

York County Treasurer's Office

David S. Seitz, Treasurer
1 West Marketway 4th Floor
York PA 17401
(717) 771-4339

PROMULGATION OF RULES AND REGULATIONS
FOR THE COLLECTION OF THE HOTEL EXCISE
TAX AS ADOPTED BY THE COUNTY COMMISSIONERS
OF YORK COUNTY, PENNSYLVANIA
ORDINANCE NO. 1997-08 ADOPTED ON DECEMBER 31, 1997

Pursuant to the powers vested in me by the General Assembly of Pennsylvania and the Hotel Excise Tax Ordinance of York County adopted December 31, 1997, I herewith promulgate rules and regulations concerning the registration of hotels with the County Treasurer, the collection of the tax, payment thereof, reports and returns of the same, distribution of the proceeds of tax after deduction of expenses of the County Treasurer, and penalties for the violation of these rules and regulations and/or the terms of the Hotel Excise Tax Ordinance of York County.

Inquiries and requests for advisory opinions regarding the rules and regulations shall be directed to the Office of the York County Treasurer. These rules and regulations are subject to amendment and the promulgation of supplementary rules and regulations from time to time.



David S. Seitz
Treasurer

DATED: January 7, 1998

THESE RULES AND REGULATIONS APPROVED BY THE COMMISSIONERS OF YORK COUNTY ON THIS 7th DAY OF January, 1998.

BOARD OF COMMISSIONERS

ATTEST:



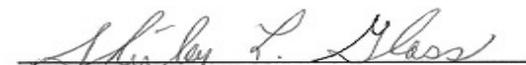
Charles R. Noll
Administrator/Chief Clerk



Robert A. Minnich
President Commissioner



Christopher B. Reilly



Shirley L. Glass
Commissioner

County of York Hotel Excise Tax

Rules and Regulations

PURPOSE

The purposes of these Rules and Regulations are: 1) to establish the procedures for the collection of the Hotel Excise Tax by the Hotel Operators in York County from patrons; 2) to establish the procedures for the remittance of the Hotel Excise Tax by the Hotel Operators of York County to the York County Treasurer; 3) to establish the official reporting procedures and forms to be utilized by the Hotel Operators.

A. DEFINITIONS

As used in these Rules and Regulations and related forms, the following words and phrases shall have the meanings given to them in this section:

"Consideration"- Receipts, fees, charges, rentals, leases, cash, credits, property of any kind or nature, or other payment received by operators in exchange for or in consideration of the use or occupancy by a transient of a room or rooms in a hotel for any temporary period.

"Hotel"- The term includes a hotel, motel, inn, guest house or other structure which holds itself out by any means, including advertising, license, registration with an innkeepers' group, convention listing association, travel publication or similar association or with a government agency, as being available to provide overnight lodging or use of facility space for consideration to persons seeking temporary accommodation; any place which advertises to the public at large or any segment thereof that it will provide beds, sanitary facilities or other space for a temporary period to members of the public at large; or any place recognized as a hostelry. The term does not include any portion of a facility that is devoted to persons who have an established permanent residence; a college or university student residence hall or any private campground; any cabins, public campgrounds or other facilities located on State land.

"Occupancy" - The use or possession or the right to the use or possession by any person other than a permanent resident of any room in a hotel for any purpose, or the right to the use or possession of the furnishings or the services accompanying the use and possession of the room.

"Operator" -An individual, partnership, nonprofit or profit-making association or corporation or other person or group of persons who maintain, operate, manage, own, have custody of or otherwise possess the right to rent or lease overnight accommodations in a hotel to the public for consideration.

"Patron" - A person who pays the consideration for the occupancy of a room or rooms in a hotel.

"Permanent Resident" -A person who has occupied or has the right to occupancy of a room or rooms in a hotel as a patron or otherwise for a period exceeding sixty (60) consecutive days.

"Recognized Tourist Promotion Agency"- The nonprofit corporation, organization, association or agency which is engaged in planning and promoting programs designed to stimulate and increase the volume of tourist, visitor and vacation business within counties served by the agency as that term is defined in the act of April 28, 1961 (P.L. 111, No. 50) known as the "Tourist Promotion Law."

"Records"- Includes, but is not limited to, the number of daily transactions, the rate of each occupancy, the revenues received for all transactions, cash receipts and sales journals, cash disbursements and purchase journals, and general ledgers.

"Room"- A space in a hotel set aside for use and occupancy by patrons, or otherwise, for consideration, having at least one (1) bed or other sleeping accommodation in a room or group of rooms.

"Tax Year"- The tax year is the calendar year.

"Transaction"- The activity involving the obtaining by a transient or patron of the use or occupancy of a hotel room from which consideration is payable to the operator under an express or an implied contract.

"Transient" -An individual who obtains accommodation in a hotel by means of registering at the facility for the temporary occupancy of a room for the personal use of the individual by paying a fee to the operator.

