

## Final Proposed Filing - Coversheet

### Instructions:

In accordance with Title 3 Chapter 25 of the Vermont Statutes Annotated and the "Rule on Rulemaking" adopted by the Office of the Secretary of State, this filing will be considered complete upon filing and acceptance of these forms with the Office of the Secretary of State, and the Legislative Committee on Administrative Rules.

All forms shall be submitted at the Office of the Secretary of State, no later than 3:30 pm on the last scheduled day of the work week.

The data provided in text areas of these forms will be used to generate a notice of rulemaking in the portal of "Proposed Rule Postings" online, and the newspapers of record if the rule is marked for publication. Publication of notices will be charged back to the promulgating agency.

**PLEASE REMOVE ANY COVERSHEET OR FORM NOT REQUIRED WITH THE CURRENT FILING BEFORE DELIVERY!**

**Certification Statement:** As the adopting Authority of this rule (see 3 V.S.A. § 801 (b) (11) for a definition), I approve the contents of this filing entitled:

### **Meals and Rooms Tax Regulations**

Kristin Clouser /s/ Kristin Clouser, on 3/10/22  
(signature) (date)

Printed Name and Title:

Kristin Clouser, Secretary of Administration

RECEIVED BY: \_\_\_\_\_

- Coversheet
- Adopting Page
- Economic Impact Analysis
- Environmental Impact Analysis
- Strategy for Maximizing Public Input
- Scientific Information Statement (if applicable)
- Incorporated by Reference Statement (if applicable)
- Clean text of the rule (Amended text without annotation)
- Annotated text (Clearly marking changes from previous rule)
- ICAR Minutes
- Copy of Comments
- Responsiveness Summary

1. TITLE OF RULE FILING:

**Meals and Rooms Tax Regulations**

2. PROPOSED NUMBER ASSIGNED BY THE SECRETARY OF STATE

21P 036

3. ADOPTING AGENCY:

Administration - Department of Taxes

4. PRIMARY CONTACT PERSON:

*(A PERSON WHO IS ABLE TO ANSWER QUESTIONS ABOUT THE CONTENT OF THE RULE).*

Name: Will Baker

Agency: Department of Taxes

Mailing Address: PO Box 429 Montpelier VT 05602

Telephone: (802) 828-2506 Fax: (802) 828-5875

E-Mail: will.baker@vermont.gov

Web URL *(WHERE THE RULE WILL BE POSTED)*: tax.vermont.gov

5. SECONDARY CONTACT PERSON:

*(A SPECIFIC PERSON FROM WHOM COPIES OF FILINGS MAY BE REQUESTED OR WHO MAY ANSWER QUESTIONS ABOUT FORMS SUBMITTED FOR FILING IF DIFFERENT FROM THE PRIMARY CONTACT PERSON).*

Name: Rebecca Sameroff

Agency: Administration - Department of Taxes

Mailing Address: PO Box 429 Montpelier VT 05602

Telephone: (802) 828-3763 Fax:

E-Mail: rebecca.sameroff@vermont.gov

6. RECORDS EXEMPTION INCLUDED WITHIN RULE:

*(DOES THE RULE CONTAIN ANY PROVISION DESIGNATING INFORMATION AS CONFIDENTIAL; LIMITING ITS PUBLIC RELEASE; OR OTHERWISE, EXEMPTING IT FROM INSPECTION AND COPYING?)* No

IF YES, CITE THE STATUTORY AUTHORITY FOR THE EXEMPTION:

PLEASE SUMMARIZE THE REASON FOR THE EXEMPTION:

7. LEGAL AUTHORITY / ENABLING LEGISLATION:

*(THE SPECIFIC STATUTORY OR LEGAL CITATION FROM SESSION LAW INDICATING WHO THE ADOPTING ENTITY IS AND THUS WHO THE SIGNATORY SHOULD BE. THIS SHOULD BE A SPECIFIC CITATION NOT A CHAPTER CITATION).*

32 V.S.A. § 3201(a)(1) (general rulemaking authority of the Commissioner of Taxes).

**8. EXPLANATION OF HOW THE RULE IS WITHIN THE AUTHORITY OF THE AGENCY:**

The Commissioner may adopt regulations to administer the taxes they are responsible for administering. This rule conforms to the Meals and Rooms Tax law (Title 32, 225) and provides reasonable interpretations, explanations and examples for proper administration of the tax.

