

COLUMBUS CITY CODES

Chapter 371

HOTEL TAX

371.01 Definitions.

As used in this chapter:

- (a) "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 (5) or more rooms are used for the accommodation of such guests, whether such rooms are in one (1) or several structures.
- (b) "Transient accommodation" 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 four (4) or less rooms are used for the accommodation of such guests, whether such rooms are in one (1) or several structures.
- (c) "Transient guests" means persons occupying a room or rooms for sleeping accommodations for less than thirty (30) consecutive days.
- (d) "Vendor" means the person who is the owner or operator of the hotel or transient accommodation and who furnishes the lodging. (Ord. 3006-88.)

371.02 Imposition of tax.

- (a) For the purpose of providing revenue for the advancement of the cultural development of the community, for promotion and publicizing of the city of Columbus as a desirable location for conventions, trade shows and similar events to encourage the patronage and business of cultural, educational, religious, professional, sports, and other organizations to utilize the city of Columbus and its numerous facilities for such events, to support the production of affordable housing and create home ownership opportunities within the city of Columbus through the Affordable Housing Trust for Columbus and Franklin County, and for the further purpose of providing emergency human service needs to the community, all for the benefit of the citizens of the city of Columbus, an excise tax of three (3) percent is hereby levied on transactions by which lodging by a hotel or transient accommodations is or is to be furnished to transient guests, pursuant to Ohio Revised Code Sec. 5739.02(C)(1) and furthermore, an additional excise tax of three (3) percent is hereby levied on transactions by which lodging by a hotel or transient accommodations is or is to be furnished to transient guests, pursuant to Ohio Revised Code Sec. 5739.02(C)(2).

Effective January 1, 1989, the excise tax of three (3) percent levied pursuant to Ohio Revised Code Sec. 5739.02 (C)(1) above shall be reduced to two and one-tenths (2.1) percent and shall be levied on transactions by which lodging by a hotel or transient accommodations is or is to be furnished to transient guests.

- (b) Although the above levies are separate and distinct, for purposes of determining distribution, the combined amounts are hereinafter referred to as the "Hotel-Motel Excise Taxes".

(c) All revenues received by the city from the hotel/ motel excise taxes each year shall be divided for the use of promoting and publicizing the city of Columbus as a desirable location for conventions, trade shows, and similar events; for use in purchasing cultural services for the enrichment of the community; for support of the production of affordable housing and creation of home ownership opportunities in Columbus; and for emergency human service needs. Of the combined rates of 5.1% the amount of tax allocated for the purpose of promoting the city of Columbus from funds generated by the hotel/motel excise taxes shall be 2.19% effective January 1, 2013 and 2.57% effective January 1, 2014 and in each year thereafter. The maximum amount of said tax to be allocated for the purpose of expanding cultural services for the enrichment of the community shall not exceed a rate of 1.59% in relation to the 5.1% combined rate effective January 1, 2013 and thereafter. By December of each year, recipients of funding pursuant to promoting the city and for cultural enrichment shall provide the mayor and city council a performance report of that year's activities. The maximum amount of said tax to be allocated for the purpose of providing emergency human service needs to the community shall not exceed a rate of .51% in relation to the 5.1% combined rate, effective January 1, 2013 and thereafter, of which up to three hundred thousand dollars (\$300,000.00) annually may be allocated by city council to assist social service agencies in the city with the capital costs of maintaining their facilities. The amount of tax allocated to support the production of affordable housing and create home ownership opportunities within the city of Columbus through the Affordable Housing Trust for Columbus and Franklin County shall be up to .43% in relation to the 5.1% combined rate, effective January 1, 2013 and thereafter. The remaining revenues generated by the hotel/motel excise taxes each year shall be deposited in the general fund of the city without restriction of use. The payment scheduled for each of the aforementioned allocations shall be determined by the city auditor, provided that the city shall disperse at least fifty (50) percent of the revenue from the three (3) percent tax levied pursuant to Ohio Revised Code Sec. 5739.02(C)(2), to make contributions to convention and visitors bureaus operating within the county, annually. The payment schedule for contributions to convention and visitors bureaus operating within the county shall be determined by the city auditor and shall follow the priorities established below:

- (1) The first priority is for said contributions to be paid to the Franklin County convention facilities authority, a duly constituted convention and visitors bureau operating within the county of Franklin, Ohio, to the extent necessary to satisfy the city's obligation under Section 3.06 of the lease agreement dated as of June 1, 1990 between the Franklin County convention facilities authority, as lessor, and the city and the county of Franklin, Ohio, as lessees.
- (2) The second priority is for said contributions to be made pursuant to authorization of council to convention and visitors bureaus operating within the county of Franklin, Ohio, when in the judgment and opinion of the city auditor such contributions are not required to meet the first priority. The city auditor may make contributions on a monthly basis provided no second priority contribution shall be made in a month until such time as a first priority contribution is either satisfied or deemed not required.

