



LUCAS COUNTY HOTEL/MOTEL TAX

CODE OF REGULATIONS

Amended May 1, 2016

Section 1: TITLE

These Regulations shall be known and shall be cited and referred to as the "Lucas County Hotel/Motel Tax Code of Regulations". These regulations are authorized by Section 5739 of the Ohio Revised Code.

Section 2: DEFINITIONS

When used in these Lucas County Hotel/Motel Tax Code of Regulations and unless otherwise distinctly expressed, the following words and phrases shall have the meaning set out herein:

(A) "Administrator" means the County Administrator and any assistants designated to assist in administering and enforcing the collection of the hotel lodging tax herein levied and imposed.

(B) "Consumer" means the person, whether or not a guest, who pays or is obligated to pay the rent for the lodging of transient guest(s) in a hotel.

(C) "County" means the Board of Lucas County Commissioners.

(D) "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 the rooms are in one or several structures, except as otherwise provided in division (G) of section 5739.09 of the Revised Code.

(E) "Lodging" means one (1) or two (2) or more connecting rooms in which sleeping accommodations are provided for a transient guest(s).

(F) "Person" means an individual, firm, partnership, joint venture, association, social club, joint-stock company, corporation, estate, trust, business trust, receiver, trustees in bankruptcy, syndicate, the state and its political subdivisions, or any other group or combination acting as a unit.

(G) "Premises" means a parcel or contiguous parcels of real property upon which a hotel is operated.

(H) "Rent" means the aggregate value in money or anything paid or delivered, or promised to be paid or delivered for hotel lodging, without any deduction for the cost of labor, service, property used, interest discount paid or allowed after the price is paid or agreed to be paid, or any other expense. "Rent" does not include: (1) Amounts refunded for lodging not used when the full rent and tax are refunded by cash or credit; nor (2) cash discounts allowed at the time the lodging is furnished or contracted to be furnished.

(I) "Tax" means, unless otherwise specified, the tax levied and imposed hereby.

(J) "Transient guest(s)" means person(s) occupying a room or rooms for sleeping accommodations for less than thirty (30) consecutive days.

(K) "Non Transient guest(s)" means person(s) occupying, or having the unqualified right to occupy, a room or rooms for sleeping accommodations for thirty (30)

or more consecutive days.

(L) "Vendor" means a person who is required to have an Ohio Retail Sales Tax Vendor License and to operate a business pursuant to O.R.C. Section 5739.17, and who operates a hotel which furnishes lodging to guests and includes the agents and employees of such person who performs the functions of the vendor on his behalf. "Vendor" also includes the owner, lessee, mortgagor in possession of the real estate upon whose premises the vendor operates or has operated a hotel when the vendor is, or becomes a non-resident of Ohio or conceals his whereabouts or his property.

(M) "Trustee" means a person or vendor who collects the tax imposed hereby from the consumer for the benefit of the County.

(N) "Trust Money" means the tax imposed hereby and collected from the consumer by the trustee for the benefit of the County.

Section 3: LEVY OF TAX; WHEN COLLECTABLE; PRESUMPTION

(A) An excise tax is hereby levied and imposed upon each transaction in Lucas County by which lodging is or is to be furnished by a vendor to a transient guest or guests, at the rate of seven (7%) percent of the rent for each such transaction, on and after March 1, 2007.

(B) Effective for lodging provided on or after September 30, 1985, an additional excise tax is hereby levied by Lucas County and imposed upon each transaction in Lucas County in any and all jurisdictions within Lucas County where no other excise tax on lodging transactions is currently imposed (other than those imposed by Lucas County).

The additional tax shall apply to each such transaction by which lodging is or is to be furnished by a vendor to transient guest or guests, at the rate of three (3%) percent of the rent for each such transaction.

(C) The tax applies and is collectable when the lodging is furnished, regardless of the time when the rent is paid or delivered.

(D) For the purpose of the proper administration, and to prevent evasion of the tax, it is presumed that all hotel rooms in Lucas County are subject to the tax until the contrary is established. It is incumbent, therefore, upon the Vendor, to prove any exemption or exception to the tax, in a manner satisfactory to the County.

(E) The tax is not a part of the rent and shall be separately stated as such on every rent invoice, bill, statement, or other written charge.

(F) The total excise tax on lodging transactions is ten (10%) percent where allowed.

