

TAX REGULATIONS OF THE FRANKLIN COUNTY
CONVENTION FACILITIES AUTHORITY

These regulations are promulgated by the Franklin County Convention Facilities Authority pursuant to Section 351.06(A) of the Ohio Revised Code.

Section 1. Definitions.

As used in these regulations:

- (a) "Authority" means The Franklin County Convention Facilities Authority and its agents, including, but not limited to, agents designated in any agreement with the Authority to collect the Hotel tax.
- (b) "Hotel tax" or "tax" means the tax levied in Resolution 1988-1 of the Authority dated August 30, 1988 and as described in Section 2 of these regulations.
- (c) "Hotel" means every establishment kept, used, maintained, advertised or held out to the public to be a place where sleeping accommodations are offered to guests, in which five or more rooms are used for the accommodation of such guests, whether such rooms are **in** one or several structures.
- (d) "Transaction" means the charge by a hotel for each occupancy by transient guests of a room or suite of rooms used in hotel as a single unit for any period of twenty-four (24) hours or less.
- (e) "Transient guests" means persons occupying a room or rooms in a hotel for less than thirty consecutive days.
- (f) "Vendor" means the person who is the owner or operator of a hotel and who furnishes the lodging.

Section 2. Levy of tax.

- (a) There is levied on each transaction by transient guests:
 - (i) an excise tax in the amount of four percent (4%) of the amount of each transaction occurring within the boundaries of Franklin County, Ohio; and, in addition,
 - (ii) an excise tax in the amount of nine tenths of one percent (.9%) of the amount of each transaction occurring within the municipal limits of Columbus, Ohio.

- (b) Until otherwise provided by resolution of the Authority, all revenues received by the Authority from the Hotel tax shall be deposited in the general fund of the Authority.
- (c) The excise tax levied by clause (i) of subsection (a) of this section shall be effective at 12:01 a.m. on October 1, 1988. The excise tax levied by clause (2) of subsection (a) of this section shall be effective at 12:01 a.m. on January 1, 1989.
- (d) The tax shall apply and shall be collectible at the time the lodging is furnished regardless of the time when the price is paid. The tax shall not apply to lodging furnished to the State of Ohio or any of its political subdivisions, or to any charitable organization for the lodging of transient indigent individuals when such charitable organization pays the hotel for such lodging.
- (e) For the purpose of the proper administration of these regulations and to prevent evasion of the tax, it shall be presumed that all lodging furnished by hotels to transient guests is subject to the Hotel tax until the contrary is established.

Section 3. Transient guest to pay taxes.

The Hotel tax shall be paid by the transient guest to the vendor, and each vendor shall collect from the transient guest the full and exact amount of the tax payable on each taxable lodging.

If the transaction is claimed to be exempt, the transient guest must furnish to the vendor, and the vendor must obtain from the transient guest, written proof of exempt status. If no such proof of exemption is obtained, it shall be presumed the tax applies.

Section 4. Tax paid by transient guest; false evidence of tax-exempt status.

No transient guest shall refuse to pay the full and exact Hotel tax, or present to the vendor false evidence indicating that the lodging as furnished is not subject to the tax.

Section 5. Required records; inspection and destruction.

Each vendor shall keep complete and accurate records of lodging furnished, together with a record of the tax collected thereon, which shall be the amount due under these regulations, and shall keep all invoices and such other pertinent documents. If the vendor furnishes lodging not subject to the tax because of any exemption, the vendor's records shall show the identity of the transient guest if the sale was exempt by reason of such identity or the nature of the transaction if exempt for any other reason. Such records and

other documents shall be open during business hours to the inspection of the Authority and shall be preserved for a period of four (4) years, unless the Authority, **in** writing, consents to their destruction within that period, or by order requires that they be kept longer.

Section 6. Returns required.

Each vendor shall on or before the 20th day of each month make and file a return for the preceding month, on forms prescribed by the Authority showing the receipts from lodging furnished, the amount of tax due from the vendor to the Authority for the period covered by the return and such other information as the Authority deems necessary for the proper administration of the tax. The return shall be signed by the vendor or an authorized agent thereof. Returns shall be filed by mailing same to the address designated on the returns together with payment to the Authority in the amount of tax shown to be due thereon. Failure to timely file and pay shall result in the assessment of the penalties set forth in Section 15.

