

Article VII – Taxation and Fees

Division 18 - Transient Occupancy Tax

~~[Adopted 7-12-2012 (Ch. 147, Art. XX, of the 1993 Code)]~~

~~§ 3.7-55 Definitions.~~

~~As used in this article, unless the context clearly indicates otherwise, the following terms shall have the meanings indicated:~~

~~COMMISSIONER OF THE REVENUE~~

~~The Commissioner of the Revenue of Appomattox County.~~

~~OCCUPANCY~~

~~The use or possession or the right to the use or possession of any space, room or rooms, or portion thereof, in any hotel, motel, boardinghouse or travel campground and other facilities offering guest rooms rented out for continuous occupancy for fewer than 30 consecutive days for dwelling, lodging, or sleeping purposes.~~

~~PERSON~~

~~Includes, but is not limited to, any individual, firm, partnership, association, corporation, person acting in a representative capacity or any group of individuals acting as a unit.~~

~~RENT~~

~~The consideration charged, whether or not received, for the occupancy of a space in a hotel, motel, boardinghouse or travel campground and other facilities offering guests rooms rented out for continuous occupancy for fewer than 30 consecutive days valued in money, whether to be received in money, goods, labor or otherwise, including all receipts, cash, credits and property and service of any kind or nature, without any deduction therefrom whatsoever.~~

~~TRAVEL CAMPGROUND~~

~~Any area, site, lot, field or tract of land offering spaces for recreational vehicles or campsites for transient dwelling purposes, or temporary dwelling during travel, or recreational or vacation uses.~~

~~TREASURER~~

~~The Treasurer of Appomattox County.~~

~~§ 3.7-56 Tax imposed.~~

~~Pursuant to the provisions of Title 58.1 (§ 58.1-3819) of the Code of Virginia, there is hereby imposed and levied by the County on each transient an occupancy tax in the~~

amount of 2% of the charge made for each room or space rented to such transient. Such tax shall be collected from such transient at the time rooms or spaces are rented in accordance with this article. The tax imposed hereby shall apply to all hotels, motels, boardinghouses, and travel campgrounds and other facilities offering guest rooms rented out for continuous occupancy for fewer than 30 consecutive days, except that the tax imposed hereunder shall not apply to rooms or spaces rented and continuously occupied by the same individual or same group of individuals for 30 or more days in hotels, motels, boardinghouses, travel campgrounds and other facilities offering guest rooms. This tax is imposed only for the occupancy of any room or space that is suitable or intended for occupancy by transients for dwelling, lodging, or sleeping purposes.

~~§ 3.7-57 Collection.~~

Every person, firm or corporation receiving any payment for occupancy with respect to which a tax is levied under this article shall collect the amount of such tax so imposed from the transient on whom such tax is levied or from the person paying for such occupancy at the time payment for such occupancy is made. The tax required to be collected under this section shall be deemed to be held in trust by the person, firm or corporation required to collect such taxes as provided in this article.

~~§ 3.7-58 Reporting; payment.~~
~~[Amended 11-5-2012]~~

The person, firm or corporation collecting any tax as provided in this article shall make out a report thereof on such forms and setting forth such information as the Commissioner of the Revenue may prescribe and require, showing the amount of occupancy charges collected and the taxes required to be collected, and sign and deliver such report to the Commissioner of the Revenue with remittance of the taxes collected, less 3% of the total amount collected. Such report and remittance shall be for the calendar year and shall be made no later than March 31 of the next following year. The three percent deduction is allowed to defray the expense incurred by persons, firms, or corporations collecting this tax, except that no deduction shall be allowed if the amount due was delinquent.

~~§ 3.7-59 Late payment penalty and interest.~~
~~[Amended 11-5-2012]~~

If any person shall fail or refuse to remit to the Commissioner of the Revenue the tax required to be collected and paid under this article within the time and in the amount specified, there shall be added to such tax by the County Treasurer a penalty in the amount of 10% thereof and interest on the principal amount thereon at the rate of 10% per annum.

