



Taxes Imposed on the Rental of Transient Accommodations

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Tax: Sales Tax and Other Applicable Taxes

Transient Accommodations

As of October 1, 2018, the law imposes Sales Tax, the State Occupancy Fee, and the Meadowlands Regional Hotel Use Assessment on transient accommodations. On and after August 9, 2019, the law was amended to subject a transient accommodation to Sales Tax, the State Occupancy Fee, and the Meadowlands Regional Hotel Use Assessment ONLY if it is obtained through a transient space marketplace or is a professionally managed unit.

The law also authorizes certain municipalities to amend or adopt an ordinance to impose the following taxes on transient accommodations: the Municipal Occupancy Tax, Sports and Entertainment Facility Tax - Millville, Atlantic City Luxury Tax, the Atlantic City Promotion Fee, Cape May County Tourism Tax and Assessment, and the hotel occupancy tax - Elizabeth, Newark, and Jersey City (contact the municipality directly for information on the hotel occupancy tax).

Definitions

"Transient accommodation" means a room, group of rooms, or other living or sleeping space for the lodging of occupants, including but not limited to residences or buildings used as residences that is obtained through a transient space marketplace or is a professionally managed unit (defined below).

The following are **not** considered transient accommodations:

- Hotel or hotel room (although hotels, motels, and similar facilities are not considered transient accommodations, such facilities are required to collect Sales Tax and other applicable taxes, fees, assessments on the rental of a room);
- Room, group of rooms, or other living or sleeping space used as a place of assembly;
- Dormitory or other similar residential facility of an elementary or secondary school or a college or university;
- Hospital, nursing home, or other similar residential facility of a provider of services for the care, support, and treatment of individuals that is licensed by the State;
- Leases of real property with a term of at least 90 consecutive days;
- Campsite, cabin, lean-to, or other similar residential facility of a campground or an adult or youth camp; or
- Furnished or unfurnished private residential property, including but not limited to condominiums, bungalows, single-family homes, and similar living units, where no maid service, room service, linen-changing service, or other common hotel services are made available by the lessor, **and** the rental transaction is executed by a real estate broker licensed by the New Jersey Real Estate Commission pursuant to N.J.S.A. 45:15-1 et seq.,

and where the keys to the property, whether a physical key, access to a keyless locking mechanism, or other means of physical entrance to the property, are provided to the lessee at the offsite location of the licensed real estate broker.

A “professionally managed unit” means a room, group of rooms, or other living or sleeping space for the lodging of occupants in the State, that is offered for rent as a rental unit that does not share any living or sleeping space with any other rental unit, and that is directly or indirectly owned or controlled by a person offering for rent two or more other units during the calendar year.

Real Estate Broker Exclusion

A transient accommodations does not include furnished or unfurnished private residential property, including but not limited to condominiums, bungalows, single-family homes, and similar living units, where no maid service, room service, linen-changing service, or other common hotel services are made available by the lessor, and the rental transaction is executed by a real estate broker licensed by the New Jersey Real Estate Commission pursuant to N.J.S.A. 45:15-1 et seq., and where the keys to the property, whether a physical key, access to a keyless locking mechanism, or other means of physical entrance to the property, are provided to the lessee at the offsite location of the licensed real estate broker.

“Executed by a real estate broker” means that the real estate broker performs all the services necessary to carry out the rental. For example, a real estate broker advertises the rental listing, solicits renters, assists in referrals, negotiates and executes rental agreements, collects rent, etc. See N.J.S.A. 45:15-3. The rental is excluded from the definition of “transient accommodation” and is not subject to Sales Tax, the State Occupancy Fee, or any other occupancy tax, assessment, or fee when the following four criteria are satisfied:

- The rental is executed by a real estate broker licensed by the New Jersey Real Estate Commission; and
- The keys or other means of physical entrance to the property are provided to the renter at the location of the offsite real estate broker; and
- The rental property is private residential property; and
- No common hotel services such as maid service, room service, or linen-changing service are provided.