The Authority may extend the time for making and filing returns. Additionally, the Authority, if it is deemed necessary in order to ensure the payment of the tax imposed by these regulations, may require returns and payment to be made for other than monthly periods.

The Authority may authorize vendors whose tax liability is not such to merit monthly returns, as determined by the Authority upon the basis of administrative costs to the Authority, to make and file returns at less frequent intervals, Such authorization shall be in writing and shall indicate the intervals at which returns are to be filed.

All returns. shall bear the mark of the date received and shall also reflect the amount of payment received therewith.

Any vendor who fails to timely file and pay a return under these regulations shall forfeit and pay a penalty equal to ten (10) percent of the tax owed.

The Authority, if it deems it necessary in order to ensure the payment of the tax imposed by these regulations, may require returns and payment to be made for other than monthly periods. The returns shall be signed by the vendor or an authorized agent thereof.

Section 7. Liability.

The vendor or authorized agent having control of or charged with the responsibility of making and filing the return and making payment is personally liable for failure to file the return or pay the tax due as required by these regulations.

If any vendor corporation required to file returns and to remit tax-due to the Authority under the provisions of these regulations fails for any reason to make such filing or payment, any of its officers or employees having control or supervision of or charged with the responsibility of filing returns and making payments shall be personally liable for such failure. The dissolution of a corporation shall not discharge an officer's or employee's liability for a prior failure of the corporation to file returns or remit tax due. The sum due for such liability may be collected by assessment in the manner provided in these regulations.

If any vendor fails to collect the tax or any transient guest fails to pay the tax imposed by or pursuant to these regulations on any transaction subject to the tax, such vendor or transient guest shall be personally liable for the amount of the tax applicable to the transaction. The Authority may make an assessment against either the vendor or transient guest, as the facts may require, based upon any information in its possession.

An assessment against a vendor in cases where the tax imposed by or pursuant to these regulations has not been collected or paid, shall not discharge the transient guest's liability to reimburse the vendor for the tax applicable to such transaction.

In each case, the Authority shall give to the vendor or transient guest assessed written notice of such assessment. Such notice may be served upon the vendor or transient guest assessed personally or by registered or certified mail. An assessment issued against either, pursuant to the provisions of these regulations shall not be considered an election of remedies, nor a bar to an assessment against the other for the tax applicable to the same transaction, provided that no assessment shall be issued against any vendor or transient guest for the tax due on a particular transaction if said tax has actually been paid by another.

Section 8. Assessment of tax and petition for reassessment of tax.

The Authority may make an assessment of tax against any vendor who fails to file a return required by these regulations or fails to remit the proper amount of tax in accordance with these regulations. When information in the possession of the Authority indicates that the amount required to be collected **is**, or should be, greater than the amount remitted by the vendor, the Authority may upon the basis of an examination of a vendor's business for a representative period which is hereby authorized, determine the ratio which the tax required to be collected under these regulations bears to the hotel's or transient accommodation's lodging which determination shall be the basis of an assessment as herein provided in these regulations. Notice of such assessment of tax shall be made in the manner prescribed in these regulations.

Unless the vendor or transient guest, to whom said notice of assessment of tax is directed, files with the Authority within thirty (30) days after service thereof, either personally or by registered or certified mail a petition in writing, verified under oath by said vendor, transient guest, or his authorized agent, having knowledge of the facts, setting forth with particularity the items of said tax assessment objected to, together with the reasons for such objections, said assessment shall become conclusive and the amount thereof shall be due and payable, from the vendor or transient guests so assessed, to the Authority. When a petition for reassessment of tax is filed, the Authority shall assign a time and place for the hearing of same and shall notify the petitioner thereof by registered or certified mail, but the Authority may continue the hearings from time to time if necessary.

A penalty of fifteen percent (15.00%) shall be added to the amount of every assessment of tax made under these regulations. Any penalty imposed under these regulations may be remitted in the discretion of the Authority.

When any vendor or transient guest files a petition for reassessment of tax as provided in these regulations, the tax assessment made by the Authority, together with penalties thereon, shall become due and payable within three (3) days after notice of the finding made at the hearing has been served, either personally or by certified mail, upon the party assessed.

Section 9. Four-year limitation for assessments of tax; exceptions.

