



**GENERAL INFORMATION****DEFINITIONS***Rent*

The consideration received for occupancy valued in money whether received in money or otherwise, including receipts, cash, credits, and property or services of any kind or nature, and also any amount for which credit is allowed by the operator to the occupant, without any deductions.

*Operator*

An "operator" is any individual, partnership, society, association, joint stock company, corporation, estate, receiver, trustee, assignee, referee, or any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and any combination of individuals operating a hotel in the City of New York, including but not limited to the owner or proprietor of such premises, lessee, sublessee, mortgagee in possession, licensee, or any other person operating the hotel.

*Hotel*

A "hotel" is any building or portion thereof which is regularly used and kept open for the lodging of guests. The term "hotel" includes apartment hotels, motels, boarding houses, lodging houses and clubs, whether or not meals are served.

A hotel includes making one or more rooms in a property owned by an individual available to guests for compensation on a regular basis but does not include renting one room in a dwelling place ordinarily occupied by a person as his residence.

*Occupancy*

"Occupancy" is the use or possession of any room or rooms in a hotel, 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 or rooms. There is an "occupancy" of a room whether or not the person entitled to the use or possession of the room actually uses or possesses it.

*Permanent Resident*

Except as otherwise provided here, a person is a "permanent resident" as of a given date if he/she has had the right to occupy a room or rooms in a particular hotel for the 180 consecutive days preceding such date. A person who enters into an agreement for occupancy for 180 consecutive days or more does not become a "permanent resident" under the law until he/she has been an occupant for 180 consecutive days, and the operator is liable for the collection of the tax until such occupancy for 180 consecutive days has been completed.

Certain hotel occupants can obtain permanent resident status on a tentative basis prior to the completion of 180 consecutive days of occupancy. To obtain tentative permanent resident status, an occupant must request a lease from the hotel operator pursuant to the provisions of Section 2522.5 of the rent stabilization regulations promulgated by the New York State Division of Housing and Community Renewal. Where the occupant has requested such a lease, the hotel operator should not collect the tax for any day, starting on the date the lease was requested, which falls within a period of continuous occupancy by the tenant. However, if the tenant does not complete 180 days of continuous occupancy, any taxes not previously collected become immediately due and payable and are to be collected by the hotel operator. The rules described in this paragraph apply with respect to leases requested on or after September 1, 1990.

*Room*

A "room" includes any portion of a hotel, other than a bathroom or lavatory, whether used for dwelling, commercial or any other purposes, except: (1) A place of assembly as defined in the NYC Administrative Code (*Refer to Title 19 Rules of the City of New York Section 12-01.*); (2) A store, stand or counter to which access is had directly from public thoroughfares or street or mezzanine lobbies; (3) A lobby, public dining

room or other public room used for a private purpose.

The term "room" also includes a kitchenette, provided that (a) it is a walk-in area, enclosed by walls, with one or more doorways, archways, or other openings, (b) it is supplied with a cooking appliance, including, but not limited to, a range, microwave or convection oven, or hot plate, and (c) it contains at least one item from each of two of the following three categories:

- (1) a sink with running water, or dishwasher
- (2) a refrigerator
- (3) a cabinet, counter top, or table

**REGISTRATION**

Every operator of a hotel must file with the Department of Finance a certificate of registration on the form prescribed by the Department of Finance for the purpose of obtaining a certificate of authority empowering the operator to collect the tax. In case of operators commencing business or opening new hotels, a certificate of registration must be filed within three days after the commencement or opening.

Every operator who operates more than one hotel is required to obtain a certificate of authority for each establishment. The certificate of authority must be prominently displayed by the operator in a manner that it may be seen and come to the notice of all occupants and persons seeking occupancy.

**WHEN AND WHERE TO FILE**

Every operator as defined above is required to file returns. Quarterly returns must be filed for each establishment for each three-month period ending on the last days of August, November, February and May of each tax year and must be filed within 20 days of the end of the period they cover. The return should be mailed to the address of the ATP Unit - Hotel Tax Section (address on the following page).