~~§ 3.7-60 Failure to collect taxes or make reports.~~

~~It shall be unlawful for any person, firm or corporation to fail, or refuse, to collect the taxes imposed under this article and to make reports and remittance as required. The Commissioner of the Revenue shall have the power to examine pertinent records for the purpose of administering or enforcing the provisions of this article.~~

~~§ 3.7-61 Records.~~

~~It shall be the duty of every person, firm or corporation liable for the collection and payment to the County of any tax imposed by this article to keep and preserve for a period of four years such suitable records as may be necessary to determine the amount of tax due to have been collected and paid to the County. The Commissioner of the Revenue may inspect such records at all reasonable times.~~

~~§ 3.7-62 Violations and penalties.~~

~~Any person, firm, or corporation convicted of violating the provisions of this article shall be subject to a fine of not more than \$100, and each failure, refusal, neglect, or violation and each day's continuance thereof shall constitute a separate offense. This penalty shall be deemed to be in addition to and not in lieu of the penalties set forth in § 3.7-59 of this article.~~

§3.7-55 Imposed

Pursuant to Virginia Code § 58.1-3819, in addition to all other taxes, there is hereby imposed and levied a tax equivalent to two percent (2%) of the total room charge paid by or for any such transient for the use or possession of accommodations; provided however, that the tax imposed by this subsection will not be imposed on any transient occupancy in any Lodging Facility that is located within any town that has imposed a tax on transient occupancy.

Exemptions.

No tax is payable hereunder on the total room charge paid for accommodations to any hospital, medical clinic, convalescent home, or home for the aged.

§3.7-56 Definitions

The following words and phrases when used in this Article, for the purposes of this Article, have the meanings respectively ascribed to them in this

Section, except in those instances where the context clearly indicates a different meaning:

Accommodations means any room or rooms, lodgings, accommodations, or space at a Lodging Facility for which tax is imposed on the retail sale of the same pursuant to this Article.

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Accommodations fee means the room charge less the discount room charge, if any, provided that the accommodations fee must not be less than \$0.

Accommodations intermediary means any person other than an accommodations provider that (i) facilitates the sale of an accommodation and (ii) either (a) charges a room charge to the customer, and charges an accommodations fee to the customer, which fee it retains as compensation for facilitating the sale; (b) collects a room charge from the customer; or (c) charges a fee, other than an accommodations fee, to the customer, which fee it retains as compensation for facilitating the sale. For purposes of this definition, "facilitates the sale" includes brokering, coordinating, or in any other way arranging for the purchase of the right to use accommodations via a transaction directly, including one or more payment processors, between a customer and an accommodations provider.

Accommodations intermediary does not include a person:

(1) If the accommodations are provided by an accommodation provider operating under a trademark, trade name, or service mark belonging to that person;

(2) Who facilitates the sale of an accommodation if (i) the price paid by the customer to such person is equal to the price paid by such person to the accommodations provider for the use of the accommodations and (ii) the only compensation received by such person for facilitating the sale of the accommodation is a commission paid from the accommodation provider to such person; or

(3) Who is licensed as a real estate licensee pursuant to Article 1 (§ 54.1-2100 et seq.) of Chapter 21 of Title 54.1 of the Virginia Code, when acting within the scope of such license.

Accommodations provider means any person that furnishes accommodations to the general public for compensation. The term "furnishes" includes the sale of use or possession or the sale of the right to use or possess.

County means the County of Appomattox~~insert~~, Virginia.

"Commissioner of the Revenue" shall mean the Commissioner of the Revenue of the County of ~~Appomattoxinsert~~, Virginia, or any duly authorized deputies or agents.

or

Director means Director of the local Department of Tax Administration or any of duly authorized deputies or agents of the Director.

Discount room charge means the full amount charged by the accommodation provider to the accommodation intermediary, or an affiliate thereof, for furnishing the accommodations.

Lodging Facility means any public or private hotel, inn, apartment hotel, hostelry, tourist camp, tourist cabin, tourist home or house, camping grounds, club, motel, rooming house, any place that offers Short-Term Lodging, or other place within the County offering accommodations for one or more persons at any one time, and the owner and operator thereof, who, for compensation, furnishes accommodations to any transients as hereinafter defined.

Person means individuals, firms, partnerships, associations, corporations, persons acting in representative capacity and combinations of individuals of whatever form and character.

Room charge means the total charge made to, or total price paid by or for, a transient in a retail sale for the use or possession of accommodations at any such Lodging Facility before taxes. "Room charge" includes any fee charged to the customer and retained as compensation for facilitating the sale, whether described as an accommodations fee, facilitation fee, or any other name.

Retail Sale means a sale to any person for any purpose other than for resale.

Transient means any person who, for any period of less than thirty consecutive days either at his own expense or at the expense of another, obtains accommodations in any Lodging Facility as hereinabove defined, for which a charge is made.

