



# Taxes Imposed on Charges for the Rental of Transient Accommodations

**TB-81R2 - Issued January 25, 2019**

**Tax: Sales Tax and Other Applicable Taxes**

## **Transient Accommodations**

As of October 1, 2018, the law imposes Sales Tax, the State Occupancy Fee, and the Meadowlands Regional Hotel Use Assessment on charges associated with the rental of transient accommodations. The law also authorizes certain municipalities to amend or adopt an ordinance to impose the following taxes on charges for transient accommodations: the Municipal Occupancy Tax, Sports and Entertainment Facility Tax - Millville, Atlantic City Luxury Tax, the Atlantic City Promotion Fee, Cape May County Tourism Tax and Assessment, and the Hotel Occupancy Tax - Elizabeth, Newark, and Jersey City (contact the municipality directly for information on the Hotel Occupancy Tax).

## **Definitions**

"Transient accommodation" means a room, group of rooms, or other living or sleeping space for the lodging of occupants, including but not limited to residences or buildings used as residences. This definition includes rentals made through "transient space marketplaces" (defined below), as well as rentals that are made directly by the homeowner through classified listing sites, local newspaper ads, referrals from friends/family, or placing a sign on the home, etc.

The following are **not** considered transient accommodations:

- Hotel or hotel room (although hotels, motels, and similar facilities are not considered transient accommodations, such facilities are required to collect sales tax and other applicable taxes, fees, assessments on charges for the rental of a room);
- Room, group of rooms, or other living or sleeping space used as a place of assembly;
- Dormitory or other similar residential facility of an elementary or secondary school or a college or university;
- Hospital, nursing home, or other similar residential facility of a provider of services for the care, support, and treatment of individuals that is licensed by the State;
- Campsite, cabin, lean-to, or other similar residential facility of a campground or an adult or youth camp; or
- Furnished or unfurnished private residential property, including but not limited to condominiums, bungalows, single-family homes, and similar living units, where no maid service, room service, linen-changing service, or other common hotel services are made available by the lessor, **and** the rental transaction is executed by a real estate broker licensed by the New Jersey Real Estate Commission pursuant to N.J.S.A. 45:15-1 et seq., **and** where the keys to the property, whether a physical key, access to a keyless locking mechanism, or other means of physical entrance to the property, are provided to the lessee at the offsite location of the licensed real estate broker.

**Example:** Homeowner charges customer for the rental of his house. Homeowner does not provide common hotel services such as maid service, room service, or linen-changing service. Homeowner lists the rental through a licensed real estate broker. The real estate

broker advertises the rental and collects the rental payment from the lessee. The Lessee appears in-person at the real estate broker's office to obtain the key to the property, or to obtain the digital access code that allows access to the property. This transaction is excluded from the definition of transient accommodation, and is not subject to Sales Tax, the State Occupancy Fee, or other applicable tax, assessment, or fee that may be imposed on charges for transient accommodations.

### **Transient Space Marketplaces**

A "transient space marketplace" means an online marketplace through which a person may offer transient accommodations or hotel rooms to individuals. A transient space marketplace allows transient accommodations or hotel rooms to be advertised or listed through an online marketplace in exchange for consideration, or provides a means for a customer to arrange for the occupancy of the transient accommodation or hotel room in exchange for consideration. An online marketplace operated by or on behalf of a hotel or hotel corporation that facilitates customer occupancy solely for the hotel or hotel corporation's owned or managed hotels and franchises is not considered to be a transient space marketplace.

**Example 1:** Homeowner posts an advertisement to rent out his home on a transient space marketplace (Marketplace A). Marketplace A does not charge Homeowner to post the advertisement. Customer rents the home for a week on Marketplace A and Marketplace A collects Customer's payment via credit card. Marketplace A deducts its commission and provides the remaining payment balance to Homeowner. Since this transaction is solely consummated through the transient space marketplace, Marketplace A is required to collect all applicable taxes from Customer and remit the taxes to the Division of Taxation (Division).

