

ARTICLE IV. HOTEL-MOTEL EXCISE TAX

Sec. 2-9-70. Definitions.

The following terms shall, for the purposes of this article and except where the context clearly indicates a different meaning, be defined as follows:

County: The unincorporated area of this county.

Due date: From the twentieth day after the close of the monthly period for which tax is to be computed.

Guestroom: A room occupied, or intended, arranged or designed for occupancy, by one (1) or more occupants for the purpose of living quarters or residential use. It shall not include meeting rooms or exhibition halls.

Hotel: Any structure or any portion of a structure including any lodginghouse, roominghouse, dormitory, turkish bath, bachelor hotel, studio hotel, motel, motor hotel, auto court, inn, public club or private club, containing guestrooms and which is occupied or is intended or designed for occupancy by guests, whether rent is paid in money, goods, labor or otherwise. It does not include any jail, hospital, asylum, sanitarium, orphanage, prison, detention building or other buildings in which human beings are housed and detained under legal restraint. "Extended stay facilities" shall be included among the facilities subject to the hotel/motel tax.

Monthly period: The calendar month of any year.

Occupancy: The use or possession, or the right to the use or possession, of any room or apartment in a hotel or the right to the use or possession of the furnishings or to the services and accommodations accompanying the use and possession of the room or apartment.

Occupant: Any person who, for a consideration, uses, possesses or has the right to use or possess any guestroom in a hotel under any lease, concession, permit, right of access, license to use or other agreement, or otherwise.

Operator: Any person operating a hotel in the county, including but not limited to the owner or proprietor of such premises, the lessee, sublessee, lender in possession, licensee or any other person otherwise operating such hotel.

Permanent resident: Any occupant of a hotel other than the owner and/or operator once that occupant has stayed in the hotel for more than thirty (30) consecutive days.

Person: As defined in section 2-1-2, except the United States of America, this state and any political subdivision of either thereof upon which the county is without power to impose the tax herein provided.

Rent: The consideration received for occupancy valued in money, whether received in money or otherwise, including all receipts, cash, credits and property or services of any kind or nature, and also the amount for which credit is allowed by the operator to the occupant, without any deduction therefrom whatsoever.

Return: Any return filed or required to be filed as herein provided.

Tax: The tax imposed by this article.

(Code 1979, § 3-2083; Ord. of 12-10-85, § 1; Amend. of 9-22-98, §§ 1, 2; Ord. of 6-26-01, § 1; Ord. No. 2009-001A, 3-24-09)

Sec. 2-9-71. Administration of article.

- (a) *Authority of clerk.* The clerk shall administer and enforce the provisions of this article for the collection of the tax imposed by this article.
- (b) *Records required from operators, etc.; form.* Every operator renting guestrooms in this county to a person shall keep such records, receipts, invoices and other pertinent papers in such form as the clerk may require.
- (c) *Examination of records; audits.* The clerk or any person authorized in writing by the clerk may examine the books, papers, records, financial reports, equipment and other facilities of any operator renting guestrooms to a person and any operator liable for the tax, in order to verify the accuracy of any return made, or if no return is made by the operator, to ascertain and determine the amount required to be paid.
- (d) *Authority to require reports; contents.* In the administration of the provisions of this article the clerk may require the filing of reports by any persons or class of persons having in such persons' possession or custody information relating to rentals of guestrooms which are subject to the tax. The reports shall be filed with the clerk when required by the clerk and shall set forth the rental charged for each occupancy, the dates of occupancy, and such other information as the clerk may require.

(Code 1979, § 3-2091; Ord. of 12-10-85, § 1)

Sec. 2-9-72. Enforcement.

- (a) Upon information made known to the chief of police, or the chief's authorized representative, that any person is in violation of this article, the chief or authorized representative shall cause a citation to be issued requiring said person to appear before the judge of the magistrate court on a day and time certain, then and there to stand trial for violation of this article.
- (b) Citations issued hereunder shall be pursuant to O.C.G.A. section 15-10-63 and shall be personally served upon the person accused. Each citation shall state the time and place at which the accused is to appear for trial.

