

COUNTY OF WAYNE

HOTEL ROOM RENTAL EXCISE TAX

RULES AND REGULATIONS

AS OF

AUGUST 1, 2005
Revised Ordinance December 29, 2016

PART 1. GENERAL

A. PURPOSE

The purpose of these Rules and Regulations are:

- To establish the procedures for the collection of the Wayne County Hotel Room Rental Excise Tax by the Operators in the market area of Hotels, Motels, Inns, Guest Houses and Bed and Breakfast or any Lodging facility that are available to provide overnight lodging or use of the facility space for consideration to persons seeking temporary accommodation located in Wayne County.
 - To establish the procedures for the remittance of the Wayne County Hotel Room Rental Excise Tax by the Operators to the Wayne County Treasurer's Office.
 - To establish the official reporting procedures and forms to be utilized by the operators and other relevant Rules and Regulations concerning the collection of the Wayne County Hotel Room Rental Excise Tax.

B. OBJECTIVES

These Rules and Regulations are designed to establish a uniform practice and procedure for the imposition and collection of the Wayne County Hotel Room Rental Excise Tax. The Rules and Regulations are intended to guide and assist Operators to determine which Patrons are subject to the Wayne County Hotel Room Rental Excise Tax and the amount due by each Patron. The Rules and Regulations also establish the official forms for the reporting and remittance of the Wayne County Hotel Room Rental Excise Tax to the Treasurer's Office, as well as general collection procedures.

C. DEFINITIONS

As used hereinafter, those terms, which are defined in Section 3 of Ordinance Number 12-29-2016 (replaced 61405) ("Ordinance"), 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 Wayne County Hotel Room Rental Excise Tax is imposed at the rate of three percent (3%) on any Transaction.
2. Collection of Tax by the Operator: The Wayne County Hotel Room Rental Excise Tax shall be collected by the Operator of each lodging facility, at the time of the Transaction from each Patron who pays the Consideration of the Transaction.
3. Effective Date: The Wayne County Hotel Room Rental Excise Tax shall be applicable to all Transactions specified in Part II. A. 1. and Part II. A. 2. above which occur on and after August 1, 2005 and revised as of December 29, 2016.

B. REGISTRATION

Prior to July 29, 2005, or within fifteen days after commencing business, whichever is later, each Operator of any Lodging facility shall register with the Wayne County Treasurer's Office by completing the application form provided by the Treasurer, a copy of which is attached as Form 1. The Operator of the Lodging facility shall obtain from the Treasurer a permanent Certificate of Authorization evidencing the Operator's authority to collect the Wayne County Hotel Room Rental Excise Tax, and the certificate shall at all times be posted in a conspicuous place on the premises of the Lodging facility.

C. ITEMS SUBJECT TO TAX

The Occupancy of any Room, for Consideration, is subject to the Wayne County Hotel Room Rental Excise Tax. Exclusion for meals included in the rental fee paid by a patron is allowed. (See attached schedule).

D. PERMANENT RESIDENTS

1. General: The Wayne County Hotel Room Rental Excise Tax shall be imposed for Occupancy by Transients and not for 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 lodging facility and continues thereafter so long as the Patron’s Occupancy remains continuous and uninterrupted at the same lodging facility.

2. Procedure for Credits: Upon a Patron obtaining Permanent Resident status the Operator shall give the Patron a refund or credit for the thirty (30) days preceding the Patron’s achieving 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 quarterly return filed by the Operator.

3. Guidelines for Implementation: 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 Patron has a continuous right to occupy a room or rooms in a Lodging facility and is legally bound to pay Consideration. (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 or 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 of 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 a 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 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 thirty (30) consecutive days of Occupancy. A transfer from one Lodging facility to another, even though both Lodging facilities are owned and/or operated by the same Operator, is a break in Occupancy. A mere change of rooms within the same Lodging facility is not a break in Occupancy, for the purpose of permanent resident exemption.

E. EXEMPTIONS

A Permanent Resident, as that term is defined in the Ordinance, is exempt from the Wayne County Hotel Room Rental Excise Tax in accordance with these Rules and Regulations. Other persons may also be exempt from the tax for other legal reasons, including the same exclusions that apply to Commonwealth Occupancy.

F. RECORDS OF EXEMPT OCCUPANCIES

The Operator shall maintain records to support and identify all exempt occupancies. The records shall include a form to be completed and signed by the exempt person. Form 3 attached. The Operator shall also sign and provide to the Treasurer a quarterly statement itemizing all exemptions claimed on a form provided by the Treasurer. Form 4 attached.