Section 4: LIABILITIES OF VENDOR AND CONSUMER

(A) The tax is imposed upon and shall be paid by the consumer to the vendor as trustee solely for the benefit of the County, and each vendor as such trustee shall collect from the consumer the full and exact amount of the tax payable on each taxable transaction in the manner and at the time provided as follows:

(1) If the rent is, at or prior to the transaction, paid in cash, check, draft or money order by the consumer to the vendor, the vendor shall collect tax with and at the time the rent is collected.

(2) If the rent is otherwise paid or to be paid, the vendor shall, at or prior to the furnishing of lodgings, charge the tax to the account of the consumer, which shall be collected by the vendor from the consumer in addition to the rent.

(B) Each such transaction shall be reported on, and the amount of the tax applicable thereto shall be remitted with, the return for the period in which the transaction occurs and the amount of the tax shall become a legal charge in favor of the vendor and against the consumer.

(C) To the extent the vendor fails to collect the tax from the consumer upon each taxable transaction, or having collected the tax, fails to return and remit the same when due, the tax is hereby imposed and levied upon the vendor. This paragraph does not affect any duty of a vendor nor the liability of any consumer to pay the tax, both as imposed upon each hereunder; but any payment of tax by the vendor or the consumer reduces the liability of the other to the County to the extent of the payment.

Section 5: RETURNS; WHEN DUE; REMISSION OF PENALTIES;

PROCEDURE THEREON; FAILURE TO FILE; FORM

(A) Each vendor shall, on or before the twentieth (20) day of each month, unless the County instructs otherwise in writing, make and file a full and complete tax return and remit the amount of the tax due with the office for the preceding calendar month as required on the form prescribed, showing all the information required thereon, including the amount of tax due from the vendor to the County.

(B) In the event a vendor fails to remit either the return or the payment

postmarked (not metered) on or before the 20th day of each month, the County reserves the right, with prior written notice, to require the vendor to make and file a full and complete tax return and remit the tax due within time frames of less than 30 days, including but not limited to daily, weekly or monthly remittance of the return and taxes owed.

(C) Upon application of the vendor, in writing and for good cause shown, the County may extend the time for making and filing returns and may remit any part of the penalties which may be due hereunder.

(D) Such return shall be submitted to and received by the Board of Lucas County Commissioners Office, One Government Center, Suite 800, Toledo, Ohio 43604-2259 together with the payment, made payable to **Treasurer of Lucas County**, of the amount of tax shown to be due thereon plus penalty and interest, if any. The return together with payment of the amount of tax due shall be received by the Board of Lucas County Commissioner's Office on or before the twentieth (20) day of each calendar month.

(E) Upon receiving the same, the recipient at the County Commissioner's Office shall promptly stamp or otherwise mark the date received and the amount of payment received and shall promptly transmit one copy so stamped or marked and the payment received to the Auditor, who shall then forward said payment to the County Treasurer.

(F) The form of the return shall be prescribed by the Administrator.

Section 6: ASSESSMENTS; LIABILITIES OF VENDOR AND CONSUMER

(A) If any vendor collects the tax and fails to remit the same to the County as provided herein, the vendor shall be personally liable for any amount collected which they failed to remit; or if any vendor fails to collect the tax or any consumer fails to pay the tax on any transaction subject thereto, such vendor or consumer shall be personally liable for the same, and the Administrator may make an assessment against the vendor or consumer, as the facts may require, based upon any information in the Administrator's possession.

(B) An assessment against a vendor shall not discharge the consumer's liability to reimburse the vendor for the tax if the latter has not paid the tax.

(C) An assessment issued against either the vendor or the consumer 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 person for the tax due on a particular transaction if the tax has been paid by another.

Section 7: MAINTENANCE AND INSPECTION OF RECORDS;

ASSESSMENTS; PENALTIES

(A) The burden of proof rests upon each vendor to show what part, if any, of his gross receipts from hotel room rents are not taxable, and for such purpose each vendor shall maintain and keep complete and accurate records of rents, together with a record of the tax collected thereon, which shall include:

- (1) Primary records such as all guest or rent registers, rent invoices,

statements or bills, rent payments and/or refunds, room rate sheets or cards of prices per day of each room as required by O.R.C. 3731.16, receipts of taxes collected, copies of the appropriate schedule of Federal Income tax returns, Ohio sales tax returns and tax returns to local subdivisions having a hotel lodging excise tax identical or substantially similar to the tax imposed hereby, as filed by the vendor.

