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Meals and Rooms tax -- room remarketers

Sec. 1. 32 V.S.A. § 9202 is amended to read:

§ 9202. DEFINITIONS

The following words, terms, and phrases when used in this chapter shall have the meanings ascribed to them in this section unless the context clearly indicates a different meaning:

* * *

(4) "Operator" means any person, or his or her agent, operating a hotel, whether as owner or proprietor or lessee, sublessee, mortgagee, licensee, or otherwise; and any person, or his or her agent, charging for a taxable meal; and any person, or his or her agent, engaged in both of the foregoing activities. In the event that an operator is a corporation or other entity, the term "operator" shall include any officer or agent of such corporation or other entity who, as an officer or agent of the corporation, is under a duty to pay ~~the~~ tax on gross receipts ~~tax~~ to the Commissioner as required by this chapter.

(5) "Occupant" means a person who, for a consideration, uses, possesses or has a right to use or possess any room or rooms in a hotel under any lease, concession, permit, right of access, license, or agreement, including any rights to use or possess any room or rooms provided by a room remarketer. The term shall not include a permanent resident.

1 (6) "Occupancy" means the use or possession, or the right to the use or
2 possession, of any room or rooms in a "hotel" for any purpose, including any
3 rights to use or possess any room or rooms provided by a room remarketer, or
4 the right to the use or possession of the furnishings or to the services and
5 accommodations accompanying the use and possession of a room or rooms.

6 The term shall not include occupancy by a "permanent resident," or by an
7 employee of an operator when such occupancy is granted to the employee as
8 remuneration for his or her employment, or any occupancy furnished in a
9 summer camp for children.

10 (7) "Permanent resident" means any occupant who has occupied any
11 room or rooms in a "hotel" for at least 30 consecutive days. The term
12 “permanent resident” does not include a room remarketer.

13 (8) "Rent" means the consideration received by an operator or a room
14 remarketer or any person or agent acting on behalf of an operator or room
15 remarketer, for occupancy valued in money, whether received in money or
16 otherwise, including all receipts, cash, credits, booking fees, or services that
17 are a condition of occupancy, and property or services of any kind or nature,
18 and also any amount for which the occupant is liable for the occupancy without
19 any deduction therefrom whatsoever; and any monies received in payment for
20 time-share rights at the time of purchase; provided, however, that such money
21 received shall not be considered rent and thus not taxable if a deeded interest is

1 granted to the purchaser for the time-share rights. The term "rent" shall not
2 include rental charges for living quarters, sleeping, or household
3 accommodations to any student necessitated by attendance at a school as
4 defined herein.

5 * * *

6 (19) "Gross receipts" means the total amount received from occupancy
7 rentals, including net rent and additional rent, taxable meals, or alcoholic
8 beverages.

9 (20) "Net rent" means the rent received by an operator from a room
10 remarketer.

11 (21) "Additional rent" means the excess of the rent received by a room
12 remarketer from an occupant over the net rent.

13 (22) "Room remarketer" means any person, excluding an operator,
14 having any right, access, ability, or authority to reserve, arrange for, convey,
15 remarket, resell, or facilitate the transfer of, whether directly or indirectly, the
16 use or possession, or the rights to the use or possession, of any room or rooms
17 in a hotel, the occupancy of which is subject to tax under this chapter.

18 Sec. 2. 32 V.S.A. § 9241(a) is amended to read:

19 (a) ~~An operator shall collect a~~ A tax of nine percent of the rent ~~of,~~ including
20 both net rent and additional rent, if applicable, shall be imposed on each
21 occupancy.

1 Sec. 3. 32 V.S.A. § 9242 is amended to read:

2 § 9242. COLLECTION AND IMPOSITION OF MEALS AND ROOMS

3 ~~TAX BY OPERATOR AND IMPOSITION OF GROSS RECEIPTS~~

4 ~~TAX~~

5 (a) Collection of meals and rooms tax.

6 (1) By operator.

7 (A) Each operator shall state the amount of tax on the rent or net rent
8 to be collected on an occupancy to each occupant, and the amount of tax to be
9 collected on taxable meals and alcoholic beverages to each purchaser of a
10 taxable meal and alcoholic beverage, and shall charge the tax for each ~~rental~~
11 occupancy, meal, or beverage, and shall demand and collect the tax from such
12 occupant or purchaser. The In the case of an occupancy in which a room
13 remarketer does not reserve, arrange for, convey, remarket, resell, or facilitate
14 the transfer of the occupancy, each occupant or purchaser shall pay the tax on
15 the rent to the operator, and each operator shall be liable for the collection
16 ~~thereof~~ and payment of the rent.

17 (C) In the case of an occupancy in which a room remarketer does
18 reserve, arrange for, convey, remarket, resell, or facilitate the transfer of the
19 occupancy, and the room remarketer refuses or fails to remit payment on net
20 rent or additional rent pursuant to subdivision (2) of this subsection, then an

1 operator shall be liable for the full amount of taxes on such rent if it does not
2 immediately cease doing business with the room remarketer.

3 (2) By room remarketer.

4 (A) Each room remarketer shall state the amount of tax to be
5 collected on each occupancy, including the portion of the tax attributable to net
6 rent and any additional rent, to each occupant.