**9. THE FILING HAS NOT CHANGED SINCE THE FILING OF THE PROPOSED RULE.**

**10. THE AGENCY HAS NOT INCLUDED WITH THIS FILING A LETTER EXPLAINING IN DETAIL WHAT CHANGES WERE MADE, CITING CHAPTER AND SECTION WHERE APPLICABLE.**

**11. SUBSTANTIAL ARGUMENTS AND CONSIDERATIONS WERE NOT RAISED FOR OR AGAINST THE ORIGINAL PROPOSAL.**

**12. THE AGENCY HAS NOT INCLUDED COPIES OF ALL WRITTEN SUBMISSIONS AND SYNOPSES OF ORAL COMMENTS RECEIVED.**

**13. THE AGENCY HAS NOT INCLUDED A LETTER EXPLAINING IN DETAIL THE REASONS FOR THE AGENCY'S DECISION TO REJECT OR ADOPT THEM.**

**14. CONCISE SUMMARY (150 WORDS OR LESS):**

The 2010 Regulation has been superseded by statute in some respects. The amendments updated the regulation consistent with law enacted from 2010 to 2021, and provide clarity to the Department's interpretation of the tax.

**15. EXPLANATION OF WHY THE RULE IS NECESSARY:**

The 2010 Regulation has been superseded by several legislative changes. Amendments must be made to conform with current law. Other provisions provide clarity and examples.

**16. EXPLANATION OF HOW THE RULE IS NOT ARBITRARY:**

The Rule is consistent with current law and to the extent the rule clarifies law it takes rational positions consistent with other states' meals and lodging tax law and provides helpful examples.

**17. LIST OF PEOPLE, ENTERPRISES AND GOVERNMENT ENTITIES  
AFFECTED BY THIS RULE:**

Vermont hospitality and eating establishments,  
customers of hospitality and eating establishments.

**18. BRIEF SUMMARY OF ECONOMIC IMPACT (150 WORDS OR LESS):**

The rule is an amendment of the current rule, for a tax that has been in place for many years. The amendments conform to law that has been enacted since 2010. The rule amendments themselves (as opposed to the law) do not have an economic impact.

**19. A HEARING WAS HELD.**

**20. HEARING INFORMATION**

(THE FIRST HEARING SHALL BE NO SOONER THAN 30 DAYS FOLLOWING THE POSTING OF NOTICES ONLINE).

IF THIS FORM IS INSUFFICIENT TO LIST THE INFORMATION FOR EACH HEARING, PLEASE ATTACH A SEPARATE SHEET TO COMPLETE THE HEARING INFORMATION.

Date: 12/1/2021

Time: 01:00 PM

Street Address: 133 State Street Montpelier VT

Zip Code: 05682

Date:

Time: AM

Street Address:

Zip Code:

Date:

Time: AM

Street Address:

Zip Code:

Date:

Time: AM

Street Address:

Zip Code:

**21. DEADLINE FOR COMMENT (NO EARLIER THAN 7 DAYS FOLLOWING LAST HEARING):**

12/20/2021

**KEYWORDS (PLEASE PROVIDE AT LEAST 3 KEYWORDS OR PHRASES TO AID IN THE SEARCHABILITY OF THE RULE NOTICE ONLINE).**

Tax

Meals

Rooms

Lodging

Restaurant

## Adopting Page

### **Instructions:**

This form must accompany each filing made during the rulemaking process:

Note: To satisfy the requirement for an annotated text, an agency must submit the entire rule in annotated form with proposed and final proposed filings. Filing an annotated paragraph or page of a larger rule is not sufficient. Annotation must clearly show the changes to the rule.

When possible, the agency shall file the annotated text, using the appropriate page or pages from the Code of Vermont Rules as a basis for the annotated version. New rules need not be accompanied by an annotated text.

