

## **Chapter 3.24**

### **PUBLIC ACCOMMODATION TAX**

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#### **3.24.010 Definitions.**

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

“Guest” means an individual, corporation, partnership or association paying or agreeing to pay monetary consideration for the use of a public accommodation.

“Operator” means a person who furnishes, or offers for rent a public accommodation in the city for monetary consideration, whether acting directly or through an agent or employee.

“Person” means an individual and entities recognized by law.

“Public accommodation” means a structure, facility or portion of a structure or facility which is occupied, or intended and designed for occupancy by guests for dwelling, lodging, or sleeping purposes and includes any construction camp, hotel, motel, apartments within a hotel/motel unless the apartments are under lease to the same person/company for a minimum period of six months, inn, boarding house, bed and breakfast home, vessel or similar structure or facility.

“Quarter” means computed by use of the calendar year beginning with January and consisting of a three-month period.

“Rents” means the amount paid as monetary consideration for the use of a public accommodation by a guest. (Ord. 94-06 § 1; Ord. 94-02 § 1 (part); prior code § 25-126)

### **3.24.020 Levied—Responsibility for payment—Collection.**

A. The city levies a tax on public accommodation rentals within the city equal to six percent of the rental. The tax shall be applicable to all rentals, unless the rental is specifically exempt from taxation, as follows:

1. Rent paid directly by the United States or state of Alaska insofar as they are immune from taxation;
2. An employee of the public accommodation collecting the tax.

B. Each guest is responsible for the tax imposed by this chapter, and the tax shall be due and payable at the time the rent is paid. If the rent is paid in installments, a proportionate share of the tax shall be paid with each installment. The unpaid tax shall be due when the guest ceases to occupy or use space in the public accommodation.

C. Every operator renting a public accommodation subject to taxation under this chapter shall collect the taxes imposed by this chapter from the guest at the time of collection of the rental and shall transmit the same quarterly to the city. The tax imposed shall be shown on the billing to the guest as a separate and distinct item. (Ord. 94-02 § 1 (part); prior code § 25-127)

### **3.24.030 Certificate of registration.**

A. Operators shall apply to the city for a certificate of registration not later than ten days from the effective date of the ordinance codified in this chapter, the date of commencement of business or the opening of additional places of business. Upon receipt of a properly executed application, and approval of a city business registration, the city may issue a certificate of registration to the operator, authorizing the operator to collect the tax at the business address stated on the certificate.

B. The certificate must be displayed prominently at the registered place of business.

C. The certificate of registration is nonassignable and nontransferable and must be surrendered to the city by the operator to whom it was issued upon the operator's cessation of the business at the location stated in the certificate. If the business is continued at the same location but the form of business organization is changed, the operator shall surrender the old certificate to the city for cancellation. The new operator shall file a new application for the certificate of registration and, upon receipt of a properly executed application, and approval of a city business registration, a new certificate will be issued. If there

is a change of address for the operator's place of business, a new certificate of registration is required showing the new location or address. (Ord. 94-02 § 1 (part): prior code § 28-128)

#### **3.24.040 Receipts—Segregation.**

Title to the taxes collected pursuant to this chapter shall vest to the city upon collection. Such taxes shall be segregated by the operator from the funds of the operator public accommodation and safeguarded until transmitted to the city as hereinafter provided. (Ord. 94-02 § 1 (part): prior code § 25-129)

#### **3.24.050 Receipts—Transmittal—Due date—Penalty.**

A. On or before the last day of the month following each calendar quarter, each operator shall prepare and submit to the city a return for the preceding quarter upon forms furnished by the city setting forth the amount received for:

1. Rentals within the city;
2. Taxes collected.

In addition, the operator shall submit such other information and supporting papers as may be required by the city.

B. The operator shall sign the return and transmit it together with the taxes collected to the city on or before the due date. A return shall be filed even if the public accommodation has no rental for the quarter.

C. Taxes collected by an operator as provided by this chapter shall be due the last day of the month following each calendar quarter. If taxes collected by an operator have not been received by the city on or before the due date, the operator shall incur a penalty equal to ten and one-half percent of the taxes which are due or a minimum of one hundred dollars and shall be charged interest at the rate of ten and one-half percent per annum for each day the tax is delinquent. A one-time-only waiver of penalty will be given for any late filed tax return after April 30, 1994.