**NYC Department of Finance  
ATP Unit - Hotel Tax Section  
25 Elm Place, 3rd Floor  
Brooklyn, NY 11201- 5807**

If a tax return or payment is delivered to the Department of Finance by U.S. mail after the due date, the date of the U.S. Postal Service postmark stamped on the envelope will be considered the date of delivery, provided the postmark date falls on or before the due date. Non-U.S. Postal Service postmarks will also be recognized, provided delivery to the Department of Finance occurs within five days of the postmark date. If the five-day limit is exceeded, the taxpayer must establish that the item was actually deposited in the mail by the due date, that the delay in receipt was due to a delay in the transmission of the mail, and the cause of the delay. If the due date falls on a Saturday, Sunday or a legal holiday, the due date is extended to the next succeeding business day.

An operator who terminates the business must file a final return within 20 days from the date the business was terminated. If the business was sold, the purchaser must also file a return covering the period beginning on the date of purchase.

**IMPOSITION OF TAX**

The tax is in addition to taxes imposed by the State of New York and the City of New York on the occupancy of hotel rooms based on a percentage of the rent.

1) This tax must be paid for every occupancy of each room in a hotel in the City of New York at the following rates:

If the rent per full day for the room is:	The tax per day is:
\$10 or more, but less than \$20.....	\$ 0.50
\$20 or more, but less than \$30.....	\$ 1.00
\$30 or more, but less than \$40.....	\$ 1.50
\$40 or more.....	\$ 2.00

2) An additional charge is imposed for taxable occupancies on and after July 8, 1986. (Refer to instructions for

line 9.)

- 3) Where a room occupancy is for less than a full day and a person pays less than the rent for a full day, the tax is the same amount as would be due for a full day at the rate for a full day.
- 4) Where the rent covers a term longer than one day, the rent per day is computed by dividing the rent for the term by the total number of days in the term.
- 5) Where the price of meals (meal plan not optional) is included in the full day room rent, the full day room rent is to be adjusted in accordance with the following schedule:

If the total charge includes:	The portion of the total charges subject to tax is:
Breakfast, Lunch, Dinner .....	50 %
Lunch, Dinner .....	60 %
Breakfast, Dinner .....	60 %
Breakfast, Lunch .....	70 %
Dinner .....	75 %
Lunch .....	85 %
Breakfast .....	85 %

- 6) Where the price of meals (optional meal plan) is included in the full day room rent, the full day room rent is to be reduced by the price of the meals.
- 7) Where an entire rent is charged for more than one room, whether or not a suite, if such rooms are not otherwise rented separately, the daily rent per room is to be determined by dividing the entire rent by the number of rooms for which the charge is made. For example, if the entire charge for a suite of 3 rooms is \$90 per day, the charge for each room is considered to be \$30. A tax of \$1.50 plus an additional 5% of \$30 (\$1.50) (see instructions for line 9) must be paid for each room for a total of \$3.00 per room or a tax of \$9.00 for the suite.

8) Where the exclusive use of a room is secured by a person as an incident to the furnishing by the operator of

food and/or drink to be served in such room, the use constitutes a taxable occupancy, and any separate charge for rent for the occupancy is subject to tax. If no separate charge for the room is made to the person, 20% of the total charge to the guests for the food and/or drink is attributable to the use of the room by the person, and taxable as rent. If the charge to the guests is less than a minimum amount guaranteed by such person, 20% of the guaranteed minimum shall be attributable to the use of the room by such person and is taxable as rent.

**EXEMPTIONS**

The following are exempt from payment of the tax as hotel guests: (a) permanent resident as defined above, and (b) organizations and associations exempt from the State and City Sales Tax on hotel room rents as described in Tax Law section 1116(a), including the federal government, the State and City of New York, or any agency thereof, and certain nonprofit organizations. See *Administrative Code §11-2502(b) and (c), as amended by Ch. 454, Laws of 1998, effective 7/22/98*. To obtain this exemption, a person or entity described in clause (b) above must submit to the hotel operator either a NYC certificate of exemption or a New York State Sales Tax exemption certificate.

