

ARTICLE III. - HOTEL/MOTEL TAX^[2]

Footnotes:

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State Law reference— Counties authorized to impose, levy, and collect tax, O.C.G.A. § 48-13-51.

Sec. 26-42. - Definitions.

The following words, terms and phrases shall, for the purposes of this article and except where the context clearly indicates a different meaning, be defined as follows:

County means the unincorporated areas of Greene County, Georgia.

County manager means the county manager of Greene County, or his designee.

Due date means the 20th day after the end of the monthly period for which tax is to be computed.

Greene County means a body politic governed by the Greene County Board of Commissioners.

Guest room means a room occupied, or intended, arranged, or designed for occupancy, by one or more occupants for the purpose of living quarters or residential use.

Monthly period means a calendar month.

Motel means any structure or any portion of a structure, including any motel, lodging house, rooming house, dormitory, Turkish bath, bachelor hotel, hotel, motor hotel, auto court, campground, bed and breakfast inn, public club, or private club, containing guest rooms and which is occupied, or is intended or designed for occupancy by guests, whether rent is paid in money, goods, labor or otherwise. Such term does not include any jail, hospital, asylum, sanitarium, orphanage, prison, detention center, or other buildings in which human beings are housed and detained under legal restraint.

Occupancy means the use or possession, or the right to the use or possession of any room or apartment in a motel, or the right to the use or possession of the furnishings or to the services and accommodations accompanying the use and possession of the room.

Occupant or guest means any person who, for a consideration, uses, possesses, or has the right to use or possess any room in a motel under any lease, concession, permit, right of access, license to use, or other agreement, or otherwise.

Operator means any person operating a motel in the county including, but not limited to, the owner or proprietor of such premises, the lessee, sub-lessee, lender in possession, licensee, or any other person otherwise operating such motel.

Person means an individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, nonprofit corporation or cooperative nonprofit membership, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit, the plural as well as the singular number, excepting the United States of America, the State of Georgia, and any political subdivision of either thereof upon which the county is without power to impose the tax herein provided.

Private sector nonprofit organization means any private, nonprofit quasi-governmental organization formed and operating in the county for the purpose of promoting tourism, conventions, and trade shows, or for other purposes provided in O.C.G.A. § 48-13-51(a)(3) including but not limited to the Greene County Chamber of Commerce and its successors.

Rent means the consideration received for occupancy valued in money, whether received in money or otherwise, including all receipts, cash, credits, and property or services of any kind or nature, and also the amount for which credit is allowed by the operator to the occupant, without any deduction there from whatsoever.

Return means any return filed or required to be filed as herein provided.

Tax means the tax imposed by this article.

(Code 1998, § 4-105(A); Ord. of 2-3-2000, § 4-105; Ord. of 5-17-2005(1), § 4-105; Ord. of 11-20-2007, § 4-105)

Sec. 26-43. - Penalties.

- (a) *Violations, fines and punishments.* It shall be unlawful for any person or operator to violate a provision of this article, or fail to comply therewith, or with any of the requirements thereof. Each such person or operator shall be considered guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this article is committed or continued, and upon conviction of any such violation such person or operator shall be fined not more than \$1,000.00 or imprisoned for not more than 60 days, or both, and in addition shall pay all costs and expenses involved in the case. Each day or portion thereof such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the county manager from taking such other lawful action as is necessary to prevent or remedy any violation.
- (b) *Jurisdiction.* The magistrate's court of the county shall have jurisdiction over violations of this article and all procedures for enforcement of this article shall be provided in O.C.G.A. title 15, chapter 10, article 4. Complaints of violations of any provision of this article shall be brought before the magistrate's court on a citation issued by the county manager or the chief magistrate of the county and shall be prosecuted through that court. Violations of this article will be tried upon citations either with or without a prosecuting attorney as determined by said county manager. Service of citation shall be performed by the county sheriff's office. Citations shall meet all of the requirements as specified in the O.C.G.A. § 15-10-63, as amended.
- (c) *Other penalties.* In addition to criminal penalties listed above, violation of the provisions of this article, shall be cause for denial of a business license, and where a business license has already been granted shall be cause of suspension, revocation, or denial of renewal of such business license.

(Code 1998, § 4-105(O); Ord. of 2-3-2000, § 4-105; Ord. of 5-17-2005(1), § 4-105; Ord. of 11-20-2007, § 4-119)

Sec. 26-44. - Imposition and rate of tax.