No assessment shall be made or issued against a vendor or transient guest for any tax imposed by or pursuant to these regulations more than four (4) years after the return for such period is filed, whichever is later. This section does not bar a tax assessment:

- (1) When the Authority has substantial evidence of amounts of taxes collected by a vendor from a transient guest's lodging which were not paid to the Authority or its agent;
- (2) When the vendor assessed failed to file a return as required.

Section 10. Refund of erroneous payments.

The Authority shall refund to a vendor the amount of tax erroneously paid where the vendor has not been reimbursed from the transient guest. When such erroneous payment or tax assessment was not paid to a vendor, but was paid by the transient guest directly to the Authority it shall be refunded to the transient guest. Applications for refund shall be filed with the Authority on the

form so prescribed, within ninety (90) days from the date it is ascertained that the assessment or payment was erroneous; provided, however, that in any event such applications for refund must be filed with the Authority within four (4) years from the date of the erroneous payment of the tax. On filing of such application, the Authority shall determine the amount of refund due to certify such amount. The Authority shall draw a warrant for such certified amount to the person claiming such refund.

Section 11. Collection of unpaid excise tax.

All taxes subject to these regulations, shall be collectible, together with any penalties thereon, by suit, as other debts of like amount are recoverable.

The Authority may institute civil lawsuits to collect delinquent taxes due and owing the Authority by virtue of the provisions of these regulations. The Authority may waive penalties, compromise tax liability and the right to accept waiver of State statutes of limitations.

Section 12. Vendor to collect tax; prohibition against rebates.

No vendor shall fail to collect the full and exact tax as required by these regulations. No vendor shall refund, remit or rebate to a transient guest, either directly or indirectly, any of the tax levied pursuant to these regulations, or make in any form of advertising, verbal or otherwise, any statements which might imply that he is absorbing the tax, or paying the tax for the transient guest by an adjustment of prices, or furnishing lodging at the price including the tax or rebating the tax in any other manner.

Section 13. Reports must be filed; fraudulent reports.

- (a) No person, including any officer of a corporation or employee of a corporation having control or supervision of or charged with the responsibility of filing returns, shall fail to file any return or report required to be filed by these regulations, or file or cause to be filed any incomplete, false, or fraudulent return, report or statement, or aid to abet another in the filing of any false or fraudulent return, report or statement.
- (b) If any vendor required to file monthly returns under these regulations fails, on two (2) consecutive months or on three (3) or more months within a twelve (12) month period, to file such returns when due or to pay the tax thereon, or if any vendor authorized by the Authority to file returns at less frequent intervals, fails on two or more occasions within a twenty-four (24) month period, to file such returns when due or to pay the tax due thereon, the Authority may:

Require such vendor to furnish security in an amount equal to the average tax liability of the vendor for a period of one (1) year, as determined by the Authority from a review of returns or other information pertaining to such vendor, which amount shall in no event be less than one hundred dollars (\$10.00). The security may be in the form of an advance tax payment to be applied to pay the tax due on subsequent returns, or a corporate surety bond, satisfactory to the Authority, conditioned upon payment of the tax due with the returns from the vendor. The security must be filed within ten (10) days following the vendor's receipt of the notice from the Authority of its requirements.

A corporate surety bond filed under this section shall be returned to the vendor if, for a period of twelve (12) consecutive months following the date the bond was filed, the vendor has filed all returns and remitted payment therewith within the time prescribed in these regulations.

Section 14. Intent of regulations.

It is the intent of these regulations to administer the levy of the excise tax of four percent (4.0%) on transactions as referred to in (B)(1) of Section 351.021, Revised Code of Ohio, and further, to administer the levy of the excise tax of nine-tenths of one percent (0.9%) on transactions referred to in (B)(2) of Section 351.021, Revised Code of Ohio. Accordingly, these regulations shall be construed to effectuate those purposes and to be consistent with any requirement of law compliance with which is a prerequisite to the validity of the tax intended to be levied hereby.

Section 15. Penalties.

Whoever violates any section of these regulations shall be assessed a penalty of not more than one hundred dollars (\$100.00) for a first violation, in addition to any other penalties provided by these regulations. For each subsequent violation, such person shall be assessed a penalty of not more than five hundred dollars (\$500.00) in addition to any other penalties as imposed by these regulations.

Section 16. Effective Date.

These regulations are effective at 12:01 a.m. January 1, 1989.