

County of Potter

Hotel Excise Tax

Rules and Regulations

**PART I.
GENERAL**

These Rules and Regulations are designed to establish a uniform practice and procedure for the imposition and collection of the Hotel Excise Tax. The Rules and Regulations are intended to guide and assist Operators to determine which Patrons are subject to the Hotel Excise Tax and the amount due by each Patron. The Rules and Regulations also establish the official forms for the reporting and remittance of the Hotel Excise Tax to the Treasurer, as well as general collection procedures.

A. DEFINITIONS

Those terms which are defined in Section 3 of the "Potter County Hotel Excise Tax Ordinance", Number ____ of 2004, and as amended, (*"The Ordinance"*), shall have the same meaning for the purpose of interpreting and applying these Rules and Regulations, and are incorporated herein by reference.

**PART II
IMPLEMENTATION**

B. REGISTRATION

Within fifteen (15) days after the effective date of the Ordinance or within fifteen (15) days after commencing a hotel business, each Operator of any Hotel shall register with the Treasurer, by completing the application form provided by the Treasurer, a copy of which is attached hereto and identified as **Exhibit "A"**. Upon registration the Treasurer shall issue to the Operator of the Hotel, a Certificate of Authorization evidencing the Operator's authority to collect the Hotel Excise Tax which shall at all times be posted in a conspicuous place on the premises of the Hotel, a copy of which is attached hereto and identified as **Exhibit "B"**.

C. REPORTS, RETURNS, PAYMENTS AND COLLECTION OF TAX

1. **Collections from Patron:** The Operator shall collect the Hotel Excise Tax imposed by the Ordinances from the Patron of the Room, and remit the same to the Treasurer as provided in said ordinance. The Operator shall be liable to the County, as agent thereof, for the payment of the Hotel Excise Tax to the County as provided by the Ordinance.
2. **Quarterly Return by Operator:** Every Operator shall transmit to the Treasurer on the form provided by said treasurer, a quarterly return of the tax collected for the three (3) calendar months, or portion thereof, preceding the month in which the return is due, in accordance with the following schedule.

<u>QUARTER</u>	<u>RETURN/TAX PAYMENT DUE DATE</u>
(1 st .) Jan., Feb., & Mar.	April 30 th .
(2 nd .) Apr., May & June	July 31 st .
(3 rd .) Jul., Aug., & Sept.	October 31 st .
(4 th .) Oct., Nov., & Dec.	January 31 st .

3. **Form of the Returns:** The return shall report the total amount of all consideration Received for the Transactions during the three months for which the return is made, the amount of tax due from the Operator for that quarter, and such other information as the Treasurer may require, a copy of which is attached hereto and identified as **Exhibit "C"**.

Every report and return shall be made upon the official forms furnished by the Treasurer. The Treasurer may, from time to time, amend and/or modify any form. The Treasurer also may develop a new or additional form/forms to effectuate and implement the Ordinance or these Rules and Regulations.

4. **Payment of Tax:** Every Operator, at the time of filing the quarterly return, shall also pay over to the Treasurer the taxes shown as due on the return for the period for which the return is made plus any interest or penalty if due.
5. A tax return and the payment of tax due transmitted to the Treasurer by U.S. Mail, postage pre-paid, post marked on or before the due date, shall be deemed timely filed and paid.

PART III ENFORCEMENT/APPEAL

D. FAILURE TO REGISTER, COLLECT, REPORT AND REMIT TAX, PLUS INTEREST AND PENALTIES, WHEN DUE

1. **Collection and Report:** Any Operator who shall fail to register with the Treasurer, fail or refuse to collect the Hotel Excise Tax, fails or refuses to produce any report or form required by the Ordinance or these Rules and Regulations or fails or refuses to pay over to the Treasurer any tax, interest or penalty when due, shall be subject to the fines, penalties and other legal remedies as provided in the Ordinance and/or these Rules and Regulations.

2. **Assessment of Tax Due:** The Treasurer is hereby authorized to assess the amount of tax, interest or penalty that is due, upon any Operator who shall fail to register with the Treasurer, fail or refuse to collect the Hotel Excise Tax, fails or refuses to produce any report or form required by the Ordinance or these Rules and Regulations or fails or refuses to pay over to the Treasurer any tax, interest or penalty when due, said amount to be determined by such means the Treasurer shall deem just and appropriate under the circumstances.