Note that a transient space marketplace is required to collect Sales Tax, the State Occupancy Fee, and other applicable tax, assessment, or fee if a real estate broker lists a rental on a marketplace and the rental is obtained through the transient space marketplace. The real estate broker exclusion does not apply because the rental was not executed by the real estate broker.

Example: Property Owner charges Renter for the rental of his house. Property Owner does not provide common hotel services such as maid service, room service, or linenchanging service. Property Owner lists the rental through a licensed real estate broker. The real estate broker

advertises the rental, negotiates and executes the rental agreement, and collects the rental payment from the Renter. The Renter appears in-person at the real estate broker's office to obtain the key to the property. This rental is not subject to Sales Tax, the State Occupancy Fee, or other applicable tax, assessment, or fee because the real estate broker executed the rental transaction.

Professionally Managed Unit

A "professionally managed unit" means a room, group of rooms, or other living or sleeping space for the lodging of occupants in the State, that is offered for rent as a rental unit that does not share any living or sleeping space with any other rental unit, and that is directly or indirectly owned or controlled by a person offering for rent two or more other units during the calendar year.

The definition of professionally managed unit is broadly written, and it does not contain any language concerning the type of rental. The definition merely refers to a unit that is "offered for rent as a rental unit," so the units only have to be held out for rental. Each rental of the professionally managed unit is looked at separately when determining its taxability. Since there is no requirement that only units that are rented for less than 90 days are to be included in counting the number of units available for rental, all rentals are included when considering whether the owner offers three or more units for rent in New Jersey. But the rentals that occur for at least 90 consecutive days are not taxed under the law

Example 1: Property Owner owns three houses which she holds out for rent via an advertisement placed in a newspaper. The rentals are a professionally managed unit since Property Owner owns and rents three or more houses for rent in New Jersey. Property Owner is required to collect and remit Sales Tax, the State Occupancy Fee, and other applicable tax, assessment, or fee

Example 2: Property Owner owns two houses which he directly rents out to renters via an advertisement placed in a newspaper. The rentals are not subject to Sales Tax, the State Occupancy Fee, and other applicable tax, assessment, or fee because it is not a professionally managed unit nor was the rental obtained through a transient space marketplace.

Example 3: Property Owner owns three units in New Jersey where two are apartments rented on a weekly basis and the third is a house rented on a yearly basis. This is a professionally managed unit since Property Owner offers three units for rent in New Jersey. Property Owner must collect and remit Sales Tax, the State Occupancy Fee, and other applicable tax, assessment, or fee on rentals of the two apartments. However, the rental of the house is not subject to Sales Tax, the State Occupancy Fee, and other applicable taxes, assessments, and fees since it is rented for more than 90 consecutive days.

Transient Space Marketplaces

“Transient accommodation” means a room, group of rooms, or other living or sleeping space for the lodging of occupants, including but not limited to residences or buildings used as residences that is obtained through a transient space marketplace or is a professionally managed unit. A “transient space marketplace” means a marketplace or travel agency through which a person may offer transient accommodations to customers and through which customers may arrange for occupancies of transient accommodations.

The definition of a transient space marketplace does not include a marketplace or travel agency that exclusively offers transient accommodations in New Jersey owned by the owner of the marketplace or travel agency. “Obtained through a transient space marketplace” means that payment for the accommodation is made through a means provided by the marketplace or travel agency, either directly or indirectly, regardless of which person or entity receives the payment, and where the contracting for the accommodation is made through the marketplace or travel agency.

Example 1: Property Owner posts an advertisement to rent out her home on a transient space marketplace (Marketplace A). Marketplace A does not charge Property Owner to post the advertisement. Renter rents the home for a week on Marketplace A and Marketplace A collects Renter’s payment via credit card. Marketplace A deducts its commission and provides the remaining payment balance to Property Owner. Since this transaction is obtained through the transient space marketplace, Marketplace A is required to collect Sales Tax, the State Occupancy Fee, and other applicable tax, assessment, or fee from Renter and remit the taxes to the Division of Taxation (Division).