(d) Each recipient organization of funds pursuant to the above described allocation shall within one hundred twenty (120) days after the end of their fiscal year provide to the city auditor financial statements of the organization for such fiscal year prepared in accordance with generally accepted accounting principles, with an option thereon by a firm of certified public accountants.

- (e) The tax imposed herein applies and is collectible at the time the lodging is furnished regardless of the time when the price is paid. The tax does not apply to lodging furnished to the state, or any of its political subdivisions, or any charitable organization for the lodging of transient indigent individuals, when such charitable organization pays the hotel or transient accommodation for such lodging.
- (f) For the purpose of the proper administration of this chapter and to prevent evasion of the tax it is presumed that all lodging furnished by hotels to transient guests is subject to the tax until the contrary is established.

371.03 Transient guest to pay taxes.

The tax imposed by this chapter 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 as set forth in Columbus City Codes, 1959, Section 371.02. If no such proof of exemption is obtained, it shall be presumed the tax applies. (Ord. 3006-88.)

371.04 Tax paid transient guest--False evidence of tax-exempt status.

No transient guest shall refuse to pay the full and exact tax as required by this chapter, or present to the vendor false evidence indicating that the lodging as furnished is not subject to the tax. (Ord. 3006-88.)

371.05 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 this chapter, and shall keep all invoices and such other pertinent documents. If the vendor furnishes lodging not subject to the tax the vendor's records shall show the identity of the transient guest, if the sale was exempted by reason of such identity, or the nature of the transaction if exempted for any other reason. Such records and other documents shall be open during business hours to the inspection of the auditor of the city of Columbus, and shall be preserved for a period of four (4) years, unless the auditor, in writing, consents to their destruction within that period, or by order requires that they be kept longer. (Ord. 3006-88.)

371.06 Returns required.

Each vendor shall on or before the twentieth day of each month make and file a return for the preceding month, on forms prescribed by the auditor, showing the receipts from lodging furnished, the amount of tax due from the vendor to the city for the period covered by the return and such other information as the auditor deems necessary for the proper administration of the excise tax. The return shall be signed by the vendor or an authorized agent thereof. Returns shall be filed by mailing same to the Division of Income Tax: Excise Taxes, together with payment to the city treasurer in the amount of tax shown to be due thereon. Failure to timely file and pay shall result in the assessment of a penalty as set forth in Section 371.12.

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

The auditor may authorize vendors whose tax liability is not such as to merit monthly returns, as determined by the auditor upon the basis of administrative costs to the city, 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. (Ord. 3006-88.)

371.07 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 this chapter.

If any vendor corporation required to file returns and to remit tax due to the City under the provisions of this chapter, 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 this chapter.

If any vendor fails to collect the tax or any transient guest fails to pay the tax imposed by or pursuant to this chapter 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 Auditor may make an assessment against either the vendor or transient guest, as the facts may require, based upon any information in his possession.

An assessment against a vendor in cases where the tax imposed by or pursuant to this chapter 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 Auditor 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 this chapter 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. (Ord. 3006-88.)

371.08 Assessment of tax and petition for reassessment of tax.

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

Unless the vendor or transient guest, to whom said notice of assessment of tax is directed, files within thirty 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 Treasurer of City of Columbus, Ohio. When a petition for reassessment of tax is filed, the Auditor shall assign a time and place for the hearing of same and shall notify the petitioner thereof by registered or certified mail, but the Auditor may continue the hearings from time to time if necessary.

A penalty of fifteen percent shall be added to the amount of every assessment of tax made under this chapter. The Auditor may adopt and promulgate rules and regulations providing for the remission of penalties added to such tax assessments made under this chapter.

When any vendor or transient guest files a petition for reassessment of tax as provided in this chapter, the tax assessment made by the Auditor, together with penalties thereon, shall become due and payable within three days after notice of the finding made at the hearing has been served, either personally or by certified mail, upon the party assessed. (Ord. 3006-88.)

371.09 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 this chapter more than four years after the return date for the period in which the lodging was furnished, or more than four years after the return for such period is filed, whichever is later. This section does not bar an assessment:

- (1) When the Auditor has substantial evidence of amounts of taxes collected by a vendor from transient guest's lodging which were not returned to the City;
- (2) When the vendor assessed failed to file a return as required. (Ord. 3006-88.)

371.10 Refund of erroneous payments.

The City Treasurer 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 City Treasurer or his agent, it shall be refunded to the transient guest. Applications for refund shall be filed with the City Auditor, 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 Auditor within four (4) years from the date of the erroneous payment of the tax. On filing of such application, the Auditor shall determine the amount of refund due to certify such amount. The Auditor shall draw a warrant for such certified amount on the Treasurer to the person claiming such refund. (Ord. 3006-88.)