G. REPORTS, RETURNS, PAYMENTS, AND COLLECTON OF TAX

1. Collections from Patron: The Operator shall collect the Wayne County Hotel Room Rental Excise 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 Wayne County, as agent thereof, for the payment of the Wayne County Hotel Room Rental Excise Tax as provided in the Ordinance.

2. **Monthly Return by Operator:** On or before the twenty-fifth (25th) day of the calendar month after the close of each calendar quarter, the Operator shall submit to the Treasurer a return, that shall contain the previous calendar quarter's information, together with the remittance of the Wayne County Hotel Room Rental Excise Tax due by check made payable to the "Wayne County Treasurer". The return shall include the amount of the Wayne County Hotel Room Rental Excise Tax collected by the Operator and any other information as the Treasurer may require from time to time. Form 2 attached.
3. **Forms:** Every report and return shall be made upon the official forms furnished by the Treasurer. The Treasurer reserves the right to, from time to time, amend and/or modify any form. The Treasurer 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 made part hereof and is attached hereto and identified as Form 1, Form 2, Form 3, Form 4. –
4. **Interest for Late Returns:** If any amount of tax due is not remitted by the due date, interest at the rate of nine (9.0) percent per year or three-quarters (.75) percent per month shall be added for each month or fraction thereof during which any of the Wayne County Hotel Room Rental Excise Tax shall remain unpaid or not properly remitted in accordance with these Rules and Regulations.
5. **Late Filing Fee:** If any return is filed after the due date, a late filing fee of \$50.00 will be due and payable with the return

H. FAILURE TO COLLECT AND REPORT TAX, DETERMINATION OF TAX BY THE TREASURER, FAILURE TO REMIT TAX

1. **Collection and Report:** If any Operator shall fail to register with the Treasurer or shall fail or refuse to collect the Wayne County Hotel Room Rental Excise Tax under these Rules and Regulations, or fails or refuses to produce any report or form required by these 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 Wayne County Hotel Room Rental Excise Tax due, together with any interest, costs and attorney's fees. As soon as the Treasurer has procured the facts and information as may be obtained, the Treasurer shall determine the amount of the Wayne County Hotel Room Rental Excise Tax due and payable by the Operator, together with any interest, costs and attorney's fees. ("Determination"). The Treasurer shall give 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 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 why the Treasurer determination is improper. At the conclusion of the hearing, the Chief Clerk shall ascertain the proper Wayne County Hotel Room Rental Excise 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 timely remit the Wayne County Hotel Room Rental Excise Tax collected by the Operator to the Treasurer, the Treasurer shall provide at least ten (10) day(s) written notice to the Operator of the tax, interest, late filing fee, costs and attorney's fees to be assessed on untimely remittance. If the operator fails to remit the collected Wayne County Hotel Room Rental Excise Tax, together with any interest, late filing fee, costs and attorney's fees within ten (10) days from date of such notice, Treasurer 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 Wayne 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 Wayne County Hotel Room Rental Excise 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 a decision of the Treasurer with respect to the amount due for the Wayne County Hotel Room Rental Excise Tax, interest, late filing fee, costs and attorney's fees may appeal the decision of the Treasurer to the Court of Common Pleas of Wayne County, pursuant to the applicable rules of the Pennsylvania Rules of Civil Procedure. The Treasurer reserves the right to waive such interest, late filing fee, costs, or attorney's fees based upon good cause shown.

J. RECORDS

It is presumed that all Rooms are subject to the Wayne County Hotel Room Rental Excise Tax until accurate records of the Operator establish 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 Wayne County Hotel Room Rental Excise 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 liable to collect and pay to Wayne 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 Form 3 of the Patron or other records indicating the exempt Patron's identifying information.

K. REFUNDS

Whenever the amount of the Wayne County Hotel Room Rental Excise Tax, interest, costs or attorney's fees has 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 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 Treasurer and shall be subject to the applicable escheat laws and statutes.

L. ACTIONS TO COLLECT.

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

Any actions brought under the Ordinance or these Rules and Regulations by Wayne County's designee shall include the Wayne County Hotel Room Rental Excise 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 forms 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 effective.

O. AMENDMENTS

The Treasurer reserves the right to, from time to time, without advance notice, amend and/or supplement these Rules and Regulations as it pertains to the collection and enforcement of the Wayne County Hotel Room Rental Excise Tax. Amendments and/or supplements to the Rules and Regulations shall be made available to the Operators.