



COUNTY OF NORTHAMPTON HOTEL ROOM RENTAL TAX RULES AND REGULATIONS

May 2, 2013

PART I

GENERAL

A. PURPOSE

The purpose of these Rules and Regulations is to establish the procedure for the collection of the Hotel Room Rental Tax by the Operators in the Market Area of Hotels located in the County of Northampton from Patrons, establish the procedures for the remittance of the Hotel Room Rental Tax by the Operators to the County of Northampton Revenue Manager ("Revenue Manager"), 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 Room Rental Tax.

B. DEFINITIONS

As used hereinafter, those terms that are defined in Section 2 of Ordinance 440, known as the County of Northampton Hotel Room Rental Tax, 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 Room Rental Tax is imposed at the rate of four percent (4.0%).
2. Collection of Tax by the Operator: the Operator shall collect The Hotel Room Rental Tax at the time of the Transaction from each Patron who pays the Consideration of the Transaction.
3. Effective Date: The Hotel Room Rental Tax shall be applicable to all Transactions above, which occur on or after the effective day of the October 2, 2005 Ordinance.

B. REGISTRATION

Within seven (7) days after the effective date of the Ordinance or within thirty (30) days after commencing business, whichever is later, each Operator of any Hotel shall register the Hotel with the Revenue Manager, by completing the application form provided by the Revenue Manager. The operator of the Hotel shall obtain from the Revenue Manager a temporary or permanent certificate of authorization evidencing the Operator's authority to collect the Hotel Room Rental Tax, and the certificate shall at all times be posted in a conspicuous place on the premises of the Hotel.

C. ITEMS SUBJECT TO TAX

1. Room Occupancy: The occupancy of any room, for consideration, having at least one bed or sleeping accommodation, is subject to the tax. This shall include any group or suite of rooms in which a patron has occupancy, at least one of which rooms has at least one bed or other sleeping accommodation, and between which there is direct access by any means including a doorway or inside hallway.
2. Room Occupancy, Price Which Include Meals: When the amount charged by a hotel operator for occupancy includes the price of any meals, only that portion of the consideration attributed to the room occupancy shall be subject to tax. The price for meals, when not separately stated and itemized by the operator, shall be presumed to be distributed as follows - unless, upon application of a hotel operator, the Office of the County Revenue Manager approves a different basis:

Allocation for Charges for Rooms and Meals

	<u>Room</u>	<u>Meals</u>
Breakfast only	93%	7%
Lunch or Dinner only	85%	15%
Breakfast & Lunch, Breakfast & Dinner, or Lunch & Dinner	75%	25%
Breakfast, Lunch & Dinner	65%	35%

D. PERMANENT RESIDENTS

The tax is imposed for occupancy by transients and not by permanent residents. After a person has occupied or has the right to occupy for 30 consecutive days, he is no longer a "transient" as defined in the Ordinance. His status as a "permanent resident" is effective for the rental period during which, or at the expiration of which the 30th consecutive day of occupancy is completed and continues thereafter so long as his occupancy remains continuous and uninterrupted. Thus, if a person completes his 30th day of consecutive occupancy during, or at the expiration of, a particular rental period, he is a permanent resident for that entire rental period even though, during

part of the period, he had not yet established his status as a permanent resident and for each rental period thereafter in which his occupancy continues uninterrupted. He is not a permanent resident, however, as to any rental period prior to the particular rental period during or at the expiration of which he completed his 30th day. As to such prior rental periods, he was and remains a "transient." If a hotel operator collects tax in advance for a rental period during or at the expiration of which is or becomes exempt for tax by reason of the lessee's becoming a permanent resident, the operator must refund the tax so collected to the "permanent resident" and should not report or remit such erroneously collected tax to the County of Northampton Revenue Manager.

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 transient has a continuous right to occupy a room or rooms in a hotel/inn and 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 on consideration is due.) A mere statement of intention to occupy, or to permit occupancy, on the part of an occupant or hotel 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 30 consecutive days. A person who merely has a right to use a room or rooms on intermittent days of a week or month cannot become a "permanent resident" even though he cumulatively occupies for more than 30 days.

The status of permanent residents only continues so long as the occupancy or right of occupancy continues uninterrupted. A permanent resident who quits his hotel and breaks his consecutive and continuing occupancy loses his status as a permanent resident; and, with respect to his next occupancy, he does not resume his status as a permanent resident unless and until he again completes 30 consecutive days of occupancy. A transfer from one hotel to another, even though the same operator owns both hotels, is a break in occupancy. However, a mere change of rooms in the same hotel is not a break in occupancy.