(Code 1979, § 3-2092; Ord. of 12-10-85, § 1)

Sec. 2-9-73. Violations.

Any person violating any of the provisions of this article or rules and regulations promulgated pursuant hereto, shall be deemed guilty of an offense and upon conviction thereof shall be punished as provided in section 2-1-8. Each such person shall be guilty of a separate offense for each day during any portion of which any violation of any provision of this article is committed, continued or permitted by such person and shall be punished accordingly. Any operator or any other person who fails to register as required herein, or to furnish any return required to be made, or who fails or refuses to furnish a supplemental return or other data required by the clerk or who renders a false or fraudulent return shall be deemed guilty of an offense and upon conviction shall be punished as aforesaid.

(Code 1979, § 3-2093; Ord. of 12-10-85, § 1)

Sec. 2-9-74. Intent and proceeds.

- (a) The intent of this article is to impose a tax pursuant to authority granted by the general assembly of this state, the funds from which taxation shall be used for public purposes and for the purposes of promoting tourism, conventions, and trade shows in Floyd County in each fiscal year during which the tax is collected.

-
- (b) The proceeds of this tax shall be used in accordance with O.C.G.A. section 48-13-51(a)(3.3). An amount equal to sixteen and two-thirds (16 $\frac{2}{3}$) percent of the taxes collected shall be used for the marketing and promotion of the forum.

(Code 1979, § 3-2082; Ord. of 12-10-85, § 1; Amend. of 6-13-95(3); Ord. No. 2005-002A, § 1, 9-13-05)

Sec. 2-9-75. Imposition and rate of tax.

There is hereby imposed and there shall be paid a tax of six (6) percent of the rent for every occupancy of a guest room in a hotel or motel in the county. The tax shall be paid upon any occupancy on and after July 1, 1995, although such occupancy is had pursuant to a contract, lease or other arrangement made prior to such date. The additional one (1) percent sales tax shall be used for the marketing and promotion of the forum.

(Code 1979, § 3-2084; Ord. of 12-10-85, § 1; Ord. of 1-26-88, § 1; Amend. of 6-13-95(3))

Sec. 2-9-76. Collection of tax by operators; receipt to occupant; rules for collection schedules.

Every operator maintaining a place of business in the county as provided in section 2-9-75 and renting guest rooms in this county, not exempt under section 2-9-77 or other sections herein, shall collect a tax of six (6) percent on the amount of rent from the occupant.

(Code 1979, § 3-2085; Ord. of 12-10-85, § 1; Amend. of 6-13-95(3))

Sec. 2-9-77. Exemptions.

No tax shall be imposed hereunder:

- (1) Upon a permanent resident;
- (2) Upon a state or local government official or employee when traveling on official business.

(Code 1979, § 3-2086; Ord. of 12-10-85, § 1; Ord. of 1-26-88, § 2)

Sec. 2-9-78. Registration of operator; form and contents; execution; certificate of authority.

Every person engaging or about to engage in business as an operator of a hotel in this county shall immediately register with the clerk of the board of commissioners, on a form provided therefor, but failure to register shall not relieve any person from the obligation of payment or collection of the tax. Such registration shall set forth the name under which such person transacts business or intends to transact business, the location of such person's places of business and such other information which would facilitate the collection of the tax as the clerk may require. The registration shall be signed by the owner if a natural person; in case of ownership by an association or partnership, by a member or partner; in the case of ownership by a corporation, by an officer. The clerk shall, after such registration, issue without charge a certificate of authority to each operator to collect the tax from the occupant. A separate registration shall be required for each place of business of an operator. Each certificate shall state the name and location of the business to which it is applicable.