Example 2: Property Owner then decides to also post an advertisement to rent out her home on a different marketplace (Marketplace B). Marketplace B charges Property Owner a fixed amount to post the advertisement. The advertisement contains Property Owner’s contact information. In order to rent the home, Renter must contact and pay Property Owner directly. Since this transaction was not obtained through a transient space marketplace, Marketplace B is not required to collect and remit applicable taxes from Renter. Property Owner is required to register with the Division of Revenue and Enterprise Services (DORES) and must collect Sales Tax, the State Occupancy Fee, and other 5/12/2019 applicable tax, assessment, or fee from Renter and remit them to the Division for all rentals that result from posting an advertisement on Marketplace B if the transient accommodation is a professionally managed unit.

Registration

Every person who rents a transient accommodation which is a professionally managed unit is a seller and must register with the State for the collection and remittance of all applicable taxes, fees, or assessments by filing a business registration application (Form NJ-REG). The law requires registration at least 15 business days prior to commencing business. Every person who rents a transient accommodation which is a professionally managed unit must register unless 1) all rentals are obtained through a transient space marketplace; or 2) are executed by a real estate

broker licensed by the New Jersey Real Estate Commission, the keys or other means of physical entrance to the property are provided to the lessee at the location of the offsite real estate broker, the rental property is private residential property, and the lessor does not provide common hotel services such as maid service, room service, or linen-changing service.

To register with New Jersey, visit the DORES website. Once registered, you will receive a letter containing additional filing and payment information.

Registered sellers already engaged in the business of renting or leasing transient accommodations need to update their tax registration to include Sales Tax, the State Occupancy Fee, the Meadowlands Regional Hotel Use Assessment (if applicable), and any other applicable taxes, fees, or assessments. Businesses not engaged in the business of renting or leasing transient accommodations should complete a new and separate registration.

How to Unregister

On and after August 9, 2019, an owner who is no longer required to be registered may end their registration online. Choose "File Online Now," enter the ID# and PIN, and then "End the Business." If you need assistance or do not know your PIN, please contact DORES, Customer Service Center at 609-292-9292. Note that you must file your final return prior to ending your business.

Billing

Sales Tax, the State Occupancy Fee, the Meadowlands Regional Hotel Use Assessment (if applicable), and any other applicable tax, fee, or assessment, other than the Atlantic City Promotion Fee, must be separately stated on any bill, invoice, or other document provided to the renter. All taxes, fees, or assessments, other than the Atlantic City Promotion Fee, are collected by the owner on behalf of the State and the owner is personally liable if the taxes, fees, or assessments, are not remitted to the Division.

Transitional Rule - On and After October 1, 2018 to August 8, 2019

Sales Tax, the State Occupancy Fee, and the Meadowlands Regional Hotel Use Assessment, if applicable, are to be charged on the rental of any transient accommodation (including all direct rentals by the owner and all rentals that were not solely consummated through a transient space marketplace) occurring on and after October 1, 2018, until **August 8, 2019**, regardless of any prior lease, contract, or other rental agreement. If a rental starts prior to October 1, 2018, and ends after October 1, 2018, but before **August 8, 2019**, the applicable taxes, fees, and assessments must be charged based on the number of days falling in the taxable period.