An occupant who is an employee of an organization renting a room for thirty (30) or more consecutive days is considered a permanent resident. A listing of hotel guest names on the letterhead of the exempt organization and signed by an authorized representative of the exempt organization is acceptable. As an alternative, a copy of the vendor check (used to pay for the room charges) from the organization is acceptable. Proof of payment by the organization must be maintained.

E. EXEMPTIONS

1. Permanent Residents:

A permanent resident as that term is defined in the Ordinance is excluded from the Hotel Room Rental Tax liability upon the occupancy of any room or rooms in a hotel for any rental period during which, or at the expiration of which he is or becomes a permanent resident.

2. Occupancy of Hotel Rooms by United States Government:

Occupancy of hotel rooms by the United States Government shall be exempt from tax in accordance with the following:

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, including students of the Federal Service Academies, when such occupancy is solely for official purposes and the Government of the United States or its agencies pays the consideration, is exempt from tax.

Occupancy of rooms by National Banks, Federal Savings & Loan Associations, Joint Stock Land Banks, National Park Commissioners, or their employees or representatives, or by Federal licensees, such as warehouses, stockyards, construction contractors engaged in the improvement of real estate owned by a Federal agency, or similar corporations, companies, institutions, or persons, or their employees or representatives, regardless of the purpose of the occupancy is not exempt from Hotel Room Rental Tax. Members of the Armed Forces are not exempt from tax upon occupancy of rooms unless acting as authorized representatives of the Government of the United States or one of its agencies and are otherwise entitled to exemption under the provisions of paragraph (a) of this subsection.

3. Occupancy of Hotel Rooms by Commonwealth of Pennsylvania:

Occupancy of rooms by the Commonwealth of Pennsylvania, or its instrumentalities, or by an employee or representative of the Commonwealth of Pennsylvania or its instrumentalities when such occupancy is solely for official purposes and the Commonwealth of Pennsylvania or its instrumentalities pays the consideration, is exempt from tax.

4. Occupancy of Hotel Rooms by Low-Income or Displaced Persons

Persons and families who are lodging due to the status as a low-income person or displaced persons and families in transition to permanent housing are exempt regardless of length of stay. Such status may be documented by any non-profit agency located in the county or any agency of the county or state government.

5. Records of Exempt Occupancies

The hotel operator shall maintain records to support and identify all exempt occupancies. These records shall include a statement from the hotel operator that such operator has examined documentation tendered by any patron claiming to be exempt from this tax, and has found such documentation supportive of such exemption claimed. Exemption certificates, letters of exemption, direct payment permits, and other documents relating to exemption from tax issued under the provisions of the sales and use tax portion of the Tax Reform Code of 1971 (72 P.S. §7101-8203) or regulations promulgated thereunder, are of no force and effect with respect to the tax imposed by the Hotel Room Rental Tax with the exception noted in subsection (2) of this section.

6. Others Not Exempt:

No person or entity other than those referred to by the preceding paragraphs of this subsection shall be exempt from the Hotel Room Rental Tax. Occupancy by employees or representative of political subdivisions of the Commonwealth is not exempt from Hotel Room Rental Tax, regardless of the nature of the business upon which the employee or representative is engaged, and regardless of the identity of the person or agency paying for the occupancy. Exemption from the sales and use tax portion of the Tax Reform Code of 1971 (72 P.S. §7101-8203) granted to persons, organizations, charities, or institutions, including exemptions granted to religious organizations, charities, education institutions, and the like, are not applicable to the Hotel Room Rental Tax; and such persons, organization, or institutions are required to pay tax upon their occupancy of hotel rooms.

F. REPORTS, RETURNS, PAYMENTS AND COLLECTION OF TAX

1. Collection from Patron: The Operator shall collect the Hotel Room Rental Tax imposed by the Ordinance from the Patron of the Room, and remit the same to the Revenue Manager. The Operator shall be liable to the County for the payment of the Hotel Room Rental Tax to the County as provided in the Ordinance.
2. Monthly Return by Operator: Every operator shall transmit to the County Revenue Manager, on or before the 20th day of each month, a return, which shall contain the previous month information for which the return is made. The return shall include the amount of consideration received for the transactions during the month for which the return is made, the amount of tax collected by the operator during that period, number of rooms available, and such other information as the County Revenue Manager may require.
3. Forms: Every report and return shall be made upon the official form furnished by the Revenue Manager. The Revenue Manager reserves the right to, from time to time, amend and/or modify any form. The Revenue Manager 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 is attached.
4. Payment to the Office of the County Revenue Manager: At the time of filing the returns, the Operator shall compute and timely and unconditionally remit to the Revenue Manager in immediately available funds the Hotel Room Rental Taxes collected by the Operator.
5. Interest for Late Returns: If any amount of tax due is not remitted by the due date, interest at the rate of 1.5% shall be added for each month or fraction thereof during which the Hotel Room Rental Tax shall remain unpaid or not properly remitted in accordance with these Rules and Regulations.

