

§ 16-9. Hotel/motel room tax.

[Added 6-4-2012 by Ord. No. 04-2012]

A.

Definitions. In this section, the following definitions shall apply:

HOTEL or MOTEL

A building or group of buildings in which the public may obtain accommodations for a consideration, including, without limitation, such establishments as inns, motels, tourist homes, tourist houses or courts, bed-and-breakfast establishments, lodging houses, rooming houses, summer camps, apartment hotels, resort lodges and cabins and any other building or group of buildings in which accommodations are available to the public, except accommodations rented for a continuous period of more than one month and accommodations furnished by any hospital, sanitariums or nursing homes or by corporations or associations organized and operated exclusively for religious, charitable or educational purposes, provided that no part of the net earnings of such corporations and associations inures to the benefit of any private shareholder or individual.

GROSS RECEIPTS

Has the meaning as defined in s. 76.48(d), Wis. Stats., insofar as applicable.

TRANSIENT

Any person residing for a continuous period of less than one month in a hotel, motel or other furnished accommodation available to the public.

BED-AND-BREAKFAST ESTABLISHMENT

Any place of temporary lodging that provides four or fewer rooms for rent, which is open for rental more than 10 nights in a twelve-month period, is the owner's personal residence and is occupied by the owner at the time of rental, and in which the only meal served is breakfast.

B.

Imposition of tax.

(1)

Pursuant to s. 66.0615, Wis. Stats., a tax is hereby imposed on the privilege and services of furnishing, at retail, rooms or lodging to transients by hotelkeepers, motel operators and other persons furnishing accommodations that are available to the public, irrespective of whether membership is required for the use of the accommodations. Such tax shall be at the rate of ~~8%~~ 7% of the gross receipts from such retail furnishing of rooms or lodgings. Such tax shall not be subject to the selective sales tax imposed by S 77.52(2)(a)1, Wis. Stats. The Village shall distribute the room tax as provided by the Wisconsin Statutes.

(2)

Exemptions. The following room sales are exempt from this tax:

(a)

Sales to the federal government;

(b)

Sales to persons listed under s. 77.54(9a), Wis. Stats.

(3)

Exemption conditions. The following conditions must occur for a sale to be exempt from the room tax:

(a)

The lodging establishment must issue the billing or invoice for the lodging in the name of the exempt entity; and

(b)

The lodging establishment must receive from the exempt entity:

[1]

In the case of federal and Wisconsin state or local governmental units, a purchase order, written document (such as a letter of authorization), or other acceptable authorization; or

[2]

In the case of nonprofit religious, charitable, scientific or educational organization, the organization's certificate of exempt status number.

(c)

The exemption still applies if the employee pays with his or her own funds, as long as the above conditions are met.

C.

Collection of tax.

(1)

Administration by Village ~~Clerk~~-Treasurer. This tax shall be administered by the Village ~~Clerk~~-Treasurer who shall, at Village expense, provide the necessary application and reporting forms at no cost to the taxpayer.

(2)

Reporting periods. The tax imposed for the months of January, February and March, and for each calendar quarter thereafter, is due and payable on the last day of the month next succeeding the calendar quarter for which imposed. A return shall be filed with the Village ~~Clerk~~-Treasurer, by those furnishing at retail such rooms and lodging, on or before the same date on which such tax is due and payable. Such returns shall show the gross receipts of the preceding calendar quarter from such retail furnishing of room or lodging, the amount of taxes imposed for such period, and such other information as the Village ~~Clerk~~-Treasurer deems necessary. Every person required to file such quarterly return shall, with their first return, elect to file an annual calendar year or fiscal year return. Such annual return shall be filed within 90 days of the close of each such calendar or fiscal year. The annual return shall summarize the quarterly returns, reconcile and adjust for errors in the quarterly returns, and shall contain certain such additional information as the Village ~~Clerk~~-Treasurer requires. Such annual returns shall be made on forms as prescribed by the Village ~~Clerk~~-Treasurer. All such returns shall be signed by the person required to file a return or duly authorized agent, but need not be verified by oath. The Village ~~Clerk~~-Treasurer may, for good cause, extend the time for filing any return, but in no event longer than one month from the filing date.

(3)

Sale or conveyance of business. If any person liable for any amount of tax under this section sells out his business or stock of goods or quits the business, his successors or assigns shall withhold sufficient portion of the purchase price to cover such amount until the former owner produces a receipt from the Village ~~Clerk~~-Treasurer that it has been paid or a certificate stating that no amount is due. If a person subject to the tax imposed by this section fails to withhold such amount of tax from the purchase price as required, he shall become personally liable for payment of the amount required to be withheld by him to the extent of the price of the accommodations valued in money.

(4)

Determination of tax by audit. The Village ~~Clerk~~-Treasurer may, by office audit, determine the tax required to be paid to the Village or the refund due to any person under this section. This determination

may be made upon the basis of the facts contained in the return being audited or on the basis of any other information within the Village ~~Clerk~~-Treasurer's possession. Whenever the Village ~~Clerk~~-Treasurer has cause to believe that the correct amount of room tax has not been assessed or that the room tax return is not correct, the Village ~~Clerk~~-Treasurer is authorized to examine and inspect the financial records pertaining to the furnishing of accommodations in question in order to verify the tax liability of that person or establishment. One or more such office audit determination may be made of the amount due for any or for more than one period.