**Example 2:** Homeowner then decides to also post an advertisement to rent out his home on a different transient space marketplace (Marketplace B). Marketplace B charges Homeowner a fixed amount to post the advertisement. The advertisement contains Homeowner's contact information. In order to rent the home, Customer must contact and pay Homeowner directly. Since this transaction was not solely consummated through a transient space marketplace, Marketplace B is **not** required to collect and remit applicable taxes on behalf of Homeowner. Since all of Homeowner's sales were not solely consummated through a transient space marketplace, Homeowner is required to register with the Division of Revenue and Enterprise Services (DORES) and must collect all applicable taxes from Customer and remit them to the Division for all transactions that result from posting an advertisement on Marketplace B.

### **Registration**

Every person who charges for the rental of a transient accommodation is a seller and must register with the State for the collection and remittance of all applicable taxes, fees, or assessments by filing a business registration application (Form NJ-REG). The law requires registration at least 15 business days prior to commencing business. Registration is required unless 1) all sales are solely consummated through a transient space marketplace; or 2) all sales are executed by a real estate broker licensed by the New Jersey Real Estate Commission, the keys or other means of physical entrance to the property are provided to the lessee at the location of the offsite real estate broker, the rental property is private residential property, and the lessor does not provide common hotel services such as maid service, room service, or linen-changing service.

To register with New Jersey, visit the [Division of Revenue and Enterprise Services \(DORES\) website](#). Once registered, you will receive a letter containing additional filing and payment information.

Registered entities already engaged in the business of renting or leasing transient accommodations need to update their tax registration to include Sales Tax, the State Occupancy Fee, the Meadowlands Regional Hotel Use Assessment (if applicable), and any other applicable taxes, fees, or assessments.

Businesses not engaged in the business of renting or leasing transient accommodations should complete a new and separate registration.

### **Billing**

Sales Tax, the State Occupancy Fee, the Meadowlands Regional Hotel Use Assessment (if applicable), and any other applicable tax, fee, or assessment, other than the Atlantic City Promotion Fee, must be separately stated on any bill, invoice, or other document provided to the customer. All taxes, fees, or assessments, other than the Atlantic City Promotion Fee, are collected by the seller on behalf of the State and the seller is personally liable if the taxes, fees, or assessments, are not remitted to the Division.

### **Transitional Rule**

Sales Tax, the State Occupancy Fee, and the Meadowlands Regional Hotel Use Assessment, if applicable, are to be charged on the rental of any transient accommodation occurring on and after October 1, 2018, regardless of any prior lease, contract, or other rental agreement. If a rental starts prior to October 1, 2018, and ends after October 1, 2018, the applicable taxes, fees, and assessments must be charged based on the number of days falling in the taxable period.

**Example:** Customer rents a vacation home from September 28, 2018 to October 4, 2018, for \$2,100. Since part of the rental takes place after October 1, 2018, Sales Tax and the State Occupancy Fee must be collected based on the number of days falling in the taxable period ( $\$2,100/7 = \$300 \times 4 \text{ days} = \$1,200$ )\*. The invoice, bill, or other receipt issued to Customer states:

Weekly Rental	\$2,100.00
Sales Tax ( $\$1,200^* \times 6.625\%$ )	79.50
State Occupancy Fee ( $\$1,200.00^* \times 5\%$ )	60.00
Total	\$2,239.50

The same concept applies in Atlantic City, Millville, Wildwood, Wildwood Crest, North Wildwood, or any other municipality which amends or adopts an ordinance that imposes the Municipal Occupancy Tax, Sports and Entertainment Facility Tax - Millville, Atlantic City Luxury Tax, the Atlantic City Promotion Fee, or the Cape May County Tourism Tax and Assessment on charges for the rental of transient accommodations (see below for information regarding each of these municipal taxes, assessments, and fees).

### **State and Local Taxes, Fees, and Assessments That Apply to Charges for the Rental of Transient Accommodations**

All charges for the rental of transient accommodations are subject to Sales Tax and the State Occupancy Fee. Additional taxes, fees, or assessments may also apply, depending on the location of the transient accommodation.

## **Sales Tax**

The law imposes Sales Tax on charges for the rental of transient accommodations at the rate of 6.625 %.

Charges for the rental of transient accommodations are **not** subject to Sales Tax if:

- The sale is executed by a