *et seq.* (Rev. 2008), Senate Bill 2463, 2013 Regular Session

Rule 11.7 Verifying Costs. Upon completion of the project, the Applicant must submit a summary of project costs to MDA. This summary must be independently verified by a Certified Public Accountant, or another independent third party approved by the MDA. The Applicant will pay the costs for this verification.

Source: Miss. Code Ann. § 57-26-1 *et seq.* (Rev. 2008), Senate Bill 2463, 2013 Regular Session

Rule 11.8 Determining Amount of Sales Tax to be Diverted to the Applicant. MDA, with the assistance of the Mississippi Department of Revenue, will determine the amount of sales tax collected at the tourism-oriented enterprise that may be diverted to the applicant. The amount of Rebate payments will be equal to 80% of the amount of sales tax revenue collected from businesses owned by the project. These payments will be limited to 30% of the approved project costs funded from private sources or for a rebate term of ten (10) years for projects approved on or before June 30, 2013 and up to fifteen (15) years for projects approved on or after July 1, 2013, whichever threshold occurs first.

Source: Miss. Code Ann. § 57-26-1 *et seq.* (Rev. 2008), Senate Bill 2463, 2013 Regular Session

Rule 11.9 Rebate Process. To begin the rebate process, after the project costs are submitted, the Applicant must provide the MDA with a listing of all Sales Tax Accounts and Account Numbers related to the project. The Mississippi Department of Revenue will be provided these accounts and will begin making the required diversions into the Tourism Project Sales Tax Incentive Fund the month following notification. Rebate Payments from the fund will be made each January and July to Applicants that are eligible for rebates.

Source: Miss. Code Ann. § 57-26-1 *et seq.* (Rev. 2008), Senate Bill 2463, 2013 Regular Session

Rule 11.10 Application Process. All Mississippi Tourism Rebate Program documents may be obtained from MDA. The applicant must submit a completed application and a non-refundable application fee of \$5,000 to MDA to initiate the review process. MDA will make a preliminary review of the application to determine if the tourism project meets the basic program requirements. Items that must be submitted with the application are:

- A. Plans and a detailed description of the proposed project;
- B. A summary of the anticipated project costs, along with supporting documentation to support the cost estimates;
- C. The method of financing to be used for the project, including financing terms;
- D. An independent study that identifies the projected number of out-of-state visitors and provides the ratio of in-state to out-of state visitors anticipated; and
- E. A resolution from the local governmental unit that acknowledges that no city diversion will be received on the sales tax collections and that the community supports the project location and plan.

Source: Miss. Code Ann. § 57-26-1 *et seq.* (Rev. 2008), Senate Bill 2463, 2013 Regular Session

Rule 11.11 Approval Process. Upon determination that all program requirements are met, a Mississippi Tourism Rebate Program Certificate (Mississippi Tourism Rebate Program Certificate) will be issued. The provision of each Certificate will include:

- A. The amount of the approved project costs and the maximum rebate available.
- B. A date by which the applicant must complete the tourism project (the Completion Date).
- C. A rebate term of ten (10) years for projects approved on or before June 30, 2013 or fifteen (15) years for projects approved on or after July 1, 2013 from the completion date or the date on which 30% of the approved project costs has been rebated to the applicant, whichever threshold is met first.

Source: Miss. Code Ann. § 57-26-1 *et seq.* (Rev. 2008), Senate Bill 2463, 2013 Regular Session

Rule 11.12 Certification. Within three (3) months after the Completion Date, the Applicant must document the actual cost of the tourism project through a certification (Completion Certificate) of such costs by an independent certified public accountant or other independent party acceptable to the MDA. The Completion Date must be within 24 months following the Mississippi Tourism Rebate Program Certificate date, unless an extension is granted. The Approved Project Costs allowed for the tourism project will be the lesser of the actual costs as certified or the approved project cost provided on the application. Approved project costs may not increase regardless of the actual costs incurred by the project.

Source: Miss. Code Ann. § 57-26-1 *et seq.* (Rev. 2008), Senate Bill 2463, 2013 Regular Session

Rule 11.13 Mississippi Tourism Rebate Agreement. After MDA receives the Completion Certificate and the actual project costs are confirmed, a Mississippi Tourism Rebate Agreement shall be executed between the applicant and MDA. Such agreement shall specify:

- A. The approved tourism project will not receive a rebate, if in any calendar year following the Completion Date, the tourism project is not operating and open to the public on a regular and consistent basis.
- B. The Agreement shall not be transferable or assignable by the applicant without the written consent of the Executive Director of MDA.
- C. The approved applicant will supply MDA with such reports and certifications as the MDA may request demonstrating to the satisfaction of the Director that the approved applicant is in compliance with the provisions of the Act and Agreement.
- D. The approved Applicant is responsible for supplying all sales tax account numbers for the project to the MDA. No rebate payments will be made for the project until one month after receipt of the account numbers by MDA. The Applicant must supply account numbers that are added or changed in order to receive rebate payments from the accounts.

Source: Miss. Code Ann. § 57-26-1 *et seq.* (Rev. 2008), Senate Bill 2463, 2013 Regular Session

Rule 11.14 Mississippi Department of Revenue. MDA will notify the Mississippi Department of Revenue of the approved tourism project through the issuance of the Mississippi Tourism Rebate

Program Certificate. Upon full execution of the Tourism Rebate Agreement, MDA will provide a copy to the Department of Revenue and the Department of Revenue shall deposit eligible sales tax collections into the Mississippi Tourism Rebate Program Sales Tax Rebate Fund.

Source: Miss. Code Ann. § 57-26-1 *et seq.* (Rev. 2008), Senate Bill 2463, 2013 Regular Session

Rule 11.15 Determination of Benefits. MDA shall determine, based on the Completion Certificate, the maximum amount of benefits the Applicant may receive. MDA shall make benefit payments in January and July of each year until the full credit is reached or for ten (10) years for projects approved on or before June 30, 2013 and up to fifteen (15) years for projects approved on or after July 1, 2013, whichever occurs first.

Source: Miss. Code Ann. § 57-26-1 *et seq.* (Rev. 2008), Senate Bill 2463, 2013 Regular Session

Rule 11.16 Amendment and Waiver. These guidelines may be amended by MDA at anytime. MDA, in its discretion, may temporarily waive any requirement of these guidelines to the extent that the result of such waiver is to promote the public purpose of the Act and is not prohibited by State laws.

Source: Miss. Code Ann. § 57-26-1 *et seq.* (Rev. 2008), Senate Bill 2463, 2013 Regular Session

Rule 11.17 Additional/Contact Information. Additional information related to the program and these program guidelines may be obtained by contacting:

Mississippi Development Authority
Mississippi Tourism Rebate Program
Financial Resources Division
Post Office Box 849
Jackson, Mississippi 39205
(601) 359-3552

Source: Miss. Code Ann. § 57-26-1 *et seq.* (Rev. 2008), Senate Bill 2463, 2013 Regular Session