

# JERUSALEM TOWNSHIP HOTEL-MOTEL TAX

## CODE OF REGULATIONS

### SECTION 1: TITLE

These regulations shall be known and shall be cited and referred to as the, "Jerusalem Township Hotel-Motel tax code of regulations".

### SECTION 2: DEFINITIONS

When used in these Jerusalem Township Hotel-Motel Tax Code of Regulations and unless otherwise distinctly expressed, the following words and phrases shall have the meaning set out herein;

- A) TRUSTEE, means any Jerusalem Township Trustee or any assistants designated to assist in administrating 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 or motel.
- C) TRUSTEE, Means the Board of Township Trustees.
- D) HOTEL or MOTEL, mean every establishment kept, used, maintained, advertised or held out to the public to be a place where sleeping accommodations are offered for a consideration to a guest, in which rooms are used for accommodations of such guests, whether such rooms are in one or several structures. Consistent with ORC 5739.091 this also includes establishments in which fewer than five (5) rooms are used for the accommodation of guests.
- 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, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, the state and its political subdivisions, or any other group, charter fishing group or combinations acting as a unit.
- G) PREMISES, means a parcel or contiguous parcels or real property upon which a hotel or motel is operated.
- H) RENT, means the aggregate value in money or anything paid or delivered, or promised to be paid or delivered for hotel-motel 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) 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-motel 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-motel, when the vendor is or becomes a non-resident of Ohio conceals his whereabouts or his property.

### Section 3: LEVY OF TAX; WHEN COLLECTABLE; PRESUMPTION

- A) An excise tax is hereby levied and imposed upon each transaction in Jerusalem Township by which lodging is or is to be furnished by a vendor to a transient guest or guests, at the rate of

## JERUSALEM TOWNSHIP HOTEL-MOTEL TAX

- three (3) percent of the rent for each transaction on and after,
- B) The tax applies and is collectible when the lodging is furnished, regardless of the time when the rent is paid, or delivered.
  - C) For the purpose of administration, and to prevent evasion of the tax, it is presumed that all hotel-motel rooms in Jerusalem Township are subject to the tax until 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 Township.
  - D) 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 therefor.
  - E) It is the intent of Lucas County to increase its excise tax on lodging transactions on or after September 30, 1985, to six (6) percent, but not to have the excise tax to transient guests, in any event exceed six (6) percent. Therefor three (3) percent would be payable to each Jerusalem Township and to Lucas County.

### 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 for the benefit of Jerusalem Township and Lucas County, and each vendor as such trustee shall collect from the consumer the full and exact amount of the tax payable on each transaction in the manner and at the times provided as follows:
  - (1) if the price 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 same time as the price.
  - (2) If the price is otherwise paid or to be paid, the vendor shall, at or prior to the furnishing of lodging, charge the tax to the account of the consumer, which shall be collected by the vendor from the consumer in addition to the price.
- 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 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 Township to the extent of the payment.

### Section 5: RETURNS; WHEN DUE; REMISSION OF PENALTIES; PROCEDURE THEREON;

- A) Each vendor shall, on or before thirty (30) days after the last day of each month, unless the Township instructs otherwise in writing, make and file a full and complete tax return 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 Township.
- B) Upon application of the vendor, in writing and for good cause shown, the Township may extend the time for making and filing returns and may remit any part of the penalties which may be due hereunder.

## JERUSALEM TOWNSHIP HOTEL-MOTEL TAX

- C) The form of the return shall be prescribed by the Township.

### Section 6: ASSESSMENTS; LIABILITIES OF VENDOR AND CONSUMER

- A) If the vendor collects the tax and fails to remit the same to the Township as provided herein he shall be personally liable for any amount collected which he 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 Trustee may make an assessment against the vendor in the first case, or the vendor or consumer in the second case, as the facts may require, based upon any information in their 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, PENALTY

- A) The burden of proof rests upon the vendor to show what part, if any, of his gross receipts from hotel-motel 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. Section 3731.16, receipts of taxes collected, copies of the appropriate schedules of Federal Income Tax returns, Ohio Sales tax returns and tax returns to local subdivisions having a hotel-motel 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 Trustees consent, 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, subject to inspection of the Trustee 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, he may interview the vendor, his agents and

