

**TAX TIPS FOR
OPERATORS OF HOTELS, MOTELS AND TOURIST HOMES
CONDUCTING BUSINESS IN DELAWARE
Things You Should Know**

Definitions, 30 Del. C, Ch. 23 and 61

Persons engaged in the business of providing sleeping accommodations to the general public are required to obtain license and collect an 8% (.08) lodging tax. Please refer to the following definitions:

Hotel means any person engaged in the business of operating a place where the public may, for a consideration, obtain sleeping accommodations and meals and which has at least 6 permanent bedrooms for the use of guests.

Motel means any person engaged in the business of furnishing, for a consideration, transient guests with sleeping accommodations, bath and toilet facilities, linen service, and a place to park an automobile.

Tourist Home means any person who operates a place where tourists or transient guests, for a consideration, may obtain sleeping accommodations and which has at least 5 permanent bedrooms for the use of tourists or transient guests, but which does not have cooking facilities for the use of tourists or transient guests.

Taxable Receipts

Section 6102 of Title 30 of the Delaware Code imposes an eight percent (0.08) excise tax on the rents received from the occupancy of a room or rooms in a hotel, motel or tourist home within Delaware. The tax is imposed on the occupant of the room and collected and remitted monthly by the operator of the hotel, motel or tourist home. Rooms rented to charitable, religious or other non-profit organizations are not exempt from the lodging tax. If you need to register with the Division of Revenue for an additional business license, please complete a Combined Registration Application and mail to the Division of Revenue with the appropriate fee or apply on-line at OneStop. Both can be accessed from our website at www.revenue.delaware.gov

Additional License Requirements

Separate charges for meals, room service, telephone calls, parking and valet services are not subject to the lodging tax but are subject to other occupational license fees:

- If your facility has a restaurant which is open to the general public and not limited to the room occupant, a **Restaurant Retailer** license is required.
- Receipts received from the leasing of facilities, exclusive of rooms intended for sleeping, for commercial purposes such as conventions, trade shows, special events and sales are subject to taxation as a **Commercial Lessor**.
- Charges for parking, valet service and telephone charges in excess of the cost of such telephone services are subject to taxation as a **General Service** licensee.
- Sales of newspapers, sundry items, gifts, snack food, clothes, souvenirs and other items are subject to taxation as a **General Retailer**.

Exempt From The Lodging Tax:

- Rooms rented to the employees of the United States Government or its agencies and instrumentalities, including members of the armed forces, in the performance of official duties.
- Rooms rented to the employees of the State of Delaware and its agencies, including public schools, in the performance of official duties.
- Charitable, educational, religious, children's summer camps, hospitals and nursing homes are not considered hotels, motels or tourist homes and are not required to be licensed as a provider of public accommodations. **Note:** Persons providing the services above as a 'for profit' entity, such as a nursing home, are subject to the General Service licensing provisions.
- Rooms rented to occupants who occupy or who have the right to occupy the room or rooms for a period of at least five (5) consecutive months.

'Exemption Certificate from Tax on Occupancy', Form 6100, is available at any Division of Revenue office and on the Internet. This document must be completed for each exempt transaction and maintained by the operator for a period of not less than 48 months after the date of the room rental.

License Requirements

Operators of hotels, motels and tourist homes are required to obtain a business license -- Hotels \$25 per room and \$30 per suite, Motels \$25 per room and Tourist Homes \$15 per room -- for each facility -- which must be renewed annually on or before December 31st of each year. Licenses for businesses operating on a seasonal basis are not proratable and the license renewals are due on or before December 31st each year.

Revenue Sharing of Accommodations Tax

Twenty-five percent of the eight percent (8%) public accommodations tax collected is divided evenly between the Beach Preservation Fund and, in the proportion in which it was collected, the Convention and Visitors bureaus in each county.

Tax Rates, Exclusions and Due Dates

Hotel, Motel, Tourist Home Sample Calculation:

Rents Collected \$175,000.00 x .008 = \$14,000.00 Tax Due

(Note: Delaware requires that tax due be rounded-off to the nearest dollar amount.)

Due Dates of Returns

Monthly returns for Hotel, Motel and Tourist Homes are due on the 15th of the month following the end of the tax period.

Gross Receipts Tax Exemption

Gross receipts (and for purposes of the tax imposed by Chapter 43, Title 30 of the Delaware Code "rent" and "lease rental payments") from transactions between related entities are not subject to gross receipts tax. For this purpose, entities are "related" only if (i) the same five or fewer natural individuals own, directly, indirectly or beneficially, 80% or more of each entity, or (ii) 100% of each entity is owned by member or members of a single family. See Section 2120(b) of Title 30 of the Delaware Code for further details, including the definition of "family" for the purposes of this exclusion.

Common Ownership/Direction

A business that operates through more than one branch or legal entity is only entitled to one monthly or quarterly exclusion from gross receipts, if the branches or entities making up the enterprise have common ownership or common direction and control.

Caution Concerning Multiple Exclusions

Nearly all licensees are permitted to reduce their monthly or quarterly gross receipts by certain specific exclusions in determining their taxable gross receipts. The Delaware Code limits the number of allowable exclusions for each general business activity. A taxpayer conducting a business activity for which an exclusion is provided is entitled to **ONLY ONE** monthly or quarterly exclusion regardless of the number of locations at which such activity is conducted. For example, a taxpayer who operates multiple convenience stores at which gasoline is also sold should aggregate the receipts from all goods sold at all locations and subtract only one monthly exclusion. Separate retail licenses are not required for the sale of food and petroleum products. While the Division of Revenue may assign a unique business code which reflects the primary product sold, retailers, wholesalers and manufacturers may sell or manufacture multiple product lines without obtaining a separate license for each product line. However, separate licenses are required and separate exclusions are permitted if a taxpayer conducts more than one **ACTIVITY**, such as retailing and wholesaling.

Regulatory and Local Requirements

The Business License Issued by the Division of Revenue is not a regulatory license and the issuance of such license does not attest to the qualifications of the applicant to perform the activity described on such license. Many local jurisdictions have requirements for a business license and may have restrictions concerning the locations of conducting the referenced business activity. Please check with the local government office in the town, city or county in which you will conduct your business.

The State of Delaware also has a Division of Professional Regulations. Many occupations and some types of equipment have regulatory requirements. Please contact the Division of Professional Regulation for more information.

General

If you have any questions, please contact one of the following offices

<i>Wilmington</i>	<i>Dover</i>	<i>Georgetown</i>
Division of Revenue Carvel State Office Building 820 North French Street Wilmington DE 19801 (302) 577-8205	Division of Revenue Thomas Collins Building 540 South DuPont Highway Suite 2 Dover DE 19901 (302) 744-1085	Division of Revenue 20653 DuPont Blvd. Suite 2 Georgetown DE 19947 (302) 856-5358

or by e-mail at: stephen.seidel@state.de.us (302) 577-8455

File Gross Receipts On-line:
www.grossreceiptsfiling.delaware.gov
or