

**RESOLUTION 009-24**  
**(Replacing Resolution 82-130 & 82-131)**  
**A RESOLUTION ESTABLISHING NECESSARY REGULATIONS FOR THE**  
**ADMINISTRATION AND ALLOCATION OF THE ROSS COUNTY LODGING EXCISE**  
**TAX, HERETOFORE ENACTED ON JUNE 1, 1982**

**WHEREAS**, pursuant to the relevant provisions of the Ohio Revised Code, on the 1st day of June, 1982, the Board of County Commissioners, Ross County, Ohio, enacted a Resolution levying a Three Percent (3%) excise tax upon all transactions within Ross County, Ohio, wherein lodging by a hotel is or is to be furnished to transient guests, said tax becoming effective on the 1st day of July, 1982; and

**WHEREAS**, pursuant to the relevant provisions of the Ohio Revised Code, Section 351.01, on the 28th day of November, 2005, the Board of County Commissioners, Ross County, Ohio, enacted a Resolution levying a one and one quarter percent (1.25%) excise tax upon all transactions within Ross County, Ohio, wherein lodging by a hotel is or is to be furnished to transient guests, said tax becoming effective on the 28th day of November, 2005; and

**WHEREAS**, by virtue of Ohio Revised Code, Section 5739.09, said Board of County Commissioners is given express authority to establish all regulations for the administration and allocation of said excise tax; and

**WHEREAS**, said Board of County Commissioners is now desirous of amending the existing regulations with respect to said excise tax for Ross County, Ohio;

**NOW THEREFORE, BE IT RESOLVED**, by the Board of County Commissioners, Ross County, Ohio, that the following regulations shall govern and control the administration and allocation of the above-mentioned Four and One Quarter Percent (4.25%) excise tax upon lodging furnished by a hotel and lodging facility for transient guests, to-wit:

**SECTION 1. TITLE**

This Code of Regulations shall be known and may be cited and referred to as the "Ross County Lodging Excise Tax Code of Regulations," or "Lodging Excise Tax Code of Regulations," to the same effect.

**SECTION 2. DEFINITIONS**

- A. **"Administrator"** means the designated person(s) and any of his/her assistants designated by the Board of County Commissioners of Ross County, Ohio to assist in administering and enforcing the collection of the excise tax on lodging of transient guests herein levied and imposed, who are hereby assigned all of the duties and authority of Ross County to administer and enforce the collection of such tax. (ORC 307.678)
- B. **"Board"** means the Board of County Commissioners of Ross County, Ohio.
- C. **"Auditor"** means the Ross County Auditor and any of his or her assistants designated to assist in administering and enforcing the collection of the hotel lodging excise tax herein levied and imposed.

- D. “Person” means individuals, partnerships, corporations, receivers, assignees, and trustees in bankruptcy, estates, firms, associations, joint ventures, clubs, societies and combinations of the foregoing in any form. (ORC 5379.01 (A))
- E. “Hotel” as defined by Sections 5739.01(M) and 5739.091 of the Ohio Revised Code, which means every establishment kept, used, maintained, advertised or held out to the public to be a place where sleeping accommodations are offered to transient guests.
- F. “Transient guest(s)” as defined by Section 5739.01(N) of the Ohio Revised Code, which means person(s) occupying a room or rooms for dwelling, lodging, or sleeping accommodations for less than thirty (30) consecutive days.
- G. “Lodging” means one (1) or two (2) or more connecting rooms in which sleeping accommodations are provided for a transient guest(s). A lodging shall be defined as any structure with running water and electricity. This includes, but not limited to, hotels, motels, bed and breakfasts, cottages, cabins, vacation homes, and any other short-term rental property.
- H. “Vendor” means a person who is required to have an Ohio Retail Sales Tax Vendor License and to operate a business pursuant to Section 5739.17, Ohio Revised Code, and who operates a hotel as defined in Sections 5739.01(M) and 5739.091 of the Ohio Revised Code which furnishes lodging to transient guests and includes the agents and employees of such person who performs the functions of the vendor on his or her 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. Vendor shall also include the term “lodging” for short-term rental facilities exempt from obtaining an Ohio Retail Sales Tax Vendor License.
- I. “Premises” means a parcel or contiguous parcels of real property within Ross County, Ohio, upon which a lodging is operated.
- J. “Consumer” means the person who pays or is obligated to pay rent for the lodging of transient guest(s) in a hotel and/or lodging facility.
- K. “Rent” means the aggregate value of money or anything paid or delivered, or promised to be paid or delivered for 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” includes income from services provided such as the cost assessed for cleaning fees, additional bed, etc. “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 that lodging is furnished or contracted to be furnished.
- L. “Tax” means, unless otherwise specified, the tax levied and imposed hereby.
- M. Should statutory definitions of (D) and/or (E) above be hereinafter amended by the General Assembly, the amended definitions shall be hereby adopted, for purposes of this excise tax, without further Board action.

