

COUNTY OF DELAWARE PENNSYLVANIA

ORDINANCE No. 2023-9

AN ORDINANCE OF THE COUNTY OF DELAWARE, COMMONWEALTH OF PENNSYLVANIA AMENDING AND RESTATING ARTICLE II OF CHAPTER 202 OF THE COUNTY CODE RELATING TO THE HOTEL TAX.

WHEREAS, pursuant to § 1-10 of the Code (the "Code") of the County of Delaware, Commonwealth of Pennsylvania (the "County"), the Code may be amended by ordinances of the County Council when passed and adopted in such form as to indicate the intention of the County Council to be a part of the Code; and

WHEREAS, pursuant to 16 P.S. § 1770.12, the County is permitted to collect a tax (the "hotel tax") on the consideration received by each operator of a hotel within the County of Delaware from each transaction of renting a room or rooms to accommodate transients; and

WHEREAS, County Council desires to make certain changes to the provisions regarding the hotel tax in order to reflect current law and to enhance collection of the hotel tax;

IT IS HEREBY ENACTED AND ORDAINED BY County Council of Delaware County, Commonwealth of Pennsylvania as follows:

SECTION 1. The Code shall be amended to replace Article II of Chapter 202 of the Code in its entirety to read as set forth in Exhibit A attached hereto.

SECTION 2. This Ordinance shall take effect on the tenth day after its adoption.

ENACTED AND ORDAINED by County Council of the County of Delaware, Pennsylvania, this day of 2023.

COUNTY OF DELAWARE

Dr. Monica Taylor, Chair

Elaine Paul Schaefer, Vice Chair

Kevin M. Madden

Christine A. Reuther

Richard R. Womack, Jr.

Attested:

Anne M. Coogan
County Clerk

Exhibit A

Article II
Hotel Tax

§ 202-5 Definitions.

(a) Terms defined in 16 P.S. § 1770.12(h) shall have the meanings set forth therein, as such statute may be amended from time to time.

(b) The following definitions shall apply to this article:

(1) ACCOMMODATION FEE shall mean the amount by which rent exceeds the discount room charge, if any.

(2) BOOKING AGENT shall mean a person or entity which facilitates or collects payment for hotel accommodations on behalf of or for an operator. The term “booking agent” shall not include a person who merely publishes advertisements for accommodations.

(3) DISCOUNT ROOM CHARGE shall mean the amount charged by an operator to a booking agent in connection with the sale of an accommodation by the booking agent.

(4) The term OPERATOR as defined in 16 P.S. § 1770.12(h) shall specifically include any booking agent.

§ 202-6 Imposition; rate; purpose.

- A. There is hereby imposed an excise tax of three percent (3%) on the consideration received by each operator of a hotel within the County of Delaware from each transaction of renting a room or rooms to accommodate transients.
- B. The County Treasurer shall collect the tax from the operator and deposit the revenues received therefrom in a special account established solely for the purpose of travel and tourism promotion and advertising related to such promotion.
- C. If a booking agent, acting for another operator, collects payment for rent, the booking agent is liable for the tax applicable to the amount charged by the operator as well as the tax applicable to any accommodation fee charged to the transient. An operator shall not be liable for any tax owed for an accommodation fee received by a booking agent.
- D. The County Treasurer is authorized to establish rules and regulations concerning the collection of this tax.
- E. Expenditures from the account established pursuant to this article shall be annually appropriated by County Council for tourist promotion activities to be executed by the recognized tourist promotion agency as described in 16 P.S. § 1770.12(e)(1), as such statute may be amended from time to time.
- F. The County may deduct and retain an administrative fee from the taxes collected under this section as and to the extent permitted by 16 P.S. § 1770.12(e)(2), as such statute may be amended from time to time.

§ 202-7 Reports; returns; payment; collection.

- A. The operator shall collect the tax imposed by this article from the patron of the room and pay it over to the County as provided hereinafter. The operator shall be liable to the County as agent thereof for the payment of the tax to the County Treasurer as provided in this article.
- B. Every report and return shall be made upon a form furnished by the County Treasurer.
- C. Every operator shall transmit to the County Treasurer, on or before the 10th day of each month, a return for the preceding month, which shall contain the amount of consideration received for the transactions during the month for which the return is made, the amount of tax collected by the operator during that month, and such other information as the County Treasurer may require.
- D. Every operator, at the time of filing every return required by this article, shall compute and pay to the County Treasurer the taxes collected by him and due to the County during the period for which the report is made. The County Treasurer shall impose a penalty upon an operator for failure to timely collect and remit the tax as set forth in 16 P.S. § 1770.12(e)(4), and shall have the power to impose a lien for collection of unpaid taxes as set forth in 16 P.S. § 1770.12(e)(4).
- E. Every operator shall maintain records, which shall be made available to the County Treasurer upon request, which shall include, but not be limited to, the number of transactions in each hotel reflected on an hourly, daily, or weekly basis, the rate(s) charged for each occupancy, the consideration received from all transactions during the month for which each return is made, as well as such other information as the County Treasurer may require.
- F. First return.
 - (1) The first return shall be due on June 10, 1986, for the month of May 1986, and the tax due shall be based upon transactions occurring during the month of May.
 - (2) If an operator enters the business of the renting of hotel rooms subsequent to May 3, 1986, the first return shall be filed on the 10th day of the first month subsequent thereto. The first return and tax payment due shall be for all transactions occurring during the preceding month based upon the actual taxable transactions during that month.

§ 202-8 Effective date; continuation.

This article became effective May 3, 1986, and the provisions of this article, as amended, shall remain in force until further amended by Delaware County Council.