

ARLINGTON COUNTY CODE

Chapter 40

TRANSIENT OCCUPANCY TAX

- § 40-1. Definitions.
- § 40-2. Levy and Rate.
- § 40-3. Exceptions.
- § 40-4. Collection.
- § 40-5. Reports.
- § 40-6. Interest and Penalties.
- § 40-7. Determination of Tax Due by County Manager.
- § 40-8. Cessation of Business; Report and Tax Due Immediately.
- § 40-9. County Manager, Other Powers and Duties.
- § 40-10. Penalty.

§ 40-1. Definitions.

The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise:

“Accommodations” means any room or rooms, lodgings, or accommodations in any hotel, motel, inn, tourist camp, tourist cabin, camping grounds, club, or any other place in which rooms, lodging, space, or accommodations are regularly furnished to transients for a consideration. This includes the rental of a meeting, banquet, or other hotel space.

“Accommodations fee” means the room charge less the discount room charge, if any, provided that the accommodations fee shall not be less than \$0.

“Accommodations intermediary” means any person other than an accommodations provider that facilitates the sale of an accommodation, charges a room charge to the customer, and charges an accommodations fee to the customer, which fee it retains as compensation for facilitating the sale. For purposes of this definition, “facilitates the sale” includes brokering, coordinating, or in any other way arranging for the purchase of the right to use accommodations via a transaction directly, including via one or more payment processors, between a customer and an accommodations provider. “Accommodations intermediary” does not include a person: (1) if the accommodations are provided by an accommodations provider operating under a trademark, trade name, or service mark belonging to such person; or (2) who facilitates the sale of an accommodation if (i) the price paid by the customer to such person is equal to the price paid by such person to the accommodations provider for the use of the accommodations and (ii) the only compensation received by such person for facilitating the sale of the accommodation is a commission paid from the accommodations provider to such person.

“Accommodations provider” means any person that furnishes accommodations to the general public for compensation. The term “furnishes” includes the sale of use or possession or the sale of the right to use or possess.

“Commissioner of Revenue” means the Arlington County Commissioner of Revenue, or any of his or her employees or designees.

“Discount room charge” means the full amount charged by the accommodations provider to the accommodations intermediary, or an affiliate thereof, for furnishing the accommodations.

“Hotel” includes, but is not limited to, any public or private hotel, inn, apartment hotel, hostelry, tourist home or house, motel, rooming house or other lodging place in the County which offers lodging to any transient for compensation, and which can lodge four or more persons at one time.

“Person” includes, but is not limited to, any natural person, corporation, limited liability company, partnership, or association.

“Room charge” means the full retail price charged to the customer by the accommodations intermediary for the use of the accommodations, including any accommodations fee, before taxes.

“Room rental” means the total price paid by a transient customer for the use or possession of accommodations. If the charge made to such transient includes any charge for additional services, then such portion of the total charge as represents only room and/or spacerental shall be distinctly set out and billed to such transient as a separate item.

“Transient” means any natural person or individual who for any period of fewer than thirty (30) consecutive days occupies accommodations for which occupancy a charge is made (whether such charge is paid by the occupant or by another). Contracting and paying for the occupancy of a lodging room or rooms for thirty (30) consecutive days or more, when the lodging room or rooms are occupied by different individuals or by different groups of individuals for fewer than thirty (30) consecutive days constitutes transient occupancy or use of the rooms and is subject to the tax provided by this chapter. (7-1-70; 6-4-77; Ord. No. 91-38, 10-26-91; Ord. No. 91-42, 12-7-91; Ord. No. 92-9, 4-4-92; Ord. No. 92-22, 5-16-92, Ord. No. 17-06, 4-22-17; Ord. No. 21-16, 10-16-21)

§ 40-2. Levy and Rate.

In addition to all other taxes of every kind now or hereafter imposed by law, there is hereby imposed and levied on each and every transient a tax equivalent to five and one-quarter percent (5.25%) of the total price paid by the transient customer for the use or possession of the room or space occupied as accommodations by such transient.

The difference between the receipts from a tax of five and one-quarter percent (5.25%) and five percent (5%) of the total amount paid for room rentals taxed under the previous paragraph shall be designated and spent for the purpose of promotion of tourism and business travel in Arlington County.

(7-1-70; 6-4-77; Ord. No. 91-9, 5-15-91; Ord. No. 12-07, 5-19-12, Ord. No. 16-04, 5-14-16; Ord. No. 21-16, 10-16-21)

§ 40-3. Exceptions.

No tax shall be payable hereunder on room rental paid to any hospital, medical clinic, convalescent home or home for the aged.

(7-1-70)

§ 40-4. Collection.

