

**Adopted May 1, 2007**

**MOTEL EXCISE TAX**

**1.010 Definitions.**

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

“County” means Evans County, Georgia.

“Clerk” means the Clerk of the Evans County Board of Commissioners.

“Due date” means the twentieth day after the end of the monthly period for which tax is to be computed.

“Guest room” means a room occupied, or intended, arranger, 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, inn, 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 Evans County, Georgia, 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 organization 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 provided in this chapter.

“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 therefrom whatsoever.

“Return” means any return filed or required to be filed as provided in this chapter.

“Tax” means the tax imposed by this chapter.

### **1.020 Imposition and rate of tax.**

A. There is levied and imposed, and that shall be paid a tax of five percent of the rent for every occupancy of a guest room in a motel in the county which is required to be expended for the purpose of promoting tourism, conventions and trade shows, or for the other purposes as provided in O.C.G.A. Section 48-13-50 and O.C.G.A. Section 48-13-51(3).

B Such tax shall be paid upon any occupancy occurring on or after July 1, 2007, although such occupancy is had pursuant to a contract, lease, or other arrangement made prior to such date. Whether 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 imposed in this section to the extent that it covers any portion of the month of July, 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, lodgings or accommodations furnished for a period of more than ten (10) consecutive days or for use as meeting rooms.

### **1.030 Exemptions.**

A. Notwithstanding any other provision of this chapter, no tax shall be levied as provided in this chapter upon the fees or charges for any rooms, lodgings or accommodations furnished for the use by Georgia State or local government officials or employees when traveling on official business.

B. No tax shall be imposed hereunder upon a motel operator subject to an excise tax on lodging under the jurisdiction of the City of Claxton, City of Hagan, City of Bellville or City of Daisy.

### **1.040 Duty of operator to collect.**

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 chapter.

### **1.050 Registration of Operator.**

A. Every person engaging or about to engage in business as an operator of a motel in this county shall immediately register with the Clerk of the Evans County Board of Commissioners on a form provided by the Clerk. Persons engaged in such business must so register not later than fifteen (15) days after the date this chapter 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 Clerk 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.

B. A separate registration shall be required for each place of business of an operator.

C. Should the Clerk of the Evans County Board of Commissioners deem it necessary in order to facilitate registration, she may prescribe administrative provisions therefor other than those provided in this section. Such provisions shall be made to effect the purposes of this chapter.

### **1.060 Certification of taxing authority.**

Upon the registration of an operator as provided in Section 1.050, the Clerk 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 non-transferable, and shall be returned immediately to the Clerk upon the cessation of business by the registered operator at the location named, or upon sale or transfer of such business at such location.

### **1.070 Due date of taxes.**

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

### **1.080 Returns and time of filing—Remittance of tax.**

A. On or before the twentieth day of the month following each monthly period, a return for the preceding monthly period shall be filed with the Clerk, in such form as the Clerk may prescribe, by every operator liable for the payment of tax under this chapter.

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 Clerk, and shall be accompanied when filed by remittance of the net amount of tax due.

### **1.090 Collection fee allowed operators.**

Operators collecting the tax levied under this chapter 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 such amount is not delinquent at the time of the payment. The rate of the deduction shall be the same rate authorized for deductions from State sales and use tax under Section 48-8-50 of the Official Code of Georgia Annotated, as now or hereafter amended.

### **1.100 Deficiency determinations.**

A. Recomputation of Tax Authority to Make Basis of Recomputation. If the Clerk 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, she may compute and determine the amount required to be paid upon the basis of any information in her possession or which may come into her possession. One or more than one deficiency determination 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 one percent per month from and after the twentieth 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 determination, the Clerk 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 Clerk, or her designated representative, shall give to the operator written notice of her determination. The notice may be served personally or by mail. If by mail, such service shall be addressed to the operator at his address as it appears in the records of the Clerk.

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 twentieth 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.

#### **1.110 Determination if no return made.**

A. Estimate of Gross Receipts. If any operator fails to make a return, the Clerk 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 this 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 Clerk. Upon the basis of this estimate, the Clerk shall compute and determine the amount required to be paid to the county, adding to the sum thus determined a penalty equal to fifteen (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 Clerk 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 1.100(B).

C. Interest on Amount Found Due. The amount of the unpaid tax found to be due shall bear interest at the rate of one percent per month from and after the twentieth 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 her determination, the Clerk 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.

### **1.120 Collection of tax.**

A. Action for Tax—Time for.

1. When it is determined by a return filed, or by the Clerk having made a determination under the provisions of Sections 1.100 or 1.110 of this chapter, that tax is due and payable to the county under the provisions of this chapter, the Evans County Board of Commissioners 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.

2. 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 chapter 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 Clerk showing that all tax returns required of such operator have been filed and all taxes shown as being payable on such 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 Clerk is 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 the provisions of this chapter.

### **1.130 Administration.**

A. Authority of the Clerk. The Clerk, under supervision of the Evans County Board of Commissioners, shall administer and enforce the provisions of this chapter for the levy and collection of the tax imposed by this chapter.

B. Rules and Regulations. The Clerk shall have the power and authority to make and publish reasonable rules and regulations not inconsistent with this chapter 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 chapter and the collection of the taxes under this chapter.

C. Records Required from Operators, etc.—Form. Every operator shall keep such records, receipts, invoices, and other pertinent papers in such form as the Clerk may require.

D. Examination of Records—Audits. The Clerk, or any person authorized in writing by her, 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 chapter, the Clerk 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 Clerk when required by the Clerk and shall set forth the rental charged for each occupancy, the date or dates of occupancy, and such other information as the Clerk may require.

F. Limitation on Disclosure of Business of Operators, etc. The clerk or any person having an administrative duty under this chapter 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 or 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 or particulars thereof to be seen or examined by any person not having such administrative duty under this chapter, except in case of judicial proceedings or other proceedings necessary to collect the tax levied and assessed by this chapter. 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.

#### **1.140 Agents for receiving notices.**

When registering pursuant to Section 1.050 of this chapter, 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 chapter, 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 a 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 Clerk. 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 chapter. Delivery of any such notice to such agent, in person or by mail, shall be sufficient to meet the requirements of this chapter 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 giving notice set forth in this chapter.

#### **1.150 Violations—Penalty.**

A. Any person violating any of the provisions of this chapter shall be subject to the Civil Penalties as provided in O.C.G.A. § 48-13-58.

B. Any person violating the provisions of this chapter shall be subject to the Criminal Penalties as provided in O.C.G.A. § 48-13-58.1, § 48-13-59, §48-13-60, § 48-13-61, § 48-13-62 and § 48-13-63.