- N. “Registration Certificate Number” means the number assigned by the Ross-Chillicothe Convention & Visitors Bureau to the properties/premises rented by the owner/operator. The Registration Certificate Number shall be displayed on all online listings.

### **SECTION 3. LEVY OF TAX; WHEN COLLECTABLE; EXEMPTIONS; PRESUMPTION**

For the purpose of providing revenue with which to meet the needs of Ross County, Ohio, for the use of the general fund of the County in making contributions to the Ross-Chillicothe Convention and Visitors Bureau operating within Ross County, an excise tax is hereby levied on transactions by which lodging is, or is to be furnished to transient guests.

The tax is four and One Quarter percent (4.25%) on all rents paid or to be paid by the transient guest for the lodging. Said tax constitutes a debt owed by the transient guest to Ross County, which is extinguished only by payment to the operator as trustee for the County, or to the County. The transient guest shall pay the tax to the operator of the lodging establishment 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 upon the transient guest ceasing to occupy space in the lodging establishment. The operator shall collect from the transient guest the full and exact amount of the tax payable on each taxable lodging.

- A. The tax applies and is collectable when the lodging is furnished, regardless of the time when the rent is paid or delivered.
- B. The tax to be collected shall be stated and charged separately from the rent and shown separately on any record thereof, at the time when the occupancy is arranged or contracted and charged for, and upon every evidence of occupancy or any bill or statement or charge made for said occupancy issued or delivered by the operator, and the tax shall be paid by the occupant to the operator as trustee for and on account of the County, and the operator shall be liable for the collection thereof and for the tax.
- C. No operator of a lodging establishment shall advertise or state in any manner, whether directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the operator, or that it will not be added to the rent, or that, if added, any part will be refunded except in the manner hereinafter provided.
- D. The tax does not apply to any rent which is paid or to be paid or reimbursed by the Federal government, the State of Ohio, or any of its political subdivisions. Ross County Hotel/Motel Tax Exemption Report must be submitted with each Quarterly Return in order for the exemption to be considered.
- E. For the purpose of the proper administration, and to prevent evasion of the tax, it is presumed that all rents for lodging rooms in Ross County, Ohio are subject to the tax until the contrary is established.

- F. 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.
- G. The tax does not apply to transactions involving Contracted-Rooms that maintain possession of room(s) for sleeping accommodations for it's' employees for thirty (30) or more days based on a month to month stay. Such transactions will be considered for an exemption by filing a Ross County Certificate of Exemption together with the bill, statement, or invoice, and copies of payment received. Additional documentation needed to establish Contracted-Rooms for purposes of obtaining an exemption includes, but is not limited to, contract defining the terms of the length of stay, rent, and time period, folios, daily room cards, daily sign-in sheets of guests, and similar documents which identify each consecutive day of stay with the applicable room rate charged for each date. Ross County Hotel/Motel Tax Exemption Report must be submitted with each Quarterly Return in order for the exemption to be considered.
- H. The **tax does apply to the room** portion of any "package rate." Any vendor offering a package rate must separately identify on the guest receipt and/or other records of the vendor, at the time of furnishing of lodging, the room portion of the package rate, the transient occupancy tax applicable to the room portion of the package rate and the non- room portion of the package rate. The vendor shall bear the burden of proving that the allocation of taxes between the room portion and the non-room portion of the package was properly made and that the correct amount of taxes were collected and remitted to the appropriate agencies.
- I. The **tax does apply to a receivable** room charge including non-refundable deposits or guaranteed no show revenue/fees, for which the vendor has a contractual right to collect, paid by on or behalf of any person, whether or not the person actually exercises the right to occupancy by using or possessing any room or rooms, or portion thereof, whether it be termed "cancellation fee" or "attrition" or "bad debt" or other term with similar meaning.