D. Where the city has reasonable grounds to believe that taxes due were not collected or taxes collected were not transmitted on or before the due date, or if the operator of a public accommodation has failed to file a return as required by this chapter, the city shall prepare a notice of delinquency and shall deliver such notice to the operator. Payment of delinquent tax under a notice of delinquency shall include penalty and interest which shall be calculated as provided above. (Ord. 94-02 § 1 (part): prior code § 25-130)

#### **3.24.060 Returns to be confidential.**

All returns filed with the city pursuant to the provisions of this chapter and all data obtained from such returns are confidential and may not be released for inspection by the public, except upon court order. (Ord. 94-02 § 1 (part): prior code § 25-131)

#### **3.24.070 Records—Maintenance and inspection.**

Every operator of a public accommodation engaged in business within the city shall keep and preserve suitable records of all rentals made and such other books and accounts as may be necessary to determine the amount of tax required to be collected. All books, invoices and other necessary records shall be maintained by the operator for a period of two years and shall be available for examination at reasonable times by the city for the purpose of ascertaining the correctness of a return or for the purpose of determining the amount of tax collected or levied. (Ord. 94-02 § 1 (part): prior code § 25-132)

#### **3.24.080 Records—Investigation by city.**

The city may conduct investigations and hearings concerning any matters covered by this chapter, may examine relevant books, papers, records or memoranda of any operator and may require the attendance of the operator, his officers or employees. The city shall have the power to administer oaths to persons testifying, and may issue formal subpoenas to compel attendance or to require production of relevant books, papers, records or memoranda. All subpoenas issued under the terms of this chapter may be served on any person of legal age. The fees paid to witnesses for attendance at the hearings shall be the same as the fees paid to witnesses before the Superior Court, and such fees shall be paid when the witness is excused from further attendance. When a witness is subpoenaed at the insistence of any party to the proceeding, the cost of service of the subpoena and the fee of the witness shall be borne by the party at whose request the witness is summoned. A subpoena shall be served in the same manner as a subpoena issued by a Superior Court. The city or any party to an investigation or hearing before the city may cause the deposition of witnesses residing within or without the state to be taken in a manner prescribed by law for depositions in civil actions in the courts of this state and to that end may compel the attendance of witnesses and production of relevant books, papers, records or memoranda. (Ord. 94-02 § 1 (part): prior code § 25-133)

#### **3.24.090 Suits for collection.**

Taxes due but not paid or taxes collected but not transmitted may be recovered in an action at law against the guest or the public accommodation operator. Tax returns shall be prima facie proof of taxes collected but not transmitted. (Ord. 94-02 § 1 (part): prior code § 25-134)

#### **3.24.100 Prohibited acts.**

A. No person may fail or refuse to pay the tax imposed by this chapter when it is due and payable to an operator authorized to collect the tax.

B. An operator may not advertise or state to the public or to any guest directly or indirectly that the tax or any part of it will be assumed or absorbed by the operator, or that the tax will not be added to the rental or that it will be refunded. An operator may not absorb or fail to add the tax or any part of it or refund any tax or fail to state the tax separately to the guest. (Ord. 94-02 § 1 (part): prior code § 25-135)

#### **3.24.110 Civil penalties for violations.**

An operator who rents accommodations in the city and who thereafter fails to file a tax return as required by this chapter shall incur civil penalty equal to ten percent of the taxes due to the city for each quarter for which a return was not filed as required by this chapter. An operator who, in the course of business, rents accommodations upon which a tax is levied hereunder and who fails to collect such a tax shall incur a civil penalty of double the tax which should have been collected. In addition, a violator of this chapter is subject to criminal penalties as set forth in Section 1.08.010 of this code. (Ord. 94-02 § 1 (part): prior code § 25-136)

#### **3.24.120 Distribution of funds.**

A. Funds received under this chapter including penalties and interest for each calendar year may be available for use as follows:

1. Up to one hundred percent of the gross funds may be made available for distribution. The cost of administration and collection of the public accommodation tax shall come from the gross funds prior to distribution.
2. Funds available for distribution shall be those public accommodation tax funds received by the city during the prior fiscal year from April 1st through December 31st and the current fiscal year from January 1st through March 31st.
3. All public accommodation tax funds received under this chapter will be placed in an economic development fund and will be distributed at the discretion of the city council.
4. Each applicant for funds shall submit a program description including, but not limited to, the following:
  - a. Program objectives;
  - b. Economic development benefit or opportunities;
  - c. Annual operating budget; and
  - d. Financial statement including revenues, expenditures and reserve account balances.

The submission date will be determined on an annual basis by the city manager. (Ord. 04-10: Ord. 02-07 § 1; Ord. 99-13 § 1: Ord. 94-02 § 1 (part): prior code § 25-137)