Example: Renter rents a vacation home from September 28, 2018, to October 4, 2018, for \$2,100. Since part of the rental takes place after October 1, 2018, Sales Tax and the State Occupancy Fee must be collected based on the number of days falling in the taxable period ($\$2,100/7 = \$300 \times 4 \text{ days} = \$1,200$)*. The invoice, bill, or other receipt issued to Renter states:

Weekly Rental \$2,100
Sales Tax ($\$1,200^* \times 6.625\%$) \$79.50
State Occupancy Fee ($\$1,200^* \times 5\%$) \$60
Total \$2,239.50

The same concept applies in Atlantic City, Millville, Wildwood, Wildwood Crest, North Wildwood, or any other municipality which amends or adopts an ordinance that imposes the Municipal Occupancy Tax, Sports and Entertainment Facility Tax - Millville, Atlantic City Luxury Tax, the Atlantic City Promotion Fee, or the Cape May County Tourism Tax and Assessment on the rental of transient accommodations (see below for information regarding each of these municipal taxes, assessments, and fees).

Transitional Rule - On and After August 9, 2019, for Rentals that are not Obtained Through a Transient Space Marketplace or is not a Professionally Managed Unit

On and after August 9, 2019, taxes, assessments, and fees are not due if the rental is not obtained through a transient space marketplace or if it is not a professionally managed unit. If such a rental starts prior to August 9, 2019, and ends on or after August 9, 2019, the applicable taxes, assessments, and fees must be charged based on the number of days falling in the taxable period

State and Local Taxes, Fees, and Assessments that may Apply to the Rental of Transient Accommodations

All rentals of transient accommodations obtained through a transient space marketplace or that is a professionally managed unit are subject to Sales Tax and the State Occupancy Fee. Additional taxes, fees, or assessments may also apply, depending on the location of the transient accommodation.

Sales Tax

The law imposes Sales Tax on the rental of transient accommodations at the rate of 6.625%.

The rental of transient accommodations are not subject to Sales Tax if:

- The rental occurs on or after August 9, 2019, is obtained directly through the owner (such as through classified ads, personal referrals, signage, etc.), and is not a professionally managed unit;
- The rental is executed by a real estate broker licensed by the New Jersey Real Estate Commission, the keys or other means of physical entrance to the property are provided to the lessee at the location of the offsite real estate broker, the rental property is private

residential property, and the lessor does not provide common hotel services such as maid service, room service, or linen-changing service;

- The rental occurs for at least 90 consecutive days (permanent resident exemption);
- The renter is an entity that has been granted exempt status by the Division and has been issued an Exempt Organization Certificate (Form ST-5); or
- The renter is the federal government or the State of New Jersey or any of their agencies or instrumentalities.

State Occupancy Fee

The law imposes the State Occupancy Fee at the rate of 5% on the rental of transient accommodations that are subject to Sales Tax.

If Atlantic City, Newark, Jersey City, Wildwood, Wildwood Crest, or North Wildwood amend their municipal ordinance to impose a local tax on the rental of transient accommodations, the State Occupancy Fee will be imposed on such rentals at a lower rate (Atlantic City - 1%: Newark, Jersey City, Elizabeth - 1%: and Wildwood, Wildwood Crest, and North Wildwoods - 3.15%).

Effective October 2, 2018, Elizabeth amended their ordinance to impose their hotel occupancy tax on transient accommodations. Therefore, a rental of a transient accommodation obtained through a transient space marketplace or that is a professionally managed unit (and a hotel occupancy) occurring in Elizabeth is subject to a total of 13.625% in taxes and fees (6.625% Sales Tax, 6% Elizabeth occupancy tax, and 1% State Occupancy Fee).

Other than Elizabeth, no other municipality has imposed a local tax on the rental of transient accommodations, therefore, the State Occupancy Fee is currently imposed on rentals of transient accommodations at a rate of 5%. Additional information will be provided if Atlantic City, Newark, Jersey City, Wildwood, Wildwood Crest, or North Wildwood amend their ordinance to impose a local tax on transient accommodations. Note: The State Occupancy Fee on hotel occupancies remains at the lower rates indicated above.