B. IMPOSITION OF TAX

1. Rate of Tax: The Hotel Excise Tax is imposed at the rate of two percent (2%) effective February 1, 1998 and will continue thereafter whenever consideration is received by each operator of a hotel within the County of York from each transaction.
2. Collection of Tax by Operator: The tax is to be collected by the operator of each hotel, at the time of payment, from each patron who pays consideration for the renting of a room.
3. Effective Date: The tax shall be applicable to all transactions specified in regulation B-1 (above), which occur on or after the effective day of the Hotel Excise Tax Ordinance of York County and these regulations which is February 1, 1998.

C. REGISTRATION

By February 28 1998, or within thirty (30) days after commencing business, whichever is later, each operator of any hotel shall register said hotel with the County Treasurer of York County, Pennsylvania, by completing the application form provided by the County Treasurer (**EXHIBIT 1**). **the** operator of said hotel shall obtain from the County Treasurer a certificate of authorization evidencing his authority to collect the Excise Tax. Said certificate shall at all times be posted in a conspicuous place on the Hotel premises.

D. 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 includes Meals: When the amount charged by a hotel operator for occupancy includes the price of any meal, only that portion of the consideration attributed to the room occupancy shall be subject to the Hotel Excise Tax. The tax return should reflect lodging receipts only. It is incumbent upon the Hotel Operator to maintain records that differentiate the amount charged for occupancy from amount charged for meals.

E. 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 sixty (60) consecutive days, he is no longer a "transient" as defined in these regulations. The patron's status as a "permanent resident" becomes effective at the expiration of the 60th consecutive day of occupancy at the same Hotel and continues thereafter so long as his occupancy remains continuous and uninterrupted at the same hotel.

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

The status of Permanent Residents continues only 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 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 mere change of rooms within the same Hotel is not a break in Occupancy for the purpose of Permanent Resident exemption.

F. EXEMPTIONS

1. Permanent Residents: A Permanent Resident, as defined in these regulations, is exempt from the Hotel Excise Tax in accordance with these Rules and Regulations. Residents who have occupied a room or rooms for a period of more than sixty (60) consecutive days immediately prior to the effective date of this ordinance are considered Permanent Residents as of the effective date of the ordinance. Hotel Excise Tax Exemption Declaration forms **(EXHIBIT 2)** must be completed by these individuals.

6. Penalties:

a. Any person who shall violate any of the provisions of the Ordinance shall, upon conviction thereof, in a summary proceeding before any district magistrate in York County, be sentenced to pay a fine of not more than Seventy Five Dollars and No Cents (\$75.00) for the first offense, One Hundred Fifty Dollars and No Cents (\$150.00) for the second offense, Two Hundred Twenty Five Dollars and No Cents (\$225.00) for the third offense, and Three Hundred Dollars and No Cents (\$300.00) for the fourth and each additional offense, and cost of prosecution for each violation thereof, and in default of payment of such fine and costs, to undergo imprisonment for not more than thirty (30) days.

b. Each twenty-four (24) hour period during which a violation exists after notice shall have been given in writing by registered mail, return receipt requested, shall constitute a separate violation of the Ordinance.

H. RECORDS

It is presumed that all rooms are subject to the tax. The burden of proving that the rent or occupancy received is not taxable is upon the operator and the operator must demonstrate same through accurate records. In any case where a hotel operator fails to maintain adequate records a room shall deem 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 and payment to the County Treasurer of any tax imposed by the Hotel Excise Tax Ordinance to keep and preserve for a period of three (3) years, all records that may be necessary to determine the amount of such tax which the operator was liable to collect and pay to the County. Said records shall be maintained at the place of business where the subject rooms were rented. Said records shall include but not be limited to folios, lease agreements; general ledgers; night auditor and housekeeper reports; traffic summaries; source of business reports; and other documents that support room revenues and exemptions. Said records shall be filed in a manner that allows ready access by the County Treasurer, the County Controller or their authorized agents, who shall have the right to inspect same at all times.

In all instances where a hotel operator claims an exemption to the Hotel Excise Tax, said operator shall maintain, for a period of three (3) years, any records, folios; lease agreements, vouchers, copies of ID cards or other records indicating the exempt occupant's job number, employer, place of employment or other identifying information. These records shall be filed in a manner that allows ready access by any authorized agent of the County of York.

I. REFUNDS

Whenever the amount of any tax, interest or penalty has been overpaid, paid more than once, or erroneously collected or received by the County Treasurer under the Hotel Excise Tax Ordinance, or regulations relative thereto, it may be refunded provided a verified written claim, stating the specific ground upon which the claim is founded, is filed with the County Treasurer within three (3) years of date of payment.

2. State and Federal Employees: Occupancy of Rooms by the Government of the United States, the Government of Pennsylvania, or their agencies, or by an employee or representative of said Governments or their agencies, when such occupancy is solely for official purposes and the transaction is paid by the said Governments or their agencies, are exempt from the Hotel Excise Tax.

3. Contracts executed prior to February 1, 1998. Contracts for temporary lodging, either group or individual, entered into prior to the effective date of the ordinance are exempt from the Hotel Excise Tax. Operators must furnish the Treasurer's Office a copy of any such contract when submitting their first monthly or quarterly report.