Appeal to Treasurer: Ten (10) days written notice of the Treasurer's determination shall be given to the operator by personal service or first class U.S. Mail, postage prepaid. If the Operator disagrees with said determination, the Operator shall serve upon the Treasurer within ten (10) days of receipt of said determination, *written notification of said disagreement* and a brief statement of the basis for said disagreement.

Upon receipt of the Operator's notice of disagreement, the Treasurer shall schedule a hearing and give the Operator no less than five (5) days prior written notice of the date, time and place of the scheduled hearing at which the Operator shall show cause why the Determination is improper. At such hearing, the Operator may appear and offer evidence as well as be represented by an attorney to prove the Treasurer's Determination is improper. At the conclusion of the hearing or within a reasonable time thereafter, the Treasurer shall make a final determination of the proper Hotel Excise Tax due, together with any interest, costs and attorney's fees, if any and shall provide written notice of said determination to the Operator.

The final determination of Assessment shall be payable within ten (10) days unless an appeal is taken to the Potter County Board of Commissioners, pursuant to these Rules and Regulations.

Appeal to Board of Commissioners: If the Operator disagrees with the Treasurers final determination, the Operator may appeal said determination to the Potter County Board of Commissioners by serving a written "*Notice of Appeal*", to the Board of Commissioners, at One East Second Street, Courthouse, Pennsylvania, 16915, including a brief statement of the basis for said appeal, not later than ten (10) days of receipt of the written final determination of the Treasurer. .

Upon receipt of the Operator's "Notice of Appeal", the Board of Commissioners shall schedule a hearing and give the Operator no less than five (5) days prior written notice of the date, time and place of the scheduled hearing at which the Operator shall show cause why the Treasurer's final Determination is improper. At such hearing, the Operator may appear and offer evidence as well as be represented by an attorney to prove the Treasurer's final Determination is improper. At the conclusion of the hearing or within a reasonable time thereafter, the Board of Commissioners shall make a determination of the proper Hotel Excise Tax due, together with any interest, costs and attorney's fees, if any and shall provide written notice of said determination to the Operator.

The Board's determination of Assessment shall be payable within thirty (30) days unless a "*Notice of Appeal*" is filed with the Potter County Court of Common Pleas, within said thirty (30) days pursuant to the Pennsylvania Rules of Civil Procedure.

If no appeal is filed with the Potter County Court of Common Pleas within the time prescribed the amount due as determined by the Board of Commissioners shall become final and conclusive and immediately due and payable.

E. RECORDS

It shall be the duty of every Operator liable for the collection of the Hotel Excise Tax to keep and preserve for a period of **three (3) years** all records as may be necessary to determine the amount of such tax for which the Operator was liable to collect and pay to the County. The records shall be maintained at the place of business where the subject Rooms were rented. The records shall be filed in a manner that allows ready access by the Treasurer or a duly authorized agent of the Treasurer or the Board of Commissioners, who shall have the right to inspect the records during regular business hours of the Operator and to perform an audit thereon.

In all instances where an Operator claims an exemption from the Tax pursuant to the Ordinance or the Rules and Regulations, the Operator shall have the burden of providing the Treasurer with sufficient proof through the business records or other records maintained which confirm entitlement to the exemption/exemptions.

PART IV ACCOUNT ADJUSTMENTS

F. REFUNDS

Whenever the amount of Hotel Excise Tax, interest, costs or attorney's fees has been overpaid, paid more than once, or erroneously collected or received by the Treasurer and the Treasurer is convinced an overpayment has occurred, the overpayment may be refunded to the Operator provided that a verified written claim is filed by the Operator with the Treasurer **within six (6) months of the date of the overpayment**, stating the specific grounds upon which the claim is founded.

**PART V
CONFIDENTIALITY**

G. RIGHT TO PRIVACY

All reports, returns and forms submitted to the Treasurer shall be deemed confidential and not subject to public disclosure under the Pennsylvania Right to Know Law other than for purposes of audit, confirmation of compliance with the Ordinance or these Rules and Regulations or other inquiry permitted by law. The Treasurer shall not disclose any confidential information which is otherwise protected by law.

**PART VI
REGULATION MODIFICATION**

H. AMENDMENTS

These Rules and Regulations may be amended, modified, supplemented or abolished by the Potter County Commissioners at any time or from time to time, upon resolution duly adopted providing for same, without advance notice, to the extent they deem necessary and appropriate for the purpose/purposes intended, same to be determined in their sole discretion.