## JERUSALEM TOWNSHIP HOTEL-MOTEL TAX

employees and take written statements therefrom under oath pursuant to the power conferred upon the Board of Township Trustees by ORC Section 305.21. If his investigation of such reports and records reveals that any tax or additional tax should properly have been returned and remitted by the vendor, he shall make an assessment of such tax or additional tax in the manner provided in paragraph (G) hereof, provided that if the Trustee 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 the 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 thereunder, the Trustees will use one of the following methods for 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 amount 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 the vendor's business activity for a representative period, or other information relating to the rental of rooms made by such vendor. The Trustees 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 thereby; or
  - 2) Fails or refused to permit the Trustees to inspect any records; or
  - 3) Refuses to permit the Trustees 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 Trustees 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 Trustees shall make an assessment of such amount of tax based upon such determination, less the tax paid during such period, if any, (a) plus interest thereon at the rate of one (1%) percent per month, or any portion thereof, computed from the time the amounts of tax assessed should have been paid; (b) plus a penalty of ten (10%) percent per month or any portion thereof, computed from the time the amounts should have been paid.
- H) No assessment, however, shall be made or issued against any vendor or consumer for any tax more than four years after the return day for the period in which the taxable transaction giving rise to the assessment of the tax procured, or after the return for said period was filed, whichever is later.
- I) All returns, documents and payments submitted by each vendor, all records and other documents examined and all information or knowledge of any vendor's business obtained by the Trustees, shall be treated as confidential by the Trustees and shall not 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 5739.024 (B).

Section 8: PROCEDURE FOLLOWING ASSESSMENT: APPEALS

## JERUSALEM TOWNSHIP HOTEL-MOTEL TAX

- A) Each assessment shall be in writing stating clearly the reasons and basis therefor, upon forms adopted by the Trustees.
- B) In each case of an assessment, the Trustees shall give to the vendor 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 vendor, or his duly authorized agent having knowledge of the facts, and setting forth with particularity the items of dispute within thirty (30) days after service thereof, files with the Trustees a petition for reassessment, said assessment shall become final and the amount thereof shall become a debt due and payable to the Trustees, whereupon the Trustees shall cause to be filed a civil action in the name of the Trustees 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 Trustees shall assign a time and place for hearing the same and shall notify the petitioner by certified mail. Notice of the decision of the Township 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 Township, the petitioner may appeal to the Court of Common Pleas pursuant to ORC Section 307.56.
- F) When the merits of the assessment or any part thereof is finally adjudicated, The Township 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 Township, be considered as revenue arising from the tax.

### SECTION 9: LIABILITY OF OFFICERS AND AGENTS

If any person, 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 this Resolution.

### SECTION 10: SALE OF ENTIRE BUSINESS; SUCCESSOR LIABLE FOR TAXES & PENALTIES DUE

If a vendor liable for the tax sells or quits his business, the taxes, interest and penalties imposed hereon 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 Township 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 to the Township for the payment of 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 Township by a vendor within ninety (90) days from the date claimant ascertains that the

## JERUSALEM TOWNSHIP HOTEL-MOTEL TAX

payment was illegal or erroneous, but not later than four (4) years from the date of such payment. Such claim must show that the tax was remitted to the Township and that 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 Township 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 Township shall certify the excess amount of refund allowed or the full amount, as the case may be, if however the Township'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 Township shall have all the rights, remedies, and duties as set forth in said Section 8 as upon assessment; but the Township 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 specific situations:

- A) If a person engages or reserves, and pays for, hotel-motel 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) are vacated in less than thirty (30) days, the tax applies.
- C) If a person engages or reserves hotel-motel room(s) for less than thirty (30) days for a specified guest(s) and during or at the end of the engagement or reservation period the person extends the engagement or reservation, whether the same or different room(s), for thirty (30) days or more, without interruption of occupancy, the tax does not apply.
- D) If a person engages or reserves hotel-motel room(s) 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 therefor and for whatever reason, and without any compensating charge whatsoever in the regular rates of all other lodgings in the hotel-motel, 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 book 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 voucher, using as a tax basis the money value of the coupon or voucher.

## JERUSALEM TOWNSHIP HOTEL-MOTEL TAX

- 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.

### SECTION 13: CERTIFICATE TRANSIENT OCCUPANCY REGISTRATION

Each Hotel-Motel shall make application to the Township for a certificate of, transient occupancy registration. Upon issuance of the Township Certificate of 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-Motel
4. Address of the Hotel-Motel
5. Total number of Rental Rooms
6. Total Number of Rooms Available for Transients