

PART I

GENERAL

A. PURPOSE

The purpose of the following Rules and Regulations is:

- 1) To establish the procedures for the collection of the Jefferson County Hotel Room Rental Tax by the operators in the Market Area of Hotels, Motels, Inns, Guest Houses, and Bed and Breakfasts that are available to provide overnight lodging or use of the facility space for consideration to persons seeking temporary accommodation located in Jefferson County.
- 2) To establish the procedures for the remittance of the Hotel Room Rental Tax by the Operators to the Jefferson 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 Room Rental Tax.

B. OBJECTIVES

These Rules and Regulations are designed to establish a uniform practice and procedure for the imposition and collection of the Hotel Room Rental Tax. The Rules and Regulations are intended to guide and assist Operators to determine which Patrons are subject to the Hotel Room Rental Tax and the amount due by each Patron. The Rules and Regulations also establish the official form and reporting and remittance of the Hotel Room Rental 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 2000-01 ("Ordinance"), known as the 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 five percent (5%) on any Transaction.
- 2) Collection of Tax by the Operator: The Hotel Room Rental 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 Room Rental Tax shall be applicable to all Transactions Specified in Part II, A-1, and Part II, A-2, above which occur on or after July 1, 2004.

B. REGISTRATION

Within fifteen (15) days after commencing Business, each Operator of any Hotel shall Register with the Treasurer, by completing the application for provided by the Treasurer, a copy of which is attached. The Operator of the Hotel shall obtain from the Treasurer a permanent certificate of authorization evidencing the Operator's authority to collect the Hotel Room Rental Tax, and the certificate shall be at all times displayed in a conspicuous place on the premises of the business.

C. ITEMS SUBJECT TO TAX

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

D. PERMANENT RESIDENTS

1) General:

The Hotel Room Rental Tax shall be imposed for Occupancy by Transients and not by Permanent Residents. After a Patron has occupied a Room for thirty (30) 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 thirtieth 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.

If a Patron completes thirty (30) 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 of credit by the Operator for the thirty (30) days preceding the achieving of 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 monthly Return filed by the Operator.

2) Guidelines for Implementation:

A rental period, for the purpose of this sub-section, 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, of first payment of Consideration, to the date on which a subsequent payment of Consideration is due.) A mere statement of intention to occupy or to permit occupancy, on the part of a 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 to occupancy must be for thirty (30) 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 thirty (30) 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 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 thirty (30) consecutive days 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 change of rooms within the same Hotel is not a break in Occupancy, for the purpose of permanent resident exemption.

E. EXEMPTIONS

- 1) Permanent Residents: A Permanent Resident, as defined in the Ordinance, is exempt From Hotel Room Rental Tax.
- 2) Federal Employees: Employees of an agency or department of the United States of America, on official government business, with the invoice sent to and paid by the Employer, are exempt.
- 3) State Employees: Employees of an agency or department of the Commonwealth of Pennsylvania, on official government business, with the invoice sent to and paid by the Employer, are exempt.
- 4) Credit Union Employees: Employees of federal or state credit unions, on official Credit Union business, with the invoice sent to and paid by the Employer, are exempt.
- 5) Agriculture Cooperative Employees: Employees of a Cooperative Agriculture Assoc., organized under the Cooperative Agriculture Association Corporate Net Income Tax Act, on official business, with the invoice sent to and paid by the Employer, are exempt.
- 6) Electric Cooperative Employees: Employees of an Electric Coop, organized under the Electric Cooperation Act, on official business, with the invoice sent to and paid by the Employer, are exempt.
- 7) Foreign Officials: Any ambassador, minister, and/or consular officer of a foreign Government, with a numbered identification card issued by the Pennsylvania Department of Revenue, is exempt.
- 8) Other Exemptions: Any individual with an exemption card issued by the Pennsylvania Department of Revenue is exempt.

Please note: In exemptions 2 through 6, the invoice *must* be billed to and paid by the agency or association with whom the Patron is associated. If the Patron pays the invoice, even if they are to be reimbursed, *they do not qualify for the exemption.*

F. RECORDS OF EXEMPT OCCUPANCIES

The Operator shall maintain records to support and identify all exempt occupancies. The records shall include the "Individual Exemption Application" completed by both the Patron requesting the exemption and the Operator. These forms shall be kept at the place of business, and be made available to the County Auditors upon request.