(2) Secondary records such as bank deposit receipts and day books, journals, or any other records in which accumulated data by the vendor, which must be supported by complete detailed records from which such data is accumulated.

(B) Guest or rent invoices, statements or bills and cash register tapes for taxable rents must have the total taxable rent and the tax charged and /or collected separately stated thereon, which amounts are to be accumulated and recorded in a secondary record.

(C) Rent invoices, statements or bills must also clearly show the length of stay, in terms of consecutive days, for each guest.

(D) All such records must be preserved for a period of four (4) years unless the Administrator consents, in writing, to their destruction within that period, or by order requires that they be kept for a longer period; provided, however, that any such records need no longer be preserved after an assessment for additional tax has been made and paid, with all penalties and interest thereon, for the period involved in such assessment.

(E) All such records and documents shall be open during regular business hours in Lucas County, Ohio subject to inspection by the Administrator who shall review, investigate, examine and audit any of such records of any vendor from time to time to determine if the proper tax has been returned and remitted. In connection with such

investigation, the Administrator may interview the vendor, his agents and employees and take written statements there from under oath pursuant to the power conferred upon the County Administrator by O.R.C. Section 305.21. If the Administrator's investigation of such complete records reveals that any tax or additional tax should properly have been returned and remitted by the vendor, the Administrator shall make an assessment of such tax or additional tax in the manner provided in paragraph (G) hereof, below, provided that if the Administrator is satisfied that the failure to return said tax or additional tax when due was caused by unintentional or immaterial error, mistake, or omission, he shall not impose the penalty.

(F) If any vendor fails to maintain complete primary sales records, accurately reflecting the total rents subject to the tax and of the tax due thereon, or which may be utilized in verifying the accuracy of the figures reflected in his secondary records and/or reported on his tax returns filed hereunder, the Administrator will use one of the following methods for such verification:

(1) Determine the total amount of all rents, less rental refunds when the full tax has also been refunded either in cash or by credit, as the facts may require, based upon any information in his possession.

(2) Determine taxable and non-taxable rents, or the ratio of taxable rents, or both, as the facts may require, based upon any information in his possession.

The above described determinations may be based upon a sampling or test checks of that vendor's business activity for a representative period, or other information relating to the rental of rooms made by such vendor. The Administrator may make the

same determination where the facts in his possession reasonably lead him to believe that the amount of tax required to be collected is or should be greater than the amount remitted by the vendor.

(G) If any vendor:

- (1) Fails to maintain complete records, as required hereby; or
- (2) Fails or refuses to permit the Administrator to inspect any records; or
- (3) Refuses to permit the Administrator to sample or test check his

business activity; or

(4) Having filed a return or returns, misrepresents or fails to disclose, any material fact or figure thereon; or

(5) Having collected the tax, fails to remit the same when due; or

(6) Fails to remit the correct amount of tax or interest thereon when due;

or

(7) Fails to file a full and complete return when due: the Administrator shall determine the proper amount of tax by any of the means set forth herein above; the tax as so determined will be deemed to be the tax collected by such vendor during the entire period of time under review; and the Administrator shall make an assessment of such amount of tax based upon such determination, less the tax paid during such period, if any.

(H) If any vendor required to file a return fails to make and file the full and complete return within the time prescribed, a penalty of **Two Hundred and Fifty (\$250.00)** shall be imposed.

(I) If any vendor fails to pay any amount of the tax required to be paid hereunder, by the dates prescribed for payment, the vendor shall pay: (a) an amount of interest at the rate of one (1%) percent per month, or any portion thereof, computed from the time the amount of tax should have been paid; plus (b) a penalty of ten (10%) percent per month or any portion thereof, not to exceed fifty (50%) percent of the sum of the principal amount of tax due and required to be shown on the return, computed from the time the amount of tax should have been paid.

(J) No assessment, however, shall be made or issued against a vendor or consumer for any tax more than four (4) years after the return day for the period in which the taxable transaction giving rise to the assessment of the tax occurred, or after the return for said period was filed, whichever is later.

(K) All returns, documents and payment submitted by each vendor, all records and other documents examined and all information or knowledge of any vendor's business obtained by the Administrator and the Board, shall, to the extent permitted by law, be treated as confidential by the Administrator and the Board and shall not, unless otherwise required by law, be released by them except upon order of a court of competent jurisdiction or to a duly authorized officer or agent of the Federal Government, the State of Ohio or any municipal corporation or township in Lucas County which levies a tax pursuant to O.R.C. Section 5739.09(B).