- (a) There is hereby levied and imposed, and there shall be paid a tax of five percent of the rent for every occupancy of a guest room in a motel in the county, provided that levy and collection of that portion of such tax amounting to two percent of the rent which is required to be expended for the purpose of promoting tourism, conventions, and trade shows, or for other purposes provided in O.C.G.A. § 48-13-51(a)(3), may be suspended during periods of time during which the county has no contract for the expenditure of such funds with the state, a department of the state government, a state authority, or a private sector nonprofit organization, or a contract or contracts with some combination of such entities. Written notice of the dates of the beginning and end of such periods of suspension shall be given to each operator of a motel in the county on or before the date immediately preceding the date each period begins and ends by the county manager or such other person as may be designated by him to give such notice. Such notice shall be deemed sufficient if

delivered to any person authorized to collect rent for the operator of the motel to whom notice is required to be given.

- (b) Such tax shall be paid upon any occupancy occurring on or after December 1, 2007, although such occupancy is had pursuant to a contract, lease or other arrangement made prior to such date. Where rent is paid, or charged or billed, or falls due on either a weekly, monthly or other term basis, the rent so paid, charged, billed or falling due shall be subject to the tax herein imposed to the extent that it covers any portion of the month of December, 2007, and any portion of any monthly period thereafter.
- (c) No tax shall be levied as provided in this section upon the fees or charges for any rooms, lodging, or accommodations furnished to the same customer for a period of more than 30 consecutive days or for use as meeting rooms.

(Code 1998, § 4-105(B); Ord. of 2-3-2000, § 4-105; Ord. of 5-17-2005(1), § 4-105; Ord. of 11-20-2007, § 4-106)

Sec. 26-45. - Collection of tax by operator.

It shall be the duty of every operator of a motel located within the county to collect from the occupants the tax levied and imposed upon the occupancy of guest rooms by the provisions of this article.

(Code 1998, § 4-105(D); Ord. of 2-3-2000, § 4-105; Ord. of 5-17-2005(1), § 4-105; Ord. of 11-20-2007, § 4-107)

Sec. 26-46. - Exemptions.

Notwithstanding any other provision of this article, no tax shall be levied as provided in this article upon the fees or charges for any rooms, lodgings, or accommodations furnished for use by state or local government officials or employees when traveling on official business provided that appropriate tax-exempt documentation is provided at the time of stay by the occupant or guest.

(Code 1998, § 4-105(E); Ord. of 2-3-2000, § 4-105; Ord. of 5-17-2005(1), § 4-105; Ord. of 11-20-2007, § 4-108)

Sec. 26-47. - Registration of operator.

Every person engaging or about to engage in business as an operator of a motel in the county shall immediately register with the county manager on a form provided by said county manager. Persons engaged in such business must so register not later than 15 days after the date this article becomes effective, but such privilege of registration after the imposition of such tax shall not relieve any person from the obligation of payment or collection of tax on and after the date of imposition thereof. Such registration shall set forth the name under which such person transacts business or intends to transact business, the location of his place or places of business and such other information which would facilitate the collection of the tax as the county manager may require. The registration shall be signed by the owner if a natural person; by a member or partner in case of ownership by an association or partnership; and by an executive officer in the case of ownership by a corporation. A separate registration shall be required for each place of business of an operator. Should the county manager deem it necessary, in order to facilitate registration, he may prescribe administrative provisions therefor other than those provided in this section. Such provisions shall be made to effect the purposes hereof.

(Code 1998, § 4-105(F); Ord. of 2-3-2000, § 4-105; Ord. of 5-17-2005(1), § 4-105; Ord. of 11-20-2007, § 4-109)

Sec. 26-48. - Certificate of taxing authority.

Upon the registration of an operator as hereinbefore provided, the county manager shall issue to such operator without charge a certificate of authority to collect the tax from the occupants, stating the name and location of the business to which it is applicable. Such certificates shall be non-assignable and nontransferable, and shall be returned immediately to the county manager upon the cessation of business by the registered operator at the location name, or upon sale or transfer of such business at said location.

(Code 1998, § 4-105(G); Ord. of 2-3-2000, § 4-105; Ord. of 5-17-2005(1), § 4-105; Ord. of 11-20-2007, § 4-110)

Sec. 26-49. - Due date of taxes.

All taxes levied and imposed by this article shall be due and payable to the county monthly on or before the 20th day of every month next succeeding each respective monthly period in which such taxes are collected.

(Code 1998, § 4-105(H); Ord. of 2-3-2000, § 4-105; Ord. of 5-17-2005(1), § 4-105; Ord. of 11-20-2007, § 4-111)

Sec. 26-50. - Returns and time of filing; remittance of tax.