G. FAILURE TO COLLECT AND REPORT TAX, DETERMINATION OF TAX BY COUNTY REVENUE MANAGER, FAILURE TO REMIT TAX

1. Collection and Report:

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

The Revenue Manager shall give a 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 notice shall include a summary of the facts, information and calculations supporting the amount assessed in the Determination. The Operator may within ten (10) days after the service of the Determination make application in writing to the Revenue Manager 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 County shall give no less than five (5) days 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 Revenue Manager's Determination is improper. At the conclusion of the hearing, the Revenue Manager shall ascertain the proper Hotel Room Rental Tax due, together with any interest, costs and attorney's fees and shall provide written notice to the Operator of the total amount due (the "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 Room Rental Tax collected by the Operator to the Revenue Manager, the Revenue Manager shall provide at least ten (10) days written notice to the Operator of the tax, interest, cost and attorney's fees being assessed on such untimely remittance. If the Operator fails to remit the collected Hotel Room Rental Tax, together with any interest, costs and attorney's fees within ten (10) days from such notice, the Revenue Manager 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 Northampton County.

Each time an operator of a hotel within the County of Northampton fails to collect the tax from a patron or to timely remit the tax to the County, shall be a violation of this

Ordinance. A violation shall constitute a misdemeanor of the third degree punishable by a maximum of one year imprisonment and/or a fine not exceeding Two Thousand Five Hundred (\$2,500 00) Dollars.

All unremitted tax, fines, penalties and interest may be collected by suit, brought in the name of the County, as provided under applicable state law.

The collection of this tax, which is public funds, is subject to all Rules and Regulations governing the fiduciary obligation of public funds.

H. APPEAL

Any Operator aggrieved by any decision of the Revenue Manager with respect to the amount due for the Hotel Room Rental Tax, interest, costs and attorney's fees may appeal the decision of the Revenue Manager to the Court of Common Pleas of Northampton County, pursuant to the applicable law.

I. RECORDS

It is presumed that all Rooms are subject to the Hotel Room Rental Tax until accurate records of the Operator establish the contrary. The burden of proving 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 Room Rental 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 that the Operator was liable to collect and pay to the County. The records may be maintained off-site, however, the records must be produced within thirty (30) days of the written request of Northampton County. If the requested records are not produced after thirty (30) days as requested, the Hotel Operator shall be billed as if all rooms have been rented for the time period in question. The records shall include but are not limited to folios; lease agreements; general ledgers; night auditor and housekeeper reports; traffic summaries; source of business reports; and any other documents that support Room revenues and exemptions. The records shall be filed in a manner that allows ready access by the Revenue Manager or the Revenue Manager's authorized agents, who shall have the right to inspect the records during regular business hours of Operator and perform an audit thereon.

In all instances where an Operator claims an exemption to the Ordinance pursuant to 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.

J. REFUNDS

Whenever the amount of Hotel Room Rental Tax, interest, costs or attorney's fees has been overpaid, paid more than once or erroneously collected or received by the Revenue Manager under the Ordinance, the overpayment may be refunded to the Operator, provided that a verified, written

claim is filed with the Revenue Manager 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 resubmitted by the Operator to the Revenue Manager and shall be subject to the applicable Escheat laws or statutes.

K. ACTIONS TO COLLECT

Any Hotel Room Rental Tax collected by an Operator that has not been paid to the Revenue Manager shall be deemed a debt owed by the Operator to the County of Northampton. Any Patron or Operator owing any monies to Northampton County pursuant to the provisions of the Ordinance and these Rules and Regulations shall be liable to Northampton County for the same. Any action to collect brought under the Ordinance or the County of Northampton or the County of Northampton's designee shall bring these Rules and Regulations.

Any actions brought under the Ordinance or these Rules and Regulations by Northampton County or Northampton County's designee, shall include the Hotel Room Rental Tax, any interest due under the Rules and Regulations, and any and all cost and attorney's fees associated with a the collection thereof.

L. OTHER EFFECTS OF NON-PAYMENT OF TAX

The failure of an Operator to timely remit any tax due may constitute a breach of any other contract that an Operator has with the County and may disqualify an Operator from bidding upon or otherwise entering into a contract with the County.

M. RIGHT TO PRIVACY

All reports, returns and forms submitted to the Revenue Manager are subject to public disclosure under the Pennsylvania Right to Know Law. The Revenue Manager shall not disclose any confidential information, which is protected by either state or federal statute, act or ordinance.

N. AMENDMENTS

Northampton County reserves the right to amend these Rules and Regulations. Any amendments to the Rules and Regulations shall be made available to the Operators.