

**HOTEL TAX DIVISION
GENERAL INSTRUCTIONS FOR THE HOTEL OCCUPANCY TAX
OF ERIE COUNTY, NEW YORK**

1. SCOPE OF THESE INSTRUCTIONS

These instructions summarize the responsibility of operators of hotels/motels for (1) registering as hotel/motel operators, (2) collecting the Erie County Hotel Occupancy Tax and for (3) filing tax returns and making payment of the tax due.

2. WHO IS REQUIRED TO COLLECT THE TAX?

Collection of the tax is required by any person (individual), partnership, corporation, society, association, joint stock company, estate, receiver, trustee, assignee, referee, fiduciary, or representative who is an operator of a hotel as defined here:

Operator of a hotel – any person who operates

- (a) a hotel**
- (b) an apartment hotel**
- (c) a motel**
- (d) a boarding house or club**
- (e) other building regularly used for the lodging of guests**

3. CERTIFICATE OF REGISTRATION

Every operator of a hotel (as defined above) must file a Certificate of Registration with the Erie County Comptroller's Office within three (3) days after the opening of the business or their acquisition of the hotel (if the hotel is consistently operating).

Certificates of Registration may be obtained at <https://www4.erie.gov/comptroller/sites/www4.erie.gov/comptroller/files/2022-01/certificate-registration.pdf>, or by emailing ErieCountyBedTax@erie.gov.

If more than one place of business is maintained, the Certificate of Registration should be filed for the principal place of business together with a list of the other business places which are located in the County of Erie, giving for each location the same items of information which appear on the Certificate of Registration. This will enable the Erie County Comptroller to issue a duplicate Certificate of Authority for each additional place of business.

The Certificate of Registration must be filed with the Erie County Comptroller via US Mail at Erie County Comptroller's Office, 95 Franklin Street, Room 1100, Buffalo, NY 14202.

4. CERTIFICATE OF AUTHORITY

Upon receipt of a properly completed Certificate of Registration, the Erie County Comptroller will issue to the operator a validated Certificate of Authority. This empowers the operator to collect the Erie County Hotel Occupancy Tax imposed under Erie County Local Law No. 12-1974. If the operator has more than one place of business, a duplicate Certificate of Authority will be issued for each additional place of business.

The Certificate must be prominently displayed at the place of business to which it applies.

The Certificate is non-assignable and non-transferable. It must be immediately surrendered to the Erie County Comptroller by the operator to whom it was issued if they cease doing business at the location named in the Certificate. If an operator ceases to own or operate a hotel/motel by sale or other disposition, they must immediately notify the Erie County Comptroller's Office.

5. WHAT ITEMS ARE SUBJECT TO TAX?

All hotel and motel rentals to persons who are in residence for periods of less than thirty (30) consecutive days.

6. EXEMPT ORGANIZATIONS

(a) Except as otherwise provided in this section, any use or occupancy by any of the following shall not be subject to the tax imposed by this Local Law:

(1) The State of New York, or any of its agencies, instrumentalities, public corporations (including a public corporation created pursuant to agreement or compact with another state or Canada), improvement districts, or political sub-divisions of the State.

(2) The United States of America, or any of its agencies or instrumentalities, insofar as it is immune from taxation.

(3) Any corporation, association, trust or community chest, fund or foundation, organized and operated exclusively for religious, charitable or educational purposes, or for the prevention of cruelty to children or animals, and no part of the net earnings of which inures to the benefit of any private shareholder or individual and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation; provided, however, that nothing in this sub-division shall include an organization operated for the primary purpose of carrying on a trade, or business for profit, whether or not all of its profits are payable to one or more organizations described in this sub-division.

(b) Where any organization described in paragraph (3) of sub-division (a) carries on its activities in furtherance of the purpose for which it was organized, in premises in which, as part of said activities, it operates a hotel, occupancy of rooms in the premises and rents therefrom received by such corporation shall not be subject to tax hereunder.

7. FORM USED FOR EXEMPT TRANSACTIONS

The operator is required to collect the tax on a room rental unless a properly completed Exemption Certificate (New York State Department of Taxation and Finance Forms ST-119.1, ST-119.5 and ST-129) is presented at the time of stay by a guest. Use of the Exemption Certificate is limited to the organizations described in Section 6 (a) and (b) above.

8. RATE OF TAX

- The rate of **three percent (3%)** is to be charged and paid upon the rent for every occupancy of a room in a hotel with **30 or less rooms** located in Erie County.
- The rate of **five percent (5%)** is to be charged and paid upon the rent for every occupancy of a room in a hotel with **more than 30 rooms** located in Erie County.

These rents shall not be charged to permanent residents.

9. LIABILITY FOR TAX

Every operator of a hotel required to collect the Erie County Hotel Occupancy Tax is personally liable for the tax imposed, collected, or required to be collected. The operator has the same right to collect the tax from their customer as if the tax were part of the room rent charged.

A rental shall be deemed a taxable rental unless the operator received from their customer a properly completed Exemption Certificate as described in Section 7 of these instructions.

10. FILING RETURNS

Any operator or other person engaged in activities subject to the Erie County Hotel Occupancy Tax is required to file a return, whether or not they have collected tax during the period for which they are filing. **The return must be accompanied by a remittance covering any Erie County Hotel Occupancy Tax which may be due.**

Forms for filing returns will be mailed to all taxpayers who have filed Certificates of Registration. If forms are not received by mail, they may be obtained from at <https://www4.erie.gov/comptroller/sites/www4.erie.gov/comptroller/files/2022-01/hotel-occupancy-return-form.pdf> or by emailing ErieCountyBedTax@erie.gov.

Returns are due as follows:

<u>Quarterly Period</u>	<u>Due Date</u>
December 1st – February 28th	March 20th
March 1st – May 31st	June 20th
June 1st – August 31st	September 20th
September 1st – November 30th	December 20th

Any vendor filing quarterly returns who does not have to remit more than \$250.00 (in total) with the four (4) quarterly returns ending May 31st may elect to file annually. Annual returns must be filed for the period June 1st – May 31st, no later than June 20th.

11. PAYMENT OF TAX

At the time of filing, every operator of a hotel who is required to file a return must pay the Hotel Occupancy Tax due. The remittance in payment of the tax should be made payable to “Erie County Comptroller”.

12. LATE FILING CHARGES

If a return is filed or payment is made after the due date, a late filing charge is due which consists of a penalty plus interest. **Penalty** amounts to five percent (5%) of the Hotel Occupancy Tax due for the first month of delay. In addition to the penalty, **Interest** amounts to one percent (1%) of the Hotel Occupancy Tax due per month for each month of delay after the due date, excepting the first month of delay after the due date.

13. TAX WARRANTS

Operators who fail to remit the Hotel Occupancy Tax to the County may be subject to a tax warrant filed against themselves and the property.