- (a) On or before the 20th day of the month following each monthly period, a return for the preceding monthly period shall be filed with the county manager, in such form as the county manager may prescribe, by every operator liable for the payment of tax hereunder.
- (b) All returns shall show the gross rent, exempt rent, taxable rent, amount of tax collected or otherwise due for the monthly period for which filed, and such other information as may be required by the county manager, and shall be accompanied when filed by remittance of the net amount of tax due.

(Code 1998, § 4-105(H); Ord. of 2-3-2000, § 4-105; Ord. of 5-17-2005(1), § 4-105; Ord. of 11-20-2007, § 4-112)

Sec. 26-51. - Collection of fee allowed operators.

Operators collecting the tax levied hereunder shall be allowed a percentage of the tax due and accounted for and shall be reimbursed in the form of a deduction in submitting, reporting, and payment of the amount due, if said amount is not delinquent at the time of payment. The rate of the deduction shall be the same rate authorized under O.C.G.A. § 48-13-52, as now or hereafter amended.

(Code 1998, § 4-105(I); Ord. of 2-3-2000, § 4-105; Ord. of 5-17-2005(1), § 4-105; Ord. of 11-20-2007, § 4-113)

Sec. 26-52. - Deficiency determinations.

- (a) *Recomputation of tax authority to make; basis of recomputation.* If the county manager is not satisfied with the return or returns of the tax or the amount of the tax required to be paid to the county by any person, he may compute and determine the amount required to be paid upon the

basis of any information in his possession or which may come into his possession. One or more than one deficiency determinations may be made of the amount due for one or more than one monthly period.

- (b) *Interest on deficiency.* The amount of the unpaid tax found to be due shall bear interest at the rate of three-fourths of one percent per month from and after the 20th day of the month following the monthly period for which the amount should have been returned until the date of payment of such tax and interest.
- (c) *Offsetting of overpayments.* In making a determination, the county manager may offset overpayments for a period, or periods, against unpaid tax found to be due for another period or periods, against penalties, and against the interest on such unpaid tax.
- (d) *Notice of determination; service of.* The county manager or his designated representative shall give to the operator written notice of his determination. The notice may be served personally or by mail. If by mail, such service shall be addressed to the operator at this address as it appears in the records of the county manager.
- (e) *Time within which notice of deficiency determination to be mailed.* Except in the case of failure to make a return, every notice of a deficiency determination shall be mailed within three years after the 20th day of the calendar month following the monthly period for which the amount is proposed to be determined, or within three years after the return is filed, whichever period shall last expire.

(Ord. of 11-20-2007, § 4-114)

Sec. 26-53. - Determination if no return made.

- (a) *Estimate of gross receipts.* If any operator fails to make a return, the county manager shall make an estimate of the amount of the gross receipts of the operator or, as the case may be, of the amount of the total rentals in the county which are subject to the tax. The estimate shall be made for the period or periods in respect to which the person failed to make the return and shall be based upon any information which is or may come into the possession of the county manager. Upon the basis of this estimate the county manager shall compute and determine the amount required to be paid the county, adding to the sum thus determined a penalty equal to 15 percent thereof. One or more determinations may be made of the amount due for one or for more than one monthly period.
- (b) *Offsetting of overpayments.* In making a determination the county manager may offset overpayments for a period, or periods, against unpaid tax found to be due for another period or periods, against penalties, and against interest on unpaid tax found to be due. The interest on such unpaid tax shall be computed in the manner set forth in section 4-114(b).
- (c) *Interest on amount found due.* The amount of the unpaid tax found to be due shall bear interest at the rate of three-fourths of one percent per month from and after the 20th day of the month following the monthly period for which the amount should have been returned until the date of payment of such tax, penalties and interest.
- (d) *Notice of determination; service of.* Promptly after making his determination, the county manager shall give to the operator written notice of his determination, which notice may be served personally or by mail in the manner prescribed for service of notice of a deficiency determination.

(Code 1998, § 4-105(J); Ord. of 2-3-2000, § 4-105; Ord. of 5-17-2005(1), § 4-105; Ord. of 11-20-2007, § 4-115)

Sec. 26-54. - Collection of tax.

- (a) *Action for tax; time for.* When it is determined by a return filed, or by the county manager having made a determination under the provisions of section 11-125 or section 11-126 of this article, that tax

is due and payable to the county under the provisions of this article, the county manager may at any time within three years after determination that such tax is due and payable bring an action in the courts of this state, of any other state, or of the United States in the name of the county to collect the amount of tax payable to the county together with interest thereon and penalties, court costs, attorney's fees and other legal fees incident thereto. The bringing of such an action shall not be a prerequisite for the issuance of a *fi.fa.* under the provisions of subsection (d) of this section.