371.11 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 this chapter, and shall keep all invoices and such other pertinent documents. If the vendor furnishes lodging not subject to the tax, the vendor's records shall show the identity of the transient guest, if the sale was exempted by reason of such identity, or the nature of the transaction if exempted for any other reason. Such records and other documents shall be open during business hours to the inspection of the Auditor of the City of Columbus, and shall be preserved for a period of four years, unless the Auditor, in writing, consents to their destruction within that period, or by order requires that they be kept longer. (Ord. 3006-88.)

371.12 Returns required.

Each vendor shall on or before the twentieth day of each month make and file a return for the preceding month, on forms prescribed by the Auditor, showing the receipts from furnishing lodging, the amount of tax due from the vendor to the City for the period covered by the return and such other information as the Auditor deems necessary for the proper administration of this chapter. The Auditor may extend the time for making and filing returns. Returns shall be filed by mailing the same to the City Treasurer, together with payment of the amount of tax shown to be due thereon.

The Auditor may authorize vendors whose tax liability is not such as to merit monthly returns, as determined by the Auditor upon the basis of administrative costs to the City, 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.

The Treasurer shall stamp or otherwise mark on all returns the date received and shall also show thereon by stamp or otherwise the amount of payment received with the return. Thereafter, the Treasurer shall immediately transmit all returns filed under this chapter to the Auditor.

Any vendor who fails to timely file and pay a return under this chapter shall forfeit and pay to the City Treasurer a penalty of ten (10) percent of the tax owed.

The Auditor, if he deems it necessary in order to ensure the payment of the tax imposed by this chapter, 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. (Ord. 3006-88.)

371.13 Collection of unpaid excise tax.

All excise taxes imposed by this chapter, shall be collectible, together with any interest and penalties thereon, by suit, as other debts of like amount are recoverable.

The City Auditor is authorized, in addition to his other duties, to institute civil law suits to collect delinquent taxes due and owing the City by virtue of the provisions of this chapter. The City Auditor is authorized to waive penalties, compromise tax liability and the right to accept waiver of State statutes of limitations. (Ord. 3006-88.)

371.14 Vendor to collect tax; prohibition against rebates.

No vendor shall fail to collect the full and exact tax as required by this chapter. No vendor shall refund, remit or rebate to a transient guest, either directly or indirectly, any of the tax levied pursuant to this chapter, 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. (Ord. 3006-88.)

371.15 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 this chapter, or file or cause to be filed any incomplete, false, or fraudulent return, report or statement, or aid or abet another in the filing of any false or fraudulent return, report or statement.
- (b) If any vendor required to file monthly returns under this chapter fails, on two consecutive months or on three or more months within a twelve-month period, to file such returns when due or to pay the tax thereon, or if any vendor authorized by the Auditor to file returns at less frequent intervals, fails on two or more occasions within a twenty-four month period, to file such returns when due or to pay the tax due thereon, the Auditor may:

Require such vendor to furnish security in an amount equal to the average tax liability of the vendor for a period of one year, as determined by the Auditor from a review of returns or other information pertaining to such vendor, which amount shall in no event be less than one hundred dollars. 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 Auditor, conditioned upon payment of the tax due with the returns from the vendor. The security must be filed within ten days following the vendor's receipt of the notice from the Auditor of its requirements.

A corporate surety bond filed under this section shall be returned to the vendor if, for a period of twelve consecutive months following the date the bond was filed, the vendor has filed all returns and remitted payment therewith within the time prescribed in this chapter. (Ord. 3006-88.)

371.16 Personal liability of corporate officers or employees.

If any vendor corporation required to file returns and to remit tax due to the City under the provisions of this chapter, 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 this chapter. (Ord. 3006-88.)

371.17 Intent of chapter.

It is the intent of this chapter to levy the excise tax of five and one-tenth (5.1) percent on transactions by which lodging by a hotel is or is to be furnished to transient guests as referred to in (C)(1) and (C)(2) of Section 5739.02, Revised Code of Ohio, and further, to levy an excise tax of five and one-tenth (5.1) percent on transactions by which lodging by transient accommodations is or is to be furnished to transient guests. Accordingly, this chapter shall be construed to effectuate those purposes and so as 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. (Ord. 3006-88.)

371.99 Penalty.

Whoever violates any section of this chapter shall be guilty of a minor misdemeanor and shall be fined not more than one hundred dollars (\$100.00). Upon subsequent conviction, such individual shall be deemed guilty of a misdemeanor of the third degree and shall be fined not more than five hundred dollars (\$500.00) or imprisoned for not more than sixty (60) days or both in addition to any other penalties as imposed by this chapter. (Ord. 3006-88.)