

# **COUNTY OF HUNTINGDON**

## **HOTEL EXCISE TAX**

### **RULES AND REGULATIONS**

## PART I

### GENERAL

#### A. PURPOSE:

The purpose of these Rules and Regulations are:

1. To establish the procedures for the collection of the Huntingdon County Hotel Excise Tax (the “Hotel Excise Tax”) by the Operators of Hotels, Motels, Inns, Guest Houses and Bed and Breakfast that are available to provide overnight lodging or use of the facility space for consideration to persons seeking temporary accommodation located in Huntingdon County.
2. To establish the procedures for the remittance of the Hotel Excise Tax by the Operators to the Huntingdon County Treasurer (“Treasurer”).
3. Establish the official reporting procedures and forms to be utilized by the Operators, and other relevant Rules and Regulations concerning the collection of the Hotel Excise Tax.

#### B. OBJECTIVES.

These Rules and Regulations are designed to establish a uniform practice and procedure for the imposition and collection of the Hotel Excise Tax. The Rules and Regulations are intended to guide and assist Operators to determine which Patrons are subject to the Hotel Excise Tax and the amount due by each Patron. The Rules and Regulations also establish the official forms for the reporting and remittance of the Hotel Excise Tax to the Treasurer, as well as general collection procedures.

#### C. DEFINITIONS.

As used hereinafter, those terms which are defined in Section 3 of Ordinance Number 2017-02 (“Ordinance”), known as the “Huntingdon County Excise Tax Ordinance”, shall have the identical meaning for the purpose of these Rules and Regulations, and are incorporated herein by reference.

## PART II

### RULES AND REGULATIONS

#### A. IMPOSITION OF TAX:

1. Rate of Tax: The Hotel Excise Tax is imposed at the rate of **five** percent

(5%) on any Transaction.

2. Collection of Tax by the Operator: The Hotel Excise Tax shall be collected by the Operator of each Hotel, at the time of the Transaction, from each Patron who pays the Consideration of the Transaction.
3. Effective Date: The Hotel Excise Tax shall be applicable to all Transactions specified in Part II A. 1. and Part II A. 2., above which occur on and after July 1, 2017.

B. REGISTRATION.

Within ten (10) days after the effective day of the Ordinance or within ten (10) days after commencing business, whichever is later, each Operator of any Hotel shall register with the Treasurer, by completing the application form provided by the Treasurer, a copy of which is attached in Exhibit "A". The Operator of said Hotel shall obtain from the Treasurer a temporary or permanent certificate of authorization evidencing the Operator's authority to collect the Hotel Excise Tax, and the certificate shall at all times be posted in a conspicuous place on the premises of the operation.

C. ITEMS SUBJECT TO TAX:

The Occupancy of any Room, for Consideration, is subject to the Hotel Excise Tax.

D. PERMANENT RESIDENTS:

1. General: The Hotel Excise Tax shall be imposed for Occupancy by Transients and not by Permanent Residents. After a Patron has occupied a Room for sixty (60) consecutive days, the Patron is no longer a "Transient" as defined in the Ordinance. The Patron's Status as a "Permanent Resident" becomes effective at the expiration of the sixtieth consecutive day of Occupancy at the same Hotel and continues thereafter so long as the Patron's Occupancy remains continuous and uninterrupted at the same Hotel.
2. Procedure for Credits: If a Patron completes sixty (60) days of consecutive Occupancy, the Patron is a Permanent Resident and such status remains effective as long as the Patron's Occupancy continues uninterrupted. Upon a Patron obtaining Permanent Resident status the Patron shall be given a refund or credit by the Operator for the sixty (60) days preceding the Patron's achieving Permanent Resident status. The Operator is entitled to a credit for the Operator's refund or credit to the Patron, the Operator's credit shall be noted on the next quarterly Return filed by the Operator.
3. Guidelines for Implementation: A rental period, for the purpose of this

subsection, is a period of time, (for example, a day, week, month or the like), during which, under and subject to the terms of a legally enforceable contract, a Patron has a continuous right to occupy a room or rooms in a Hotel is legally bound to pay Consideration therefore. (In the absence of evidence to the contrary, it is presumed that a rental period runs from the date of first occupancy or first payment of Consideration to the date on which a subsequent payment or Consideration is due.) A mere statement of intention to occupy or to permit occupancy, on the part of the Patron or Operator, or both, does not create a rental period unless the period in question is the subject of a legally enforceable contract.

The occupancy or right of occupancy must be for sixty (60) consecutive days. A Patron who merely has the right to use a room or rooms on intermittent days of the week or month cannot become a "Permanent Resident" even though the Patron cumulatively occupies a room for more than any sixty (60) day period.

The status of Permanent Residents only continues so long as the Occupancy or right of Occupancy continues uninterrupted. A Permanent Resident who breaks the consecutive and continuing Occupancy loses the status as a Permanent Resident and with respect to the Patron's next occupancy, the Patron does not resume the status of a Permanent Resident unless and until the Patron again completes sixty (60) consecutive day of Occupancy. A transfer from one Hotel to another, even though both Hotels are owned and/or operated by the same Operator, is a break in Occupancy. A mere change of rooms within the same Hotel is not a break in Occupancy, for the purpose of the Permanent Resident exemption.