G. REPORTS, RETURNS, PAYMENTS AND COLLECTION OF TAX

- 1) Collections 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 Treasurer as provided herein. The Operator shall be liable to the County, as agent thereof, for the payment of the Hotel Room Rental Tax to the County as provided by the Ordinance.
- 2) Quarterly Return by Operator: Every Operator shall submit to the Treasurer, on or before the 25th day of the month following each calendar quarter, a return for the preceding quarter. The report will include the amount of Consideration received for the Transactions during said quarter, the amount of tax due from the Operator, and such other information as the Treasurer may require.
- 3) Forms: All reports shall be made upon the official forms furnished by the Treasurer. These forms may be copied or reproduced as needed. The Treasurer reserves the right to amend or modify any or all forms. The Treasurer also reserves the right to develop any and all forms to effectuate and implement the Ordinance or these Rules and Regulations.
- 4) Payment to the Office of the County Treasurer: Every Operator, at the time of filing the returns, shall compute and remit the to Treasurer any Hotel Room Rental Tax collected from Patrons, and due to the County.
- 5) Penalties for Late Returns: If a Quarterly Report has not been filed by the 25th of the month following a calendar quarter, a Late Filing Fee of \$50.00 may be assessed, even if no tax was due. If any amount of the Hotel Tax due is not remitted by the due date, interest may be added for each month or fraction thereof that the tax remains unpaid or not properly remitted in accordance with these Rules and Regulations The interest rate on any unpaid tax will be nine (9.0) percent per year, or three quarters (.75) percent per month. If any Operator fails to comply with the Ordinance, the Treasurer reserves the right to establish a probationary period during which time the offending Operator may be required to file a report every month for a specified amount of time.

H. FAILURE TO COLLECT, REPORT, OR REMIT TAX DUE

- 1) Failure to Collect and Report: If any Operator shall fail to register with the Treasurer 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 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 Tax due, together with any interest, costs, and attorney's fees. After procuring all facts and information that may be obtained, the Treasurer shall determine the amount of Hotel Room Rental Tax due to the County, and payable by the Operator, together with any interest, costs and attorney's fees ("Determination").

The Treasurer shall have the discretion to waive the collection of the tax whenever the monthly tax does not exceed twenty five (25) dollars and, in the opinion of the Treasurer, collection of the tax would place an unreasonable burden upon the Operator, and the cost of collection by the Treasurer would exceed the amount of the tax.

The Treasurer shall give notice of the Determination by personal service or by United States Postal Service, 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 as to why the Treasurer's Determination is inaccurate. At the conclusion of the hearing, the Treasurer 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 ("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 remit the Hotel Room Rental 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, cost and attorney's fees to be assessed on any 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 the 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 Jefferson County. Except as otherwise provided by the Ordinance or these Rules and Regulations, the Operator shall be considered by the Treasurer to perform the duty of collection of the Hotel Room Rental 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 Room Rental Tax, interest, costs and attorney's fees may appeal the decision of the Treasurer to the Court of Common Pleas of Jefferson County, pursuant to the applicable rule 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 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 are 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 responsible 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 for which the Operator was legally responsible 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 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 revenue and exemptions. The records shall be filed in a manner that allows ready access by the Treasurer, or their 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 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 Room Rental Tax, interest, cost, or attorney's fees have 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 refund the 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 Treasurer and shall be subject to the applicable escheat laws and statutes.

L. ACTIONS TO COLLECT

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

Any actions brought under the Ordinance or these Rules and Regulations by Jefferson County or Jefferson County's designee, shall include the Hotel Room Rental 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 form 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 remainder of these Rules and Regulations shall remain in full force and effect.

O. AMENDMENTS

The County Commissioners and Treasurer reserve the right, from time to time, to amend and/or supplement these Rules and Regulations. Proposed amendments and/or supplements to the Rules and Regulations shall be mailed to the tourist promotion agency for review and comment not less than fourteen (14) days prior to enactment.

County of Jefferson

Hotel Room Rental Tax

Rules and Regulations

Adopted May 25, 2004
Revised January 1, 2008