Section 8: PROCEDURE FOLLOWING ASSESSMENT; APPEALS

(A) Each assessment shall be in writing stating clearly the reasons and basis

therefore, upon forms adopted by the Administrator.

(B) In each case of an assessment, the Administrator shall give to the assessee written notice thereof to be served personally or by certified mail return receipt requested, along with a copy of the written assessment.

(C) Unless the assessee, within thirty (30) days after service thereof, files with the Administrator, a petition for reassessment by assessee or his duly authorized agent having knowledge of the facts, and setting forth with particularity the items of dispute, said assessment shall become final and the amount thereof shall be deemed a debt due and payable to the County, whereupon the Administrator shall cause to be filed a civil action in the name of the County for judgment in the amount of the assessment, including penalties and interest added thereto under the provisions hereof.

(D) When a petition for reassessment is timely filed, the County shall assign a time and place for hearing the same and shall notify the petitioner thereof by certified mail. Notice of the decision of the County upon the petition after hearing shall be served upon the petitioner by certified mail and deposited in the United States mail on the date of the entry of the decision in its journal.

(E) If aggrieved by the decision of the County, the petitioner may appeal to the Court of Common Pleas pursuant to O.R.C. Section 307.56.

(F) When the merits of the assessment or any part thereof are finally adjudicated, the Administrator shall proceed to collect the same as in paragraph (C) hereof upon the failure of a petitioner for reassessment.

(G) All monies collected upon assessment, including penalties and interest

thereon shall, when received by the County, be considered as revenue arising from the tax.

Section 9: LIABILITY OF OFFICERS AND AGENTS

If any entity, other than an individual, required to file returns and to remit the tax, fails for any reason to make such filing or payment, its officers, partners, or managing agents, or employees having control or supervision of, or charged with the responsibility of, filing returns and making payments of tax, shall be personally liable for such failure. The dissolution of such entity shall not discharge its liability for a failure to file returns or remit tax due prior to such dissolution. Such liability may be collected by assessment in the manner provided in these Regulations.

Section 10: SALE OF ENTIRE BUSINESS; SUCCESSOR LIABLE FOR TAXES AND PENALTIES DUE

If a vendor liable for the tax sells his business or quits his business, the taxes, interest and penalties imposed hereby on taxable rents made prior to that time shall become due and payable immediately, and such person shall make a final return within fifteen (15) days after the date of selling or quitting business. His successor shall withhold a sufficient amount of the purchase money to cover the amount of such taxes, interest, and penalties due and unpaid until the former owner produces a receipt from the Administrator showing that the taxes, interest, and penalties have been paid, or a certificate indicating that no taxes are due. If the purchaser of the business fails to

withhold purchase money, he shall be personally liable for the payment of the taxes, interest, and penalties accrued and unpaid during the operation of the business by the former owner.

Section 11: REFUND OF TAXES ILLEGALLY OR ERRONEOUSLY PAID

A written claim for refund of taxes illegally or erroneously paid may be filed in writing with the Administrator by a vendor not later than four (4) years from the date of such payment.

Such claim must show that the tax was remitted to the County and that if it was collected from a consumer, the claimant has either reimbursed himself from the consumer or will hold such refund in trust for the benefit of the consumer.

The Administrator shall promptly determine the amount of the refund due and whether an unpaid liability for tax against the claimant for the payment of tax currently exists, in which case, such refund, if allowed, plus interest, or to the extent allowed, shall be applied against such current liability to the full extent of the latter. The Administrator shall certify the excess amount of refund allowed or the full amount, as the case may be, to the office. The County Treasurer shall pay such amount from any monies to the credit of the appropriate hotel lodging excise tax account from the County Undivided General Tax Fund.

If, however, the Administrator's decision on a claim for refund is to award less than the full amount claimed, his decision shall be treated in the same manner as an assessment under Section 8 hereof and the aggrieved claimant and the County shall have

all the rights, remedies, and duties as set forth in said Section 8 as upon an assessment; but the Administrator shall withhold his certification until the merits of the claim have been fully adjudicated.