7 (B) In the case of an occupancy in which a room remarketer does
8 reserve, arrange for, convey, remarket, resell, or facilitate the transfer of the
9 occupancy:

10 (i) each room remarketer shall collect and pay tax on the net rent
11 to the operator, and the operator shall be liable for the payment of the net rent.

12 (ii) each room remarketer shall charge each occupant tax on any
13 additional rent. The room remarketer shall be liable for the collection of tax on
14 the additional rent and for the payment of the tax on the additional rent;
15 provided, however, that if a room remarketer demonstrates that it has paid to
16 the operator the portion of the tax based upon the additional rent pursuant to
17 section 9243 of this title, the room remarketer will not be liable for payment of
18 tax on the additional rent to the Department of Taxes. If a room remarketer
19 pays tax on the additional rent to the operator pursuant to this subsection, the
20 operator shall be liable for the payment on the additional rent.

1 (b) Advertisement of meals and rooms tax.

2 (1) No operator or room remarketer shall advertise or hold out or state to
3 the public or to any consumer, directly or indirectly, that the tax or any part
4 thereof will be assumed or absorbed by the operator or room remarketer or that
5 it will not be added to the price of taxable meals or beverages, or the rent or
6 that, if added, it or any part thereof will be refunded. ~~However,~~

7 (2) ~~an~~ An operator may advertise the price of a taxable meal or
8 beverage, or an operator or room remarketer may advertise the rent by stating
9 the purchase price or rent charge with the words “plus tax,” or “exclusive of
10 tax,” or “tax included.” The operator shall maintain his or her records to show
11 separately the charge for taxable meals, beverages, and rent and the amount of
12 tax paid thereon, and the operator, if requested, shall furnish the purchaser or
13 occupant with a statement of the charges made showing the tax separately
14 computed thereof.

15 (c) Imposition of meals and rooms tax on gross receipts. A tax of nine
16 percent of the gross receipts from meals and occupancies and 10 percent of the
17 gross receipts from alcoholic beverages, exclusive of taxes collected pursuant
18 to section 9241 of this title, received from occupancy rentals; and taxable
19 meals and alcoholic beverages by an operator or room remarketer, is hereby
20 levied and imposed and shall be paid to the State by the operator or room
21 remarketer as herein provided. Every person required to file a return under this

1 chapter shall, at the time of filing the return, pay the Commissioner the taxes
2 imposed by this chapter as well as all other monies collected by him or her
3 under this chapter; provided, however, that every person who collects the taxes
4 on taxable meals and alcoholic beverages according to the tax bracket
5 schedules of section 9241 of this title shall be allowed to retain any amount
6 lawfully collected by the person in excess of the tax imposed by this chapter as
7 compensation for the keeping of prescribed records and the proper account and
8 remitting of taxes.

9 Sec. 4. 32 V.S.A. § 9243 is amended to read:

10 § 9243. RETURNS AND PAYMENT

11 (a) Where the meals and rooms tax liability under this chapter for the
12 immediately preceding full calendar year has been (or would have been in
13 cases when the business was not operating for the entire year) \$500.00 or less,
14 the taxes on gross receipts taxes imposed by this chapter shall be due and
15 payable in quarterly installments on or before the 25th day of the calendar
16 month succeeding the quarter ending the last day of March, June, September,
17 and December of each year. In all other cases, the taxes on gross receipts ~~tax~~
18 imposed by this chapter shall be due and payable monthly on or before the
19 25th (23rd of February) day of the month following the month for which the
20 tax is due. The Commissioner may authorize payment of the tax due by
21 electronic funds transfer. The Commissioner may require payment by

1 electronic funds transfer from any taxpayer who is required by federal tax law
2 to pay any federal tax in that manner, or from any taxpayer who has submitted
3 to the Department of Taxes two or more protested or otherwise uncollectible
4 checks with regard to any State tax payment in the prior two years. Each
5 operator or room remarketer shall make out and sign under the pains and
6 penalties of perjury a return for each quarter or month. The return shall be filed
7 with the Commissioner on a form prescribed by the Commissioner. The
8 Commissioner shall distribute return forms to the operators or room
9 remarketers, but no operator or room remarketer shall be excused from liability
10 for failure to file a return or pay the tax because he or she has failed to receive
11 a form. A remittance for the amount of taxes shall accompany each quarterly
12 or monthly return. Returns shall be made on forms provided by the
13 Commissioner. Payment of taxes by electronic funds transfer does not affect
14 the requirement to file returns.

15 * * *

16 (c) A room remarketer that has paid tax on additional rent charged on an
17 occupancy to the operator is not liable for any payment to the Department of
18 Taxes with each quarterly or monthly return if it submits sufficient evidence,
19 including a writing that reports each individual room charge for which the
20 taxes that relate to the rent are being remitted, with the return demonstrating
21 payment to the operator. If a room remarketer fails to submit sufficient

1 evidence to demonstrate payment to an operator of taxes owed based on
2 additional rent, the Commissioner may require an amended return to be filed
3 and payment remitted under the Commissioner’s authority in subsection (b) of
4 this section and under section 9273 of this title.

5 Sec. 5. CONFORMING CHANGES

6 In the following statutory sections, the term “operator” is replaced by the
7 phrase “operator or room remarketer”: 32 V.S.A. § § 9245, 9273, 9274,
8 9276(a)-(b), 9279(a)-(d), 9280, and 9281.

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