An organization organized and operated exclusively for religious, charitable, or educational purposes, or for the prevention of cruelty to children or animals, is exempt from the obligation to collect the tax as a hotel operator if it carries on its nonprofit activities in premises in which, as part of the activities for which it was organized, it operates a hotel. To obtain the above exemption, a nonprofit organization must submit a request for exemption containing the following:

- 1. a copy of the organization's articles of incorporation or association,

2. a copy of its by-laws,
3. a statement of receipts and disbursements for its most recent year,
4. a statement of its assets and liabilities for its most recent year,
5. a copy of its exemption from federal income tax issued by the Internal Revenue Service,
6. copies of its federal, state, and City tax returns for the most recent three years, and
7. an affidavit of an officer of the organization stating:
  - a. the type of organization
  - b. the purpose for which it was organized
  - c. a description of its actual activities
  - d. the source and disposition of its funds
  - e. a statement that none of its net earnings is credited to surplus nor may inure to the benefit of any shareholder, member or individual, and
  - f. such other facts as may be relevant to its application.

The application should be submitted to:

**New York City Dept. of Finance  
Account Examinations Unit  
Exemption Processing Section  
25 Elm Place, 3rd Floor  
Brooklyn, NY 11201-5807**

**SPECIFIC INSTRUCTIONS**

*SCHEDULE A - COMPUTATION OF TAX*

**LINE A - PAYMENT**

Enter the amount of payment remitted with this return.

**LINES 1 TO 4 - RENT CATEGORIES**

Enter in the proper lines for each rental

category the total number of taxable occupancies of rooms during the period covered by the return.

**LINE 5 - ADDITIONAL TAX DUE**

Enter the total amount of rents or charges for taxable occupancies during this tax period. Multiply this by the appropriate tax rate.

Period	Tax Rate
Jul. 8, 1986 - Aug. 31, 1990	5%
Sept. 1, 1990 - Nov. 30, 1994	6%
On or after Dec. 1, 1994	5%

**LINE 7 - TOTAL TAX COLLECTED**

Enter the amount of tax collected or required to be collected according to the hotel's books and records.

**LINE 9 - REFUNDS AND/OR CREDITS**

Enter the sum of the following and attach a schedule to the return and explain on a rider:

- a) any amount of tax paid to the Department of Finance in the preceding period and refunded in the current period to a person who has become a permanent resident;
- b) any amount of tax paid to the Department of Finance with respect to rent which has been determined to be worthless, but only if the refund is requested within one year from the date of payment; and
- c) any other credit allowable by law or regulation, provided a detailed explanation is attached to the return.

**LINE 16 - INTEREST**

If the tax is not paid on or before the due date, interest must be paid on the amount of the underpayment from the due date to the date paid. For information as to the applicable rate of interest call Taxpayer Assistance at: (718) 935-6000. Interest amounting to less than \$1 need not be paid.

**LINE 17 - PENALTY**

- a) If you fail to file a return when due, add to the tax (less any payments made on or before the due date) 5% for each month or partial month the form is late, up to 25%, unless the failure is due to reasonable cause.
- b) If the return is filed more than 60 days late, the minimum late filing penalty will be equal to the lesser of 1) \$100 or 2) 100% of the amount required to be shown on the return less any payment or credits claimed.
- c) If you fail to pay the tax shown on the return by the prescribed filing date, add to the tax (less any payments made) 1/2% for each month or partial month the payment is late up to 25%, unless the failure is due to reasonable cause.
- d) The total of the additional charges in (a) and (c) may not exceed 5% for any one month except as provided in (b).

If you claim not to be liable for these additional charges, a statement in support of your claim should be attached to the return. Additional penalties may be imposed on any underpayment of the tax due to negligence or fraud.

**Officers of a corporate operator and partners in a partnership that is an operator are personally liable for the tax collected or required to be collected by the corporation or partnership and are subject to the above penalties.**

**LINE 18 - TOTAL REMITTANCE DUE**

Add lines 13, 16 and 17 to obtain the total amount due. Make your check payable to the order of: **NYC Department of Finance.**