- (b) *Duty of successors or assignees of operator to withhold tax from purchase money.* If any operator liable for any amount of tax under this article sells or transfers his business, his successors or assigns shall withhold a sufficient amount of the purchase price of the business to cover such amount of tax, interest thereon, and penalties, and pay such sum over to the county unless the operator liable for such tax delivers to such purchaser or transferee, as the case may be, at the time of such sale or transfer, a certificate from the county manager showing that all tax returns required of such operator have been filed and all taxes shown as being payable on said returns have been paid in full.
- (c) *Liability for failure to withhold; time to enforce successor's liability.* If the purchaser or transferee of a business fails to withhold the required amount of the purchase price, he shall be personally liable for the payment of the amount required to be withheld by him to the extent of the purchase price, valued in money. The time within which the obligation of a successor may be enforced shall start to run at the time the operator sells or transfers his business, or at the time that the determination against the operator becomes final, whichever event occurs the later.
- (d) *Issuance of fi.fa.* The county manager is hereby authorized to issue a *Fi.Fa* for execution and levy to satisfy the amount of any tax, penalty or interest due but not paid under provisions of this article.

(Code 1998, § 4-105(M), (N); Ord. of 2-3-2000, § 4-105; Ord. of 5-17-2005(1), § 4-105; Ord. of 11-20-2007, § 4-116)

Sec. 26-55. - Administration of article.

- (a) *Authority of the secretary.* The county manager shall administer and enforce the provisions of this article for the levy and collection of the tax imposed by this article.
- (b) *Rules and regulations.* The county manager shall have the power and authority to make and publish reasonable rules and regulations not inconsistent with this article or other ordinances of the county, or the laws of the State of Georgia, or the constitution of this state or the United States, for the administration and enforcement of the provisions of this article and the collection of the taxes hereunder.
- (c) *Records required from operators, etc., form.* Every operator shall keep such records, receipts, invoices and other pertinent papers in such form as the county manager of the county may require.
- (d) *Examination of records; audits.* The county manager or any person authorized in writing by him, may examine the books, papers, records, financial reports, equipment and other facilities of any operator in order to verify the accuracy of any return made, or if no return is made by the operator, to ascertain and determine the amount of tax required to be paid.
- (e) *Authority to require reports; contents.* In administration of the provisions of this article, the county manager may require the filing of reports by any person or class of persons having in such person's or persons' possession or custody information relating to rentals of guest rooms which are subject to the tax. The reports shall be filed with the county manager when required by the county manager and shall set for the rental charged for each occupancy, the date or dates of occupancy, and such other information as the county manager may require.
- (f) *Limitation on disclosure of business of operators, etc.* The county manager or any person having an administrative duty under this article shall not make known in any manner the business affairs, operations, or information obtained by an audit of books, papers, records, financial reports,

equipment and other facilities of any operator or any other person visited or examined in the discharge of official duty, or the amount of source of income, profits, losses, expenditures, or any particular thereof, set forth or disclosed in any return, or permit any return or copy thereof or any book containing any abstract particulars thereof to be seen or examined by any person not having such administrative duty under this article except in case of judicial proceedings or other proceedings necessary to collect the tax hereby levied and assessed. Successors, receivers, trustees, executors, administrators, assignees and guarantors, if directly interested, may be given information as to the items included in the measure and amount of unpaid tax or amounts of tax, interest and penalties required to be collected.

(Code 1998, § 4-105(L); Ord. of 2-3-2000, § 4-105; Ord. of 5-17-2005(1), § 4-105; Ord. of 11-20-2007, § 4-117)

Sec. 26-56. - Agents for receiving notices.

When registering pursuant to section 4-109 hereof, each operator shall appoint, in writing, an agent to receive for the operator any notice required to be given to the operator under the provisions of this article, stating the full name, street address, mailing address and telephone number of such agent. Such agent shall be either an individual resident of the county or an employee of the operator who regularly works at the operator's place of business on a daily basis, and the appointment of the agent must be accompanied by the written consent of such agent to serve as agent for the operator. Such agent may be changed from time to time by written appointment of, and consent of the successor agent. The operator is required to have such an agent at all times and should an agent cease to be a resident of the county or an employee regularly working at the operator's place of business in the county, as the case may be, the operator shall immediately file a written appointment of a new agent and such agent's consent to serve as such with the county manager. Any agent so appointed by an operator shall be authorized to receive for and on behalf of the operator any notice required to be given to the operator by the provisions of this article. Delivery of any such notice to such agent, in person or by mail, shall be sufficient to meet the requirements of this article and such notice shall be binding on the operator. This method of giving notice to operators is supplementary and cumulative of the other methods of given notice set forth in this article.

(Ord. of 11-20-2007, § 4-118)