Section 12: EXAMPLES

The following examples are published to illustrate, for the benefit of the public, the application of the tax in the specific situations:

(A) If a person engages or reserves, and pays for, hotel room(s) for thirty (30) consecutive days or more for specified guest(s), the tax does not apply even if such guest(s) may, in fact, occupy the room(s) for less than thirty (30) consecutive days, because such guest(s) have the right to occupy said room(s) for the longer period.

(B) If in example A the room(s) is vacated in less than thirty (30) days, the tax applies.

(C) If a person engages or reserves a hotel room, or rooms, for less than thirty (30) days for specified guest(s) and during or at the end of the engagement or reservation period the person extends the engagement or reservation period of room(s), whether the same or different room(s), for thirty (30) days or more, without interruption of occupancy or the right to occupancy, the tax does not apply.

(D) If a person engages or reserves a hotel room, or rooms, for more than thirty (30) consecutive days for guest(s) who nevertheless, may not, in fact, have the right to occupy the room(s) for thirty (30) or more consecutive days, the tax applies.

(E) If a guest occupies one room for less than thirty (30) days both for lodging

and business purposes, the tax applies.

(F) If in example E, such guest occupies a suite of, or two (2) or more connecting rooms, the tax applies to the suite or all of the connecting rooms unless each connecting room, or separate room comprising the suite, is regularly assigned a rate for lodging and rented for separate lodging, in which case the tax applies only to the rent for the rooms so occupied for lodging, not to those occupied for other purposes.

(G) If lodging is provided without any compensation therefore and for whatever reason and without any compensating charge whatsoever in the regular rates of all other lodgings in the hotel, the tax does not apply to such complimentary lodging.

(H) Vouchers contained in voucher books, thrift books and coupon books, which entitle the purchaser of the books to trade at different retail establishments shall be treated as money when applied to pay for lodging and the tax shall attach to all rents paid by the use of such vouchers, using as a tax basis the money value of the coupon or voucher.

(I) If lodgings are rented one (1) or more times in any twenty-four hour period to different guest(s) or consumer(s), the tax applies to each rental.

(J) Transactions by which lodging is furnished to, and paid for by, the federal government or a governmental entity outside the State of Ohio are not subject to taxation.

(K) Transactions by which lodging is furnished to, and paid for by, a representative or employee of the federal government or a governmental entity outside the State of Ohio are subject to taxation, even if the representative or employee is reimbursed by the governmental entity for the cost of the lodging.

(L) Transactions by which lodging is furnished to, and paid for by, an educational

institution, a religious or charitable organization or a representative or employee thereof is subject to taxation.

Section 13: CERTIFICATE OF EXEMPTION

For each qualified exempted guest, the Hotel/Motel must fully complete, sign and submit a Lucas County Exemption Certificate. If exemptions are not claimed on the proper forms, those exemptions will not be considered. A copy of the Exemption Certificate and supporting documentation must accompany all filings where an exemption is listed.

Section 14: CERTIFICATE OF TRANSIENT OCCUPANCY REGISTRATION

Each Hotel and/or Motel shall make application to the County for a certificate of transient occupancy registration. Upon issuance of the Lucas County Certificate of Transient Occupancy Registration, the Hotel/Motel shall cause said certificate to be prominently displayed. The Certificate does not constitute a permit, and is not transferable. It is incumbent upon the vendor to reapply any time any of the following information changes:

1. Name of the Operator
2. Address of the Operator
3. Name of the Hotel or Motel
4. Address of the Hotel or Motel
5. Total Number of Rental Rooms

6. Total Number of Rooms Available to Transients

Section 15: BOARD OF LUCAS COUNTY COMMISSIONERS

DETERMINATION OF AMOUNT OF RETURN REVENUE

The Board of Lucas County Commissioners, being duly advised, exercises its option under Section 5739.09 (A) Ohio Revised Code to determine the amount, "after deducting the real and actual costs of administering the tax", which it wishes to allocate or return to each municipal corporation or township that does not levy an excise tax on such. Until further action, the Board of Lucas County Commissioners deems that there exists a great need to have the maximum amount of revenue arising from the tax deposited in a separate fund of the County, and be spent to make contributions to the Convention and Visitors Bureau, operating within Lucas County. The Board of Lucas County Commissioners has uniformly determined a one tenth of one percent (.001) return, on such revenue from hotels and motels within a municipal corporation or township that does not levy an excise tax on transactions as described in Section 5739.09 (A). Lucas County will make payment to such municipal corporations or townships on or before February 25 of each year, commencing in 1986 for said return owed for the previous year.