#### **SECTION 4. LIABILITIES OF VENDOR AND CONSUMER; CERTIFICATE OF EXEMPTION**

- A. The tax is imposed upon and shall be paid by the consumer to the vendor as trustees solely for the benefit of Ross 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 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 the 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 the 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 that 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 Ross County, Ohio to the extent of the payment.
- D. If any transaction is claimed to be exempt from the tax, the consumer must furnish to the vendor, and the vendor must obtain from the consumer, a certificate specifying the reason that the transaction is not legally subject to the tax. If no certificate is furnished or obtained within the period for filing the return for the period in which such transaction is reportable, it shall be presumed that the tax applies. The failure to have so furnished, or to have so obtained, a certificate shall not prevent a vendor or consumer from establishing that the transaction is not subject to the tax. Certificates need not be obtained nor furnished when the identity of the consumer is such that the transaction is never subject to the tax imposed.
- E. Certificates for exemption shall be in the form prescribed and set forth in Section 4(D) of Ross County Commissioners' Resolution 82-131 and may be amended as needed for administrative use by the Auditor.
- F. Certificates for exemption may be incorporated into the vendor's invoice statement of rental charge, etc., provided that such incorporation contains all the data prescribed on the form.

**SECTION 5. RETURNS: WHEN DUE; REMISSION OF PENALTIES; PROCEDURE THEREON; FAILURE TO FILE; FORM**

- A. For each quarter that the tax is due, beginning with the quarter of July, 1982, and for each quarter thereafter, each vendor shall, on or before the end of the following month after the quarter in which the tax is due, beginning with the month of September, 1982, and the last day of each quarter thereafter, make and file a full and complete return with the Auditor, on the form prescribed and set forth in Section 5(F) of Ross County Commissioners' Resolution 82-131, which may be amended as needed for administrative use by the Auditor. (January – March quarter due date is April 30, April – June due date is July 31, July – September due date is October 31, and October – December due date is January 31.)
- B. Each vendor shall provide written verification of all revenue. The verification requirement shall include, but not limited to: proof of sale/documentation from internet booking engines.
- C. Upon application of the vendor, in writing and for good cause shown, the Auditor may extend the time for making and filing returns and may remit any part of the penalties and interest which may be due hereunder.



- C. Such return shall be filed by mailing the quarterly report to the Auditor, together with payment of the amount of tax shown to be due thereon plus penalty and interest if these apply.
- D. Upon receiving the same, the Auditor shall promptly stamp or otherwise mark on all copies the date received and the amount of payment received and shall immediately transmit one (1) copy so stamped or marked and the payment received to the Ross County Treasurer, and one (1) copy so stamped and marked to the Ross County Commissioners.
- E. Any vendor who fails to file a complete return and exempt report, with payment, postmarked on or before the quarter's due date (no exceptions for holidays or weekends), shall forfeit and pay into the County Treasurer interest at the rate which Interest accrues per annum as prescribed pursuant to **ORC 5703.47** and a **penalty up to ten percent (10%)** of the amount of the tax due and such may be collected by assessment in the manner provided herein. Should a vendor fail to file a complete return and or exemption report within thirty days of the date the report is due, **the penalty may increase up to 25%** per annum of the amount of the tax due pursuant to **ORC 5703.47**.
- F. The Ross County Commissioners may refer to the Ross County Prosecutor for investigation any vendor or person whom they reasonably believe to have knowingly failed to file a return for the purpose of evading the tax.