(5)

Failure to file return. If any person fails to file a return as required by this chapter, the Village ~~Clerk~~-Treasurer shall make an estimate of the amount of the gross receipts under Subsection **C(2)** and **(3)**. Such estimates shall be made for the period for which such person failed to make a return and shall be based upon any information which is in the Village ~~Clerk~~-Treasurer's possession or may come into the Village ~~Clerk~~-Treasurer's possession. On the basis of this estimate, the Village ~~Clerk~~-Treasurer shall compute and determine the amount required to be paid to the Village, adding to the sum thus arrived at a penalty equal to 10% thereof. One or more such determinations may be made for one or more than one period.

(6)

Interest on unpaid taxes. All unpaid taxes under this chapter shall bear interest at the rate of 12% per year from the due date of the return until the first day of the month following the month in which the tax is paid or deposited with the Village ~~Clerk~~-Treasurer. An extension of time within which to file a return shall operate to extend the due date of the return for the purposes of interest computations. If the Village ~~Clerk~~-Treasurer determines that any overpayment of tax has been made intentionally or by reason of carelessness or neglect, or if the tax which was overpaid was not accompanied by a complete return, she shall not allow any interest thereon.

(7)

Delinquent returns; late fees; penalty.

(a)

Delinquent tax returns shall be subject to a late filing fee of \$100. The tax imposed by this chapter shall become delinquent if not paid:

[1]

In the case of a timely filed return, within 30 days after the due date of the return, or within 30 days after the expiration of an extension period, if one is granted.

(b)

If due to negligence no return is filed, or a return is filed late, or an incorrect return is filed, the entire tax finally determined shall be subject to a forfeiture established herein as follows:

[1]

A forfeiture of 25% or \$5,000, whichever is less, of the tax imposed and is due and owing within 30 days after the due date of said return.

[2]

If a person fails to file a return when due or files a false or fraudulent return with the intent in either case to defeat or evade a tax imposed by this section, a forfeiture of 50% of the entire tax finally determined shall be added to the tax required to be paid exclusive of interest and other penalties.

D.

Security required. In order to protect the revenue of the Village, the Village ~~Clerk~~-Treasurer may require any person liable for the tax imposed by this chapter to place with her before or after a permit is issued such security not in excess of \$100 as the Village ~~Clerk~~-Treasurer shall determine. If any taxpayer fails or refuses to place security, the Village ~~Clerk~~-Treasurer may revoke or refuse to issue

such permit. If any taxpayer is delinquent in the payment of the taxes imposed by this section, the Village ~~Clerk~~-Treasurer may, upon 10 days' notice, recover the taxes, interest and penalties from the security placed with the said Village ~~Clerk~~-Treasurer by such taxpayer. No interest shall be paid or allowed by the Village to any persons for the deposit of such security.

E.

Records to be maintained. Every person liable for the tax imposed by this section shall keep or cause to be kept such records, receipts, invoices and other pertinent papers in such form as the Village ~~Clerk~~-Treasurer and this chapter shall require. Such records shall be retained and made available for a period of five years from the date of a filing period.

F.

Confidentiality maintained.

(1)

All tax returns, schedules, exhibits, writings or audit reports relating to such returns on file with the Village ~~Clerk~~-Treasurer are deemed to be confidential, except the Village ~~Clerk~~-Treasurer may divulge their contents to the following and no others:

(a)

The person who filed the return.

(b)

Officers, agents or employees of the Federal Internal Revenue Service or the State Department of Revenue.

(c)

Officers, employees or agents of the Village Auditors.

(d)

Such other public officers of the Village of Cottage Grove when deemed necessary.

(2)

No person having an administrative duty under this section shall make known in any manner the business affairs, operations or information obtained by an investigation of records of any person on whom a tax is imposed by this section or the amount or source of income, profits, losses, expenditures or any particulars thereof, set forth or disclosed in any return, or to permit any return or copy thereof to be seen or examined by any person, except as provided above.

G.

Violations and penalties. Any person who is subject to the tax imposed by this chapter who fails or refuses to permit the inspection of records by the Village ~~Clerk~~-Treasurer after such inspection has been duly requested by such Village ~~Clerk~~-Treasurer, or who fails to file a return as provided in this chapter, or who violates any other provision of this chapter, shall be subject to:

(1)

A forfeiture, not to exceed 5% of the room tax, may be imposed for a failure to comply with a request to inspect and audit required financial records.

(2)

Require the amount of taxes due to be paid plus interest at the rate of 1% per month on the unpaid balance. No refund or modification of the payment may be granted until the person files a correct room tax return, and permits the municipality to inspect and audit the financial records.

(3)

Forfeiture, not to exceed 25% of the room tax due for the previous year or \$3,000, whichever is less, of the tax imposed, in the event the room tax is not paid.

(4)

Each day, or portion thereof, that such violation continues is hereby deemed to constitute a separate offense.