#### E. EXEMPTIONS:

1. Permanent Residents: A Permanent Resident, as that term is defined in the Ordinance is exempt from Hotel Excise Tax in accordance with these Rules and Regulations.
2. Ambassadors, Ministers and Consular Officers of Foreign Government: Ambassadors, ministers and other diplomatic representatives of foreign government properly accredited to the United States with provided written proof are exempt from the Hotel Excise Tax upon their occupancy of Rooms. This exemption does not apply to consular officers or to officers of foreign governments other than those specified in this section, unless exemption arises from treaties or reciprocal agreements existing between such foreign governments and the United States.
3. State and Federal Employees: Occupancy of Rooms by the Government of the United States, or its agencies, or by an employee or representative of the Government of the United States or its agencies, when such Occupancy is

solely for official purposes and the Transaction is paid by the Government of the United States or its agencies, are exempt from the Hotel Excise Tax. Occupancy of Rooms by the Government of the Commonwealth of Pennsylvania, or its agencies, or by an employee or representative of the Government of the Commonwealth of Pennsylvania or its agencies, when such Occupancy is solely for official purposes and the Transaction is paid by the Commonwealth of Pennsylvania or its agencies are exempt from the Hotel Excise Tax.

4. Military Personnel and Government Employees: Members of the Armed Forces and government employees are not exempt from the Hotel Excise Tax upon occupancy of rooms unless acting as an authorized representative of the Government of the United States or one of its agencies and are otherwise entitled to exemption under the provisions of paragraph (3) of this subsection.

#### F. RECORDS OF EXEMPT OCCUPANCIES.

The Operator shall maintain records to support and identify all exempt occupancies. The records shall include a form, provided by the Treasurer, to be completed by both the applicant requesting exemption and the Operator. The Operator shall also provide the Treasurer the completed exemption certificate with each respective, monthly report. Exhibit "C"

#### G. REPORTS, RETURNS, PAYMENTS AND COLLECTION OF TAX:

1. Collections from Patron: The Operator shall collect the Hotel Excise Tax imposed by the Ordinance from the Patron of the Room, and remit the same to the Treasurer as provided herein. The Operator shall be liable to the County for payment of the Hotel Excise Tax to the County as provided in the Ordinance.
2. Quarterly Return by Operator: On or before the twenty-fifth (25<sup>th</sup>) day of the months of April, July, October and January, the Operator shall submit to the Treasurer a return, which shall contain the previous Quarter's information, together with the remittance of the Hotel Excise Tax due. The return shall include the amount of Hotel Excise Tax collected by the Operator and any other information as the Treasurer may require from time to time. Exhibit "B"
3. Forms: Every report and return shall be made upon the official forms furnished by the Treasurer. The Treasurer reserves the right to, from times to time, amend and/or modify any form. The Treasurer also reserves the right to develop any and all forms to effectuate and implement the Ordinance or these Rules and Regulations. A copy of the current, official forms are made part hereof and are attached hereto in Exhibits "B" and "C".

4. Payment to the Office of the County Treasurer: Every operator at the time of filing the returns, shall compute and timely and unconditionally remit to the Treasurer in immediately available fund the Hotel Excise Tax collected by the Operator and due to the County.
5. Interest for Late Returns: If any amount of the tax due is not remitted by the due date, interest at the rate of eighteen percent (18%) per year or one and one-half percent (1.5%) per month shall be added for each month or fraction thereof during which any of the Hotel Excise Tax shall remain unpaid or not properly remitted in accordance with these Rules and Regulations.

H. FAILURE TO COLLECT AND REPORT TAX, DETERMINATION OF TAX BY COUNTY TREASURER, FAILURE TO REMIT TAX:

1. Collection and Report: If any operator shall fail to register with the Treasurer or shall fail or refuse to collect the Hotel Excise Tax under these Rules and Regulations, or fails or refuses to produce any report on forms required by the Rules and Regulations, the Treasurer shall proceed in such manner as the Treasurer shall deem proper to obtain facts and information on which to base the estimate of the Hotel Excise Tax due, together with any interest, costs and attorney's fees. As soon as the Treasurer has produced the facts and information as may be obtained, the Treasurer shall determine the amount of Hotel Excise Tax due and payable by the Operator, together with any interest, costs and attorney's fees. ("Determination")

The Treasurer shall give notice of the Determination by personal service or by United States mail, postage prepaid, addressed to the Operator at the Operator's last known place of business. The Operator may within ten (10) days after the service of the Determination make application in writing to the Treasurer for a hearing on the amount assessed in the Determination.

If the Operator does not make such application within the time prescribed, the amount due under the Determination shall become final and conclusive and immediately become due and payable.