Meadowlands Regional Hotel Use Assessment

The rental of transient accommodations located in the Meadowlands area are subject to the 3% Meadowlands Regional Hotel Use Assessment. The municipalities are:

- Bergen County – Carlstadt, East Rutherford, Little Ferry, Lyndhurst, Moonachie, North Arlington, Ridgefield, Rutherford, South Hackensack, Teterboro; and
- Hudson County – Jersey City, Kearny, North Bergen, Secaucus.

The rental of transient accommodations are **not** subject to the Meadowlands Regional Hotel Use Assessment if:

- The rental occurs on or after August 9, 2019, is obtained directly through the owner (such as through classified ads, personal referrals, signage, etc.), and is not a professionally managed unit;
- The rental is executed by a real estate broker licensed by the New Jersey Real Estate Commission, the keys or other means of physical entrance to the property are provided to the lessee at the location of the offsite real estate broker, the rental property is private residential property, and the lessor does not provide common hotel services such as maid service, room service, or linen-changing service;
- The rental occurs for at least 90 consecutive days (permanent resident exemption);
- The renter is an entity that has been granted exempt status by the Division and has been issued an Exempt Organization Certificate (Form ST-5); or
- The renter is the federal government or the State of New Jersey or any of their agencies or instrumentalities.

Municipal Occupancy Tax

The law authorizes any New Jersey municipality, other than Newark, Elizabeth, Jersey City, Atlantic City, Wildwood, Wildwood Crest, and North Wildwood, to amend or adopt an ordinance that imposes the Municipal Occupancy Tax on the rental of transient accommodations in that municipality, which can be up to 3%. Before the tax can be effective, the ordinance must be sent to the Division of Taxation and at least 90 days must pass. A list of municipalities which have passed an ordinance imposing the Municipal Occupancy Tax on transient accommodations is available at: <https://www.state.nj.us/treasury/taxation/pdf/taordinancesbymunicipality.pdf>

This spreadsheet sets forth the applicable rates and effective dates of the Municipal Occupancy Tax in these municipalities

Atlantic City Promotion Fee

The law authorizes Atlantic City to adopt or amend an ordinance that imposes a one dollar per day Atlantic City Promotion Fee on the rental of transient accommodations in Atlantic City. Atlantic City has not amended their ordinance to impose the Atlantic City Promotion Fee on transient accommodations. Therefore, transient accommodations occurring in Atlantic City are not subject to the Atlantic City Promotion Fee. Additional information will 9/12/2019 be provided if Atlantic City amends their ordinance to impose the Atlantic City Promotion Fee on transient accommodations.

Atlantic City Luxury Tax

The law also authorizes Atlantic City to adopt or amend an ordinance that imposes the 9% Atlantic City Luxury Tax on the rental of transient accommodations which occur for less than one year in Atlantic City. Atlantic City has not amended their ordinance to impose the Atlantic City Luxury Tax on transient accommodations. Therefore, transient accommodations occurring in Atlantic City are not subject to the Atlantic City Luxury Tax. Additional information will be provided if Atlantic City amends their ordinance to impose the Atlantic City Luxury Tax on transient accommodations.

Sports and Entertainment Facility Tax – Millville

The law authorizes Millville to adopt or amend an ordinance that imposes the 2% Sports and Entertainment Facility Tax on the rental of transient accommodations which occur in Millville. Millville is currently the only municipality that imposes the Sports and Entertainment Facility Tax. Millville has not amended their ordinance to impose the Sports and Entertainment Facility Tax on transient accommodations. Therefore, transient accommodations occurring in Millville are not subject to the Sports and Entertainment Facility Tax. This Tax is currently only imposed on hotel occupancies. Additional information will be provided if Millville amends their ordinance to impose the Sports and Entertainment Facility Tax on transient accommodations.