#### **SECTION 6. ASSESSMENTS; LIABILITIES OF VENDOR AND CONSUMER**

- A. If any vendor collects the tax and fails to remit the same as provided herein he or she shall be personally liable for any amount collected which he or she 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 Auditor 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 his or her possession.
- B. An assessment against a vendor shall not discharge the consumer's liability to reimburse the vendor for the tax if the latter had 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

- A. The burden of proof rests upon the vendor to show what part, if any, of his gross receipts from lodging room rents are not taxable, and for such purpose each vendor shall maintain and keep complete and accurate records of rents.
- B. For the purpose of establishing what portion of his or her rents are not taxable, the vendor may rely upon records or documents that include but are not limited to: guest or rent registers, rent invoices, statements or bills, rent payments and/or refunds thereon, room rate sheets or cards of prices per day of each room as required by Section 3731.16, Ohio Revised Code, receipts of taxes collected, copies of the appropriate schedule of Federal income tax returns, Ohio sales tax returns and tax returns to local subdivisions levying a hotel lodging excise tax identical or substantially similar to the tax imposed hereby, as filed by the vendor, exemption certificates, tax payment receipts, cash register tapes, bank deposit records, journals, and documentation from internet booking engines.
- C. No assessment 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.
- D. 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 Auditor shall be treated as confidential by the Auditor and the Board 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 Ross County which levies a tax pursuant to Section 5739.08 or 5739.09 of the Ohio Revised Code.
- E. 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 file a full and complete report when due:

The "Administrator" shall determine the proper amount of tax by any of the means set forth 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, (a) plus interest thereon at the rate which interest accrues per annum, as prescribed pursuant to ORC 5703.47, computer from the time the amount of

tax assessed should have been paid; (b) plus a penalty of up to twenty-five percent (25%) of the amount of the assessment of tax.

### **SECTION 8. PROCEDURE FOLLOWING ASSESSMENT; APPEALS**

- A. Each assessment shall be in writing stating clearly the reasons and basis therefor, upon forms adopted by the Auditor.
  
- B. In each case of an assessment, the Auditor 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 Board a petition for reassessment in writing addressed to the Board and verified under oath by the assessee or his duly authorized agent having knowledge of the facts, and setting forth with particularity the items of assessment objected to, together with the reasons for such objections, the assessment shall become final and the amount thereof shall be deemed a debt due and payable to Ross County, whereupon the Board shall cause to be filed a civil action in the name of the Board for judgment in the amount of the assessment, including penalties and interest added thereto under the provisions thereof.
  
- D. When a petition for reassessment is timely filed, the Board 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 Board 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 Board, the petitioner may appeal to the Court of Common Pleas pursuant to Section 307.56, Ohio Revised Code.
  
- F. When the merits of the assessment or any part thereof is finally adjudicated, the Auditor shall proceed to collect the same as in paragraph (C) hereof upon the failure of a petition for reassessment.
  
- G. All monies collected upon assessments including penalties and interest thereon shall, when received by Ross County, 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 AND PENALTIES DUE**

If a vendor liable for the tax sells his or her business or quits his or her 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 or her 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 Auditor 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 or she 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 (or paid on an illegal or erroneous assessment where the vendor has not reimbursed him- or herself from the consumer) may be filed in writing with the Auditor for a vendor within ninety (90) days from the date claimant ascertains that the 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 Ross County and that if it was collected from a consumer, the claimant has either reimbursed him- or herself from the consumer or will hold such refund in trust for the benefit of the consumer.

The Auditor shall promptly determine the amount of the refund due (adding thereto interest at six percent – 6% – per annum from the date of the overpayment) and whether an unpaid liability for tax against the claimant of 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 Auditor shall certify the excess amount of refund allowed or the full amount, as the case may be, and shall draw his or her warrant for such certified amount on the Ross County Treasurer in favor of the claimant. The Ross County Treasurer shall pay such amount from any monies to the credit of the appropriate hotel lodging excise tax account of the Ross County Undivided General Tax Fund.