If the Operator does provide such application, the Treasurer shall give no less than five (5) days prior written notice to the Operator of a hearing to show cause why the Determination is improper. At such hearing, the Operator may appear and offer evidence why the Treasurer's Determination is improper. At the conclusion of the hearing, the Treasurer shall ascertain the proper Hotel Excise Tax due, together with any interest, costs and attorney's fees and shall provide written notice to the Operator of the total amount due ("Assessment"). The Assessment shall be payable within thirty (30) days unless an appeal is taken pursuant to these Rules and Regulations.

2. Failure to Remit: If an Operator fails to timely remit the Hotel Excise Tax collected by the Operator to the Treasurer, the Treasurer shall provide at least ten (10) days written notice to the Operator of the tax, interest, costs and attorney's fees to be assessed on such untimely remittance. If the Operator fails to remit the collected Hotel Excise Tax, together with any interest, costs and attorney's fees within ten (10) days from date of such notice, the County or its designee shall proceed with the filing of any and all claims and/or actions against the Operator in the Court of Common Pleas of Huntingdon County, except as otherwise provided by the Ordinance of these Rules and Regulations, the Operator shall be considered by the Treasurer to perform the duty of collection of the Hotel Excise Tax under the same fiduciary obligation as placed on local tax collectors under the Pennsylvania Local Tax Collection Law.

#### I. APPEAL

Any Operator aggrieved by any decision of the Treasurer with respect to the amount due for the Hotel Excise Tax, interest, costs and attorney's fees may appeal the decision of the Treasurer to the Court of Common Pleas of Huntingdon County, pursuant to the applicable rules of the Pennsylvania Rules of Civil Procedure. The Treasurer reserves the right to waive such interest, costs or attorney's fees based upon good cause shown.

#### J. RECORDS

It is presumed that all Rooms are subject to Hotel Excise Tax until the contrary is established by accurate records of the Operator. The burden of providing that the Transaction is not taxable is upon the Operator and the Operator must demonstrate the same through accurate records. In any case where an Operator fails to maintain adequate records as required under these Rules and Regulations, any Room for which there is not adequate records shall be deemed to be occupied for the entire period for which the supporting records are lacking.

It shall be the duty of every Operator liable for the collection of the Hotel Excise Tax to keep and preserve for a period of three (3) years all records as may be necessary to determine the amount of such tax for which the Operator was liable to collect and pay to the County. The records shall be maintained at the place of business where the subject Rooms were rented. The records shall be filed in a manner that allows ready access by the Treasurer or authorized agents, who shall have the right to inspect the records during regular business hours of the Operator and to perform an audit thereon.

In all instances where an Operator claims an exemption to the Ordinance pursuant to the Rules and Regulations (Section E), the Operator shall retain copies of identification

cards of the Patron or other records indicating the exempt Patron's job number, employer, place of employment or other identifying information.

**K. REFUNDS**

Whenever the amount of the Hotel Excise Tax, interest, costs or attorney's fees has been overpaid, paid more than once, or erroneously collected or received by the Treasurer under the Ordinance, the overpayment may be refunded to the Operator provided that a verified written claim is filed by the Operator with the Treasurer within three (3) years of the date of payment stating the specific grounds upon which the claim is founded. The Operator must either return the refunded payment to the Patron or credit such amount to the Patron's account. If the Patron's whereabouts are unknown or unascertainable after reasonable investigation, such refund shall be submitted by the Operator to the Treasurer and shall be subject to the applicable escheat laws and statutes.

**L. ACTIONS TO COLLECT.**

Any Hotel Excise Tax collected by an Operator that has not been paid to the Treasurer shall be deemed a debt owed by the Operator to Huntingdon County. Any Patron or Operator owing any moneys to Huntingdon County pursuant to the provisions of the Ordinances and these Rules and Regulations shall be liable to Huntingdon County for the same. Any action to collect brought under the Ordinances or these Rules and Regulations shall be brought by Huntingdon County or Huntingdon County's designee.

Any actions brought under the Ordinances or these Rules and Regulations by Huntingdon County or Huntingdon County's designee shall include the Hotel Excise Tax, any interest due under the Rules and Regulations, and any costs and attorney's fees associated with the collection thereof.

**M. RIGHT TO PRIVACY.**

All reports, returns and forms submitted to the Treasurer are subject to public disclosure under the Pennsylvania Right to Know Law. The Treasurer shall not disclose any confidential information which is otherwise protected by law.

**N. SEVERABILITY OF PROVISIONS.**

In the event any provision, section, sentence, clause or part of these Rules and Regulations shall be held to be invalid, such invalidity shall not affect or impair any remaining provision, section, sentence, clause or part of these Rules and Regulations, it being the intent of the Treasurer that the remaining of these Rules and Regulations shall remain in full force and effect.

**O. AMENDMENTS**



The Treasurer reserves the right to, from time to time, without advance notice, amend and/or supplement these Rules and Regulations. Amendments and/or supplements to the Rules and Regulations shall be made available to the Operators.