As further provided below, every person receiving any payment for room rental with respect to which a tax is levied under this chapter shall collect the amount of tax hereby imposed at the time payment for such room rental is made. Such tax shall be deemed to be held in trust by the person required to collect the same until remitted as required herein.

For any retail sale of accommodations not facilitated by an accommodations intermediary, the accommodations provider shall collect the tax imposed pursuant to this chapter, computed on the total price paid for the use or possession of the accommodations, and shall remit the same to the Treasurer and shall be liable for the same.

For any retail sale of accommodations facilitated by an accommodations intermediary, the accommodations intermediary shall collect the tax imposed pursuant to this chapter, computed on the room charge. When the

accommodations are at a hotel, the accommodations intermediary shall remit the taxes on the accommodations fee to the Treasurer and shall remit any remaining taxes to the hotel, which shall remit such taxes to the Treasurer. When the accommodations are at a short-term rental, as defined in Virginia Code § 15.2-983, or at any other accommodations, the accommodations intermediary shall remit the taxes on the room charge to the Treasurer.

An accommodations intermediary shall not be liable for taxes under this chapter remitted to an accommodations provider but that are then not remitted to the Treasurer by the accommodations provider. For any retail sale of accommodations facilitated by an accommodations intermediary, an accommodations provider shall be liable for that portion of the taxes under this chapter that relate to the discount room charge only to the extent that the accommodations intermediary has remitted such taxes to the accommodations provider.

In any retail sale of any accommodations in which an accommodations intermediary does not facilitate the sale of the accommodations, the accommodations provider shall separately state the amount of the tax in the bill, invoice, or similar documentation and shall add the tax to the total price paid for the use or possession of the accommodations. In any retail sale of any accommodations in which an accommodations intermediary facilitates the sale of the accommodation, the accommodations intermediary shall separately state the amount of the tax on the bill, invoice, or similar documentation and shall add the tax to the room charge.
(7-1-70; Ord. No. 21-16, 10-16-21)

§ 40-5. Reports.

The person collecting any tax under this chapter shall make out a report upon such forms and setting forth such information as the Commissioner of Revenue may prescribe and require, showing the total price paid by each customer for the use or possession of a room or space occupied for lodging by or for a transient, and the tax required to be collected, and shall submit the same to the Commissioner of Revenue and remit such tax to the Treasurer.

Said reports and remittances shall be made on or before the twentieth (20th) day of the month following each month and covering the amount of tax collected during the preceding month. Provided, however, that the Commissioner of Revenue may require persons providing transient rentals as a home-based occupation to file such reports and make such remittances on a quarterly basis.
(7-1-70; 10-3-70; Ord. No. 18-13, 4-21-18, effective 7-1-18; Ord. No. 21-16, 10-16-21)

§ 40-6. Interest and Penalties.

If any person shall fail or refuse to remit to the Treasurer the tax required to be collected and paid under this chapter within the time and in the amount specified in this chapter, there shall be added to such tax by the Treasurer a penalty of five percent (5%). Interest shall accrue on taxes that remain due and delinquent for a period of one month from the date same are due and payable as prescribed in § 27-3. (7-1-70; Ord. No. 99-16, 7-10-99; Ord. No. 99-19, 8-14-99; Ord. No. 21-16, 10-16-21)

§ 40-7. Determination of Tax Due by Commissioner of Revenue.

If any person required to collect and remit the tax imposed by this chapter fails to file a statement and a remittance, or if the Commissioner of Revenue has reasonable cause to believe that an erroneous statement has been filed, the Commissioner of Revenue may proceed to determine the amount due to the County and in connection therewith shall make such investigations as may be necessary. (7-1-70; Ord. No. 21-16, 10-16-21)

§ 40-8. Cessation of Business; Report and Tax Due Immediately.

Whenever any person required to collect and pay to the County a tax under § 40-2 of this chapter shall quit or otherwise dispose of his business, any tax under the provisions of this chapter shall become immediately due, and such person shall immediately make a report and pay the tax due.
(7-1-70)

§ 40-9. Commissioner of Revenue, Other Powers and Duties.

It shall be the duty of the Commissioner of Revenue to ascertain the name of every person liable for the collection of the tax levied by § 40-2 of this chapter.

(7-1-70; Ord. No. 21-16, 10-16-21)

§ 40-10. Penalty.

Any person violating or failing to comply with any of the provisions of this chapter shall, upon conviction thereof, be fined not more than three hundred dollars (\$300.00), or may be imprisoned for a period not exceeding thirty (30) days, or by both such fine and imprisonment. Each such violation or failure shall constitute a separate offense. Such conviction shall not relieve any such person from the payment, collection or remittance of such tax, penalties and interests, as provided in this chapter.

(7-1-70)