Cape May County Tourism Tax and Assessment

The law authorizes Wildwood, Wildwood Crest, and North Wildwood to adopt or amend an ordinance that imposes the 2% Cape May County Tourism Tax and the 1.85% Cape May County Tourism Assessment on the rental of transient accommodations which occur in Wildwood, Wildwood Crest, and North Wildwood. Wildwood, Wildwood Crest, and North Wildwood have not amended their ordinances to impose the Cape May County Tourism Tax or the Cape May County Tourism Assessment on transient accommodations. Therefore, transient accommodations occurring in these municipalities are not subject to the Cape May County Tourism Tax or the Cape May County Tourism Assessment. The Cape May County Tourism Tax and the Cape May County Tourism Assessment are currently only imposed on hotel occupancies. Additional information will be provided if Wildwood, Wildwood Crest, or North Wildwood amend their ordinance to impose the Cape May County Tourism Tax or the Cape May County Tourism Assessment on transient accommodations.

Tax Collection Responsibility of Transient Space Marketplace

A transient space marketplace is required to collect and remit Sales Tax, the State Occupancy Fee, the Meadowlands Regional Hotel Use Assessment (if applicable), and any applicable State and local occupancy tax, assessment, or fee listed above, but only when such rentals are obtained through the transient space marketplace.

In order for the rental to be “obtained through the transient space marketplace,” the payment for the accommodation must be made through a means provided by the marketplace or travel agency, either directly or indirectly, regardless of which person or entity receives the payment, and where the contracting for the accommodation is made through the marketplace or travel agency.

Example 1: Property Owner posts an advertisement to rent out his home on a transient space marketplace (Marketplace). Marketplace does not charge Property Owner to post the Advertisement. Renter rents the home for a week on Marketplace and Marketplace collects Renter’s payment via credit card. Marketplace deducts its commission and provides the remaining balance to Property Owner. Since this rental is obtained through the transient space marketplace, Marketplace is required to collect Sales Tax, the State Occupancy Fee, and other applicable tax, assessment, or fee from Renter and remit them to the Division.

Example 2: Property Owner posts an advertisement to rent out her home on a transient space marketplace (Marketplace 2). Marketplace 2 charges Property Owner a fixed amount to post the advertisement. The advertisement contains Property Owner's contact information. In order to rent the home, Renter must contact and pay Property Owner directly. Since this transaction was not obtained through a transient space marketplace, Marketplace 2 is not required to collect and remit Sales Tax, the State Occupancy Fee, and other applicable tax, assessment, or fee. Note that if the transient accommodation is a professionally managed unit, Property Owner is required to collect Sales Tax, the State Occupancy Fee, and other applicable tax, assessment, or fee from Renter and remit them to the Division.

Required Document Retention

Transient space marketplaces are required to keep the following information for four years after the transaction occurs:

- The name of the person who provided the transient accommodation;
- The name of the customer who purchased the transient accommodation;
The address, including any unit designation, of the transient accommodation;
- The dates and nightly rates for which the renter purchased the transient accommodation;
- The municipal transient accommodation registration number, if applicable;
- A statement as to whether such booking services will be provided in connection with (i) short-term rental of the entirety of such unit, (ii) short-term rental of part of such unit, but not the entirety of such unit, and/or (iii) short-term rental of the entirety of such unit, or part thereof, in which a non-short-term occupant will continue to occupy such unit for the duration of such short-term rental;
- The individualized name or number of each such advertisement or listing connected to such unit and the uniform resource locator (URL) for each such listing or advertisement, where applicable; and
- Such other information as the Division may require.

The Division may audit transient space marketplaces to ensure data accuracy and enforce tax compliance.

Note: A Technical Bulletin is an informational document that provides guidance on a topic of interest to taxpayers and may describe recent changes to the relevant laws, regulations, and/or Division policies. It is accurate as of the date issued. However, taxpayers should be aware that subsequent changes to the applicable laws, regulations, and/or the Division's interpretation thereof may affect the accuracy of a Technical Bulletin. The information provided in this document does not cover every situation and is not intended to replace the law or change its meaning.