(Code 1979, § 3-2087; Ord. of 12-10-85, § 1)

Sec. 2-9-79. Determination, returns and payment.

- (a) *Due date of taxes.* All amounts of such taxes shall be due and payable monthly on or before the twentieth day of every month next succeeding each respective monthly period as defined in section 2-9-70.
- (b) *Return; time of filing; persons required to file; contents.* On or before the twentieth day of the month following each monthly period, a return for the preceding monthly period shall be filed with the clerk showing the gross rent, rent from permanent residents, taxable rent, amount of tax collected or otherwise due for the related period and such other information as may be required by the clerk.
- (c) *Collection fee allowed operators.* Operators collecting the tax shall be allowed a percentage of the tax due and accounted for and shall be reimbursed in the form of a deduction in submitting, reporting and payment of the amount due, if said amount is not delinquent at the time of payment. The rate of the deduction shall be the same rate authorized for deductions from state tax under the Georgia Retailers' and Consumers' Sales and Use Tax Act, O.C.G.A. § 48-8-1 et seq.

(Code 1979, § 3-2088; Ord. of 12-10-85, § 1)

Sec. 2-9-80. Deficiency determinations.

- (a) *Recomputation of tax; authority to make; basis of recomputation.* If the clerk is not satisfied with the return of the tax or the amount of the tax required to be paid to the county by any person, the clerk may compute and determine the amount required to be paid upon the basis of any information within the clerk's possession or that may come into possession. One (1) or more deficiency determinations may be made of the amount due for one (1) or more monthly periods.
- (b) *Interest on deficiency.* The amount of the determination shall bear interest at the rate of three-fourths of one (1) percent or fraction thereof from the due date of taxes.
- (c) *Notice of determination, service of.* The clerk or the clerk's designated representatives shall give to the operator written notice of the clerk's determination. The notice may be served personally or by mail; if by mail, such service shall be addressed to the operator at the operator's address as it appears in the records of the clerk. Service by mail is complete when delivered by certified mail with a receipt signed by the addressee.
- (d) *Time within which notice of deficiency determination to be mailed.* Except in the case of failure to make a return, every notice of a deficiency determination shall be mailed within three (3) years after the twentieth day of the calendar month following the monthly period for which the amount is proposed to be determined, or within three (3) years after the return is filed, whichever period should last expire.

(Code 1979, § 3-2089; Ord. of 12-10-85, § 1)

Sec. 2-9-81. Determination if no return made.

- (a) *Estimate of gross receipts.* If any person fails to make a return, the clerk shall make an estimate of the amount of the gross receipts of the person, or as the case may be, of the amount of the total rentals in this county which are subject to the tax. The estimate shall be made for the periods in respect to which the person failed to make the return and shall be based upon any information which is or may come into the possession of the clerk. Written notice shall be given by certified mail, return receipt requested.
- (b) *Interest on amount found due.* The amount of the determination shall bear interest at the rate of three-fourths of one (1) percent per month, or fraction thereof, from the twentieth day of the month following the monthly period, for which the amount or any portion thereof should have been returned, until the day of payment.

(Code 1979, § 3-2090; Ord. of 12-10-85, § 1)

Sec. 2-9-82. Tax liability in event of sale or discontinuance of business.

If any operator liable for any amount (of hotel/motel tax) under this article sells the business or quits the business, the successors or assigns thereof shall withhold a sufficient amount of the purchase price to cover the amount due the county until the former owner produces a receipt from the county clerk showing payment or a certificate stating that no amount is due. If the purchaser of a business fails to withhold the purchase price as required, he shall be personally liable for the payment of the amount required to be withheld by the purchaser to the extent of the purchase price. In addition, all primary documents, including but not limited to, folios, registers, receipts, rate schedules, certificates of tax exemption and the like shall be retained on site for a minimum of thirty-six (36) months.

(Amend. of 10-22-96, § 1)

Secs. 2-9-83—2-9-100. Reserved.