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1. TITLE OF RULE FILING:

**Meals and Rooms Tax Regulations**

2. ADOPTING AGENCY:

Administration - Department of Taxes

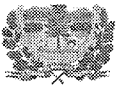
3. TYPE OF FILING (*PLEASE CHOOSE THE TYPE OF FILING FROM THE DROPDOWN MENU BASED ON THE DEFINITIONS PROVIDED BELOW*):

- **AMENDMENT** - Any change to an already existing rule, even if it is a complete rewrite of the rule, it is considered an amendment if the rule is replaced with other text.
- **NEW RULE** - A rule that did not previously exist even under a different name.
- **REPEAL** - The removal of a rule in its entirety, without replacing it with other text.

This filing is **AN AMENDMENT OF AN EXISTING RULE** .

4. LAST ADOPTED (*PLEASE PROVIDE THE SOS LOG#, TITLE AND EFFECTIVE DATE OF THE LAST ADOPTION FOR THE EXISTING RULE*):

10-007 Meals and Rooms Tax Regulations, March 1, 2010



## **INTERAGENCY COMMITTEE ON ADMINISTRATIVE RULES (ICAR) MINUTES**

**Meeting Date/Location:** September 8, 2021, Physical Location: Pavilion Building, 109 State Street, 5th Floor, Montpelier, VT 05609; Virtual Option: Via Microsoft Teams Available

**Members Present:** Chair Kristin Clouser, Dirk Anderson, Diane Bothfeld, Jennifer Mojo, John Kessler, Diane Sherman, Clare O'Shaughnessy and Michael Obuchowski

**Members Absent:** Ashley Berliner

**Minutes By:** Melissa Mazza-Paquette

- 3:03 p.m. meeting called to order, welcome and introductions.
- Review and approval of minutes from the August 17, 2021 meeting.
- Agenda approved as drafted with addition of committee discussion on pre-filing forms.
- Note: The 'Hospital Licensing Rule' emergency rule by the Department of Health was supported by ICAR Chair Clouser on 8/31/21.
- No public comments made.
- Presentation of Proposed Rules on pages 2-3 to follow.
  1. Meals and Rooms Tax Regulations, Agency of Administration, Department of Taxes, page 2
  2. Emergency Medical Services Rule, Agency of Human Services, Department of Health, page 3
- Committee discussion on pre-filing forms.
  - Will propose to the Office of the Secretary of State that the sufficiency questions in the Economic and Environmental Impact Analysis forms be changed to read: "SUFFICIENCY: Describe how the analysis was conducted, identifying relevant internal and/or external sources of information used."
- Next scheduled meeting is Monday, October 11, 2021 at 2:00 p.m.
- 4:20 p.m. meeting adjourned.

**Proposed Rule: Meals and Rooms Tax Regulations, Agency of Administration, Department of Taxes**

**Presented By: Will Baker**

Motion made to accept the rule by Diane Bothfeld, seconded by John Kessler, and passed unanimously except for Kristin Clouser who abstained, with the following recommendations:

1. Proposed Rule Coversheet, #7: Complete.
2. Proposed Rule Coversheet, #8: Corrected 'interpertation' spelling.
3. Proposed Rule Coversheet, #12: Clarify.
4. Proposed Rule Coversheet, #14: Provide a physical location if required by the Office of Secretary of State.
5. Economic Impact Analysis, #4 and #5: Change 'n/a' to 'none' or 'no impact'.
6. Economic Impact Analysis, #6: Be consistent with capitalization.
7. Economic Impact Analysis, #8: Include positive impacts if applicable.
8. Economic Impact Analysis, #9: Include work performed, such as the analysis done to meet the current law.
9. Environmental Impact Analysis: Change 'n/a' to 'none' or 'no impact'.
10. Environmental Impact Analysis #9: Include the analysis used by the department to arrive at the conclusion.
11. Public Input, #3 and #4: Include public outreach and website link to the rule.



## Economic Impact Analysis

### **Instructions:**

In completing the economic impact analysis, an agency analyzes and evaluates the anticipated costs and benefits to be expected from adoption of the rule; estimates the costs and benefits for each category of people enterprises and government entities affected by the rule; compares alternatives to adopting the rule; and explains their analysis concluding that rulemaking is the most appropriate method of achieving the regulatory purpose. If no impacts are anticipated, please specify "No impact anticipated" in the field.