§3.7-57 Collection

- (a) For any retail sale of accommodations facilitated by an accommodation intermediary, the accommodations intermediary will be deemed a facility making a retail sale of an accommodation. The accommodations intermediary must collect the tax imposed pursuant to this Article, computed on the total room charge, from the person paying for the accommodations at the time payment for such accommodations is made and shall be liable for the same.
- (b) For any retail sale of accommodations not facilitated by an accommodation intermediary, the accommodations provider must collect the tax imposed pursuant to this Article, computed on the total room charge, from the person paying for the accommodations at the

time payment for such accommodations is made and shall be liable for the same.

§3.7-58 Report and Remittance of Tax

- (a) For any retail sale of accommodations facilitated by an accommodations intermediary, the accommodations intermediary must remit the tax imposed pursuant to this Article to the Commissioner.
 - (b) For any retail sale of accommodations not facilitated by an accommodations intermediary, the accommodations provider must remit the tax imposed pursuant to this Article to the Commissioner.
 - (c) For any transaction for the retail sale of accommodations involving two or more parties that meet the definition of accommodations intermediary, nothing in this Article prohibits such parties from making an agreement regarding which party will be responsible for collecting and remitting the tax, so long as the party so responsible is registered with the Commissioner for purposes of remitting the tax. In such event, the party that agrees to collect and remit the tax will be the sole party liable for the tax, and the other parties to such agreement will not be liable for such tax.
 - (d) The person collecting any such tax required pursuant to this Article must make out a report on such forms and setting forth such information as the Commissioner may prescribe and require, showing the amount of total room charges collected, and the tax required to be collected, and must sign and deliver the same to the Commissioner with a remittance of such tax.
 - (e) Such reports and remittances must be made monthly on or before the 20th day of the month and covering the amount of tax collected during the preceding month. If the remittance is by check or money order; it must be payable to the County and all remittances received hereunder by the Commissioner must be promptly delivered to the Treasurer.
- If the remittance is made on or before the 20th day of the month, the person making said remittance may deduct 3% from said remittance as a collection fee.
- (f) Each accommodations intermediary must submit to the Commissioner the property addresses and gross receipts for all accommodations facilitated by the accommodations intermediary in Appomattox County on a monthly basis.

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§3.7-59 Interest and penalties upon failure or refusal to remit tax.

If any accommodations provider or accommodations intermediary fails or refuses to remit to the Commissioner, the tax required to be collected and paid under this Article within the time and in the amount specified in this Article, the Commissioner will add a penalty of ten percent

(10%), and if the tax remains delinquent and unpaid for a period of one month from the date the same is due and payable, interest will be charged on the unpaid balance at the applicable interest rate. Such interest will accrue from the date on which the tax was due and payable.

§3.7-60 Remission Upon Going Out Of Business

Whenever any person required to collect and pay to the County a tax under Section [insert] quits or otherwise disposes of the business, any tax payable under the provisions of this Article to the County becomes immediately due and payable, and such person must immediately make a report and pay the tax due.

§3.7-61 Penalty For Violation Of Article

Any person convicted of willful failure or refusal to file a tax return at the times required by this Article will be subject to criminal penalties. If the tax lawfully assessed in connection with the return that was not filed is \$1,000 or less, then such failure or refusal to file will be punishable as a Class 3 misdemeanor. If the tax lawfully assessed in connection with the return that was not filed is more than \$1,000, then such failure or refusal to file will be punishable as a Class 1 misdemeanor. In determining the penalty to be applied in the event that a person has not filed a tax return as required by this Article, the penalty will be based on the amount due to the County as determined by the Commissioner. Each such failure or refusal will constitute a separate offense. Such conviction will not relieve any such person from the payment, collection, or remittance of such tax, plus penalties and interests, as provided in this Article.

§3.7-62 Powers and duties of Commissioner generally; rules and regulations.

A. If any person required to collect and remit the tax imposed by this Article fails to file a statement and a remittance, or if the Commissioner has reasonable cause to believe that an erroneous statement has been filed; the Commissioner may proceed to determine the amount due to the County pursuant to Va. Code § 58.1-3903.

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B. The Commissioner will ascertain the name of every person operating a Lodging Facility in the County liable for the collection of the tax levied by this Article. The Commissioner or Treasurer has the power to adopt rules and regulations not inconsistent with the provisions of this Article and the Code of Virginia for the purpose of carrying out and enforcing the payment, collection and remittance of the tax herein levied; and a copy of such rules and regulations will be on file and available for public examination in the Commissioner's office during regular office hours. Failure or refusal to comply with any

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rules and regulations promulgated under this Section is a violation of this Article.