The Operator shall maintain records to support and identify all exempt occupancies. The records shall include a Hotel Excise Tax Exemption Declaration form (**EXHIBIT 2**) completed by the Occupant and the Operator. The Operator must complete an Exemption Statement (**EXHIBIT 3**) totaling the exemptions for each reporting period. All Declarations and Statements must be included with the Report of Hotel Excise Tax each period. Continuing Permanent Residents who have already filed an Exemption Declaration Form need not file additional forms as long as permanent residency continues uninterrupted. However the information for these residents must be included on the Exemption Statement.

G. REPORTS, RETURNS, PAYMENTS AND PENALTIES

1. Collections from Patron: The operator shall collect the Hotel Excise Tax from the Patron of the Room, and remit the same to the County Treasurer. The Operator shall be liable for the payment of the Hotel Excise Tax to the County as provided in the Ordinance.

2. Monthly Return by Operator: On or before the last day of each calendar month, the Operator shall submit to the County Treasurer a Hotel Excise Tax Return, (**EXHIBIT 4**) that shall contain the previous calendar month's information, together with the remittance of the Hotel Excise Tax due. Hotels whose preceding year's gross occupancy receipts are less than \$250,000 may submit their report quarterly. If selecting this option, reports will be due the last Working day of April, July, October and January.

3. Forms: Every report and return shall be made upon the official forms furnished by the County Treasurer. The County Treasurer reserves the right to, from time to time, amend and/or modify any form. The County Treasurer also reserves the right to develop any and all forms to effectuate and implement the Hotel Excise Tax Ordinance or these Rules and Regulations. A copy of the current official forms are attached hereto as EXHIBITS.

4. Payment to the Office of the County Treasurer: At the time of filing the returns, the Operator shall compute and timely and unconditionally remit to the County Treasurer in immediately available funds the Hotel Excise Taxes collected and due the County.

5. Interest for Late Returns: If any amount of tax due the County is not remitted by the due date, interest at the rate of 3/4% shall be added for each month or fraction thereof during which the Hotel Excise Tax shall remain unpaid or not properly remitted in accordance with these Rules and Regulations.

**HOTEL EXCISE TAX
EXEMPTION DECLARATION**

York County Treasurer, 1 West Marketway 4th Floor, York PA 17401
PHONE: (717) 771-4339

Report Period from _____ thru _____

NAME OF FACILITY _____

ADDRESS _____

OPERATOR'S SIGNATURE _____ DATE _____

This section to be completed by the Renter claiming Hotel Excise Tax Exemption

TYPE OF EXEMPTION:

_____ Permanent Resident- I certify below I have completed 60 consecutive days of uninterrupted occupancy.
Date occupancy began _____

_____ State or Federal Employee _____ Name of Government Agency

NAME OF RENTER _____

COMPLETE ADDRESS _____

SIGNATURE _____ DATE _____

VOID UNLESS COMPLETE INFORMATION IS SUPPLIED

** Hotel operators are required to maintain records to support and identify this type of exemption.
This form must accompany the Hotel Excise Tax report to the York County Treasurer's Office.

HOTEL EXCISE TAX

Exemption Statement

York County Treasurer, 1 West Marketway 4th Floor, York PA 17401
PHONE: (717) 771-4339

Report Period from _____ thru _____

CONTINUING PERMANENT RESIDENTS

(Only those residents for whom you have already submitted an Exemption Declaration).

GUEST NAME	DATE OCCUPANCY BEGAN	RECEIPTS

TOTAL CONTINUING PERMANENT EXEMPTIONS \$ _____

TOTAL NEW PERMANENT RESIDENT EXEMPTIONS \$ _____
Exemption Declarations attached.

TOTAL FEDERAL & STATE EMPLOYEE EXEMPTIONS \$ _____
Exemption Declarations attached.

TOTAL EXEMPT RECEIPTS: \$ _____ **

NAME OF FACILITY _____

ADDRESS _____

OPERATOR'S SIGNATURE _____ DATE _____

** Hotel operators are required to maintain records to support and identify these exemptions.
This form must accompany the Hotel Excise Tax report to the York County Treasurer's Office.

HOTEL EXCISE TAX RETURN

York County Treasurer, 1 West Marketway 4th Floor, York PA 17401
PHONE: (717) 771-4339

Report Period from _____ thru _____

CERTIFICATE NO: _____

Name of Facility _____

Address _____

Mailing Address (if different from above) _____

1. Gross Lodging Receipts for Period _____
2. Less: Receipts Exempt from Tax _____
3. Taxable Receipts _____
4. Amount of Tax @ 2% _____
5. Interest _____
6. Penalties _____
7. Total Tax Due _____

TAXPAYER INFORMATION

Hotel Excise Tax is imposed at the rate of 2% of the consideration received by each operator of a facility within York County from each transaction of renting a room or rooms. The tax is to be collected by the operator of each facility from each patron who rents a room. Each operator is required to file a tax return and remit tax due on or before the last day of the month for the preceding period. If there is no tax due for a given period, file return indicating "NO TAX DUE" on the tax due line.

Make Checks Payable to: County of York

I hereby certify that this return has been examined by me and that the information contained herein is true, correct, and complete, to the best of my knowledge and belief.

Signature

Date

Title

REV:9712