If, however, the Auditor's decision on a claim for refund is to award less than the full amount claimed, his or her decision shall be treated in the same manner as an assessment under Section 8 hereof and the aggrieved claimant and Ross County shall have all the rights, remedies and duties as set forth in said Section 8 as upon an assessment; but the Auditor shall withhold his or her certification until the merits of the claim have been finally adjudicated.

**SECTION 12. CAPABILITY OF VENDOR'S EQUIPMENT; BRACKET TAX; VENDOR'S RESPONSIBILITY FOR FULL AMOUNT OF TAX LEVIED**

Vendors having calculator or computer equipment with a capability to record no more than one tax may utilize that capability to record the Ross County Lodging Excise Tax separately from the Ohio sales tax and any similar tax levied by a local subdivision, notwithstanding an identical designation for each tax charged is employed and shown on each rent invoice, bill statement or other written charge. However, when the vendor upgrades or replaces his calculator or computer equipment, the same shall have the capability to separately charge and designate each separate tax imposed.

Notwithstanding any provision contained in this Code of Regulations, or the Resolution adopting the same, to the contrary, each vendor is permitted to collect the tax from transient guests at the rate of four and one quarter percent (4.25%) prior to taxable rents; provided however, that the Ross County Lodging Excise Tax shall be stated on each rent invoice, bill statement, or other written charge therefor, separately and apart from the Ohio Sales Tax and any similar tax imposed by a local subdivision; and provided further that each vendor shall report quarterly the total taxable rents collected during each quarter and pay the tax equal to four and one quarter percent (4.25%) thereafter of such total taxable rents.

**SECTION 13. CONVENTION AND VISITORS' BUREAU ESTABLISHED 1982**

A. Ross County Commissioners' Resolution 82-131 required establishment of a Convention and Visitors' Bureau for the purpose of promoting tourism within Ross County, and also established the Board of Commissioners of Ross County, Ohio as the sole authority in designating annually a Visitors' and Convention Bureau.

B. Ross County Commissioners' Resolution 82-132 established said Convention and Visitors' Bureau.

**SECTION 14. CONVENTION AND VISITORS' BUREAU MAY ASSIGN REGISTRATION NUMBERS FOR VENDORS**

The Convention and Visitors' Bureau may assign registration numbers to vendors for purposes that it sees fit to aid in promoting tourism within Ross County. The Convention and Visitors' Bureau shall not charge a fee to vendors for these registration numbers.

**SECTION 15. DISBURSEMENT OF LODGING EXCISE TAX DOLLARS**

The amounts allocated herein and hereby; of the four and one quarter percent (4.25%) Lodging Excise Tax shall be distributed:

1. Three percent (3%) of the Lodging Excise Tax provided to the Ross-Chillicothe Convention and Visitors Bureau are so appropriated thereto on condition that the said bureau recognizes that Ross County's lodging industry which bears responsibility hereunder for the collection of the tax hereby levied, extends to the boundaries of Ross County, therefore undertakes to promote the purposes and premises of the resolution adopting these regulations throughout the entire County so that the lodging industry of the County generally may share as equitably as possible in the benefits to be derived from the promotion of such purposes and premises.

2. One and one quarter percent (1.25%) of the Lodging Excise Tax provided to the Convention Facilities Authority.


SECTION 16. REPEAL OF ROSS COUNTY COMMISSIONERS' RESOLUTION 82-131  
UNLESS OTHERWISE SPECIFIED

Upon adoption of this Resolution, Ross County Commissioners' Resolution 82-131 is hereby repealed unless otherwise specified in this Resolution.

Adopted this 12<sup>th</sup> day of February 2024.

Ross County Board of Commissioners

  
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Dwight A. Garrett, President

  
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James E. Lowe, Vice President

  
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Jack A. Everson, Commissioner