Rules affecting or regulating schools or school districts must include cost implications to local school districts and taxpayers in the impact statement, a clear statement of associated costs, and consideration of alternatives to the rule to reduce or ameliorate costs to local school districts while still achieving the objectives of the rule (see 3 V.S.A. § 832b for details).

Rules affecting small businesses (excluding impacts incidental to the purchase and payment of goods and services by the State or an agency thereof), must include ways that a business can reduce the cost or burden of compliance or an explanation of why the agency determines that such evaluation isn't appropriate, and an evaluation of creative, innovative or flexible methods of compliance that would not significantly impair the effectiveness of the rule or increase the risk to the health, safety, or welfare of the public or those affected by the rule.

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#### 1. TITLE OF RULE FILING:

**Meals and Rooms Tax Regulations**

#### 2. ADOPTING AGENCY:

Administration - Department of Taxes

#### 3. CATEGORY OF AFFECTED PARTIES:

*LIST CATEGORIES OF PEOPLE, ENTERPRISES, AND GOVERNMENTAL ENTITIES POTENTIALLY AFFECTED BY THE ADOPTION OF THIS RULE AND THE ESTIMATED COSTS AND BENEFITS ANTICIPATED:*

The changes made to the existing regulations are necessary to comply with statutory amendments since 2010, as well as to clarify tax treatment of meals and lodging. Hospitality and restaurant businesses and customers are affected.

#### 4. IMPACT ON SCHOOLS:

*INDICATE ANY IMPACT THAT THE RULE WILL HAVE ON PUBLIC EDUCATION, PUBLIC SCHOOLS, LOCAL SCHOOL DISTRICTS AND/OR TAXPAYERS CLEARLY STATING ANY ASSOCIATED COSTS:*

None

5. **ALTERNATIVES:** *CONSIDERATION OF ALTERNATIVES TO THE RULE TO REDUCE OR AMELIORATE COSTS TO LOCAL SCHOOL DISTRICTS WHILE STILL ACHIEVING THE OBJECTIVE OF THE RULE.*

None

6. **IMPACT ON SMALL BUSINESSES:**

*INDICATE ANY IMPACT THAT THE RULE WILL HAVE ON SMALL BUSINESSES (EXCLUDING IMPACTS INCIDENTAL TO THE PURCHASE AND PAYMENT OF GOODS AND SERVICES BY THE STATE OR AN AGENCY THEREOF):*

The rule may require small businesses to review their accounting practices and point of sale systems or software. However, the amendments are minimal and required by statute.

7. **SMALL BUSINESS COMPLIANCE:** *EXPLAIN WAYS A BUSINESS CAN REDUCE THE COST/BURDEN OF COMPLIANCE OR AN EXPLANATION OF WHY THE AGENCY DETERMINES THAT SUCH EVALUATION ISN'T APPROPRIATE.*

This rule incorporates legislative changes already made. The Department cannot prevent the application of the law to small businesses, but updating the rule will avoid confusion for businesses complying.

8. **COMPARISON:**

*COMPARE THE IMPACT OF THE RULE WITH THE ECONOMIC IMPACT OF OTHER ALTERNATIVES TO THE RULE, INCLUDING NO RULE ON THE SUBJECT OR A RULE HAVING SEPARATE REQUIREMENTS FOR SMALL BUSINESS:*

The Department sees little or no economic impact from the rule itself (as distinguished from the statutory changes necessitating such changes). The amendments provide clarity and no alternative rules for small business are permitted in the statutory requirements - all meals and lodging transactions are subject to the tax, no matter the size of the business. With greater clarity, businesses will have greater certainty and efficiency when determining taxability and charging tax to their customers.

9. SUFFICIENCY: *DESCRIBE HOW THE ANALYSIS WAS CONDUCTED, IDENTIFYING RELEVANT INTERNAL AND/OR EXTERNAL SOURCES OF INFORMATION USED.*

By amending the regulation to meet current law, the Department believes that the rule will aid in administration of the tax by providing clarity and helpful descriptions, and will minimize the economic burden of tax compliance. The Department made this determination by reviewing and drafting all changes to conform to legislative changes, rather than creating new policy or rules via regulation, and reviewing the regulations to avoid any non-essential or confusing rules or tests for taxability.

# Environmental Impact Analysis

## **Instructions:**

In completing the environmental impact analysis, an agency analyzes and evaluates the anticipated environmental impacts (positive or negative) to be expected from adoption of the rule; compares alternatives to adopting the rule; explains the sufficiency of the environmental impact analysis. If no impacts are anticipated, please specify "No impact anticipated" in the field.

Examples of Environmental Impacts include but are not limited to:

- Impacts on the emission of greenhouse gases
- Impacts on the discharge of pollutants to water
- Impacts on the arability of land
- Impacts on the climate
- Impacts on the flow of water
- Impacts on recreation
- Or other environmental impacts

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1. TITLE OF RULE FILING:

**Meals and Rooms Tax Regulations**

2. ADOPTING AGENCY:

Administration - Department of Taxes

3. GREENHOUSE GAS: *EXPLAIN HOW THE RULE IMPACTS THE EMISSION OF GREENHOUSE GASES (E.G. TRANSPORTATION OF PEOPLE OR GOODS; BUILDING INFRASTRUCTURE; LAND USE AND DEVELOPMENT, WASTE GENERATION, ETC.):*

None

4. WATER: *EXPLAIN HOW THE RULE IMPACTS WATER (E.G. DISCHARGE / ELIMINATION OF POLLUTION INTO VERMONT WATERS, THE FLOW OF WATER IN THE STATE, WATER QUALITY ETC.):*

None

5. LAND: *EXPLAIN HOW THE RULE IMPACTS LAND (E.G. IMPACTS ON FORESTRY, AGRICULTURE ETC.):*

None

6. RECREATION: *EXPLAIN HOW THE RULE IMPACT RECREATION IN THE STATE:*

None

7. **CLIMATE: EXPLAIN HOW THE RULE IMPACTS THE CLIMATE IN THE STATE:**

None

8. **OTHER: EXPLAIN HOW THE RULE IMPACT OTHER ASPECTS OF VERMONT'S ENVIRONMENT:**

The statutory basis and requirements of the meals and rooms tax on meals and lodging transactions does not allow for alternative tax treatment based on environment impacts. The rule provides broad regulations based on the meals and lodging transactions occurring in the State.

9. **SUFFICIENCY: DESCRIBE HOW THE ANALYSIS WAS CONDUCTED, IDENTIFYING RELEVANT INTERNAL AND/OR EXTERNAL SOURCES OF INFORMATION USED.**

The Department finds that tax law generally aims to treat taxpayers in a uniform fashion, and that this rule operates within the parameters set by law. The Department cannot treat taxpayers differently without regard for their or their industry's environment impact without a statutory basis, and reviewed the amendments made in this rule to ensure that taxpayers (operators and restaurants under the law) are burdened only to the extent the law requires for proper tax collection.

## Public Input Maximization Plan

### Instructions:

Agencies are encouraged to hold hearings as part of their strategy to maximize the involvement of the public in the development of rules. Please complete the form below by describing the agency's strategy for maximizing public input (what it did do, or will do to maximize the involvement of the public).

This form must accompany each filing made during the rulemaking process:

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1. TITLE OF RULE FILING:

**Meals and Rooms Tax Regulations**

2. ADOPTING AGENCY:

Administration - Department of Taxes

3. PLEASE DESCRIBE THE AGENCY'S STRATEGY TO MAXIMIZE PUBLIC INVOLVEMENT IN THE DEVELOPMENT OF THE PROPOSED RULE, LISTING THE STEPS THAT HAVE BEEN OR WILL BE TAKEN TO COMPLY WITH THAT STRATEGY:

The Department has shared the draft of this rule with the parties listed in number 5, below, and considered comments made prior to filing. The Department put the draft rule on its website and solicited comments, and will continue to do so during the official comment period.

4. BEYOND GENERAL ADVERTISEMENTS, PLEASE LIST THE PEOPLE AND ORGANIZATIONS THAT HAVE BEEN OR WILL BE INVOLVED IN THE DEVELOPMENT OF THE PROPOSED RULE:

Vermont Bar Association Tax Section

Vermont Society of CPAs

Vermont Chamber of Commerce, which is also the state affiliate for the National Restaurant Association and American Hotel and Lodging Association.

Annotated  
text

VERMONT DEPARTMENT OF TAXES

MEALS AND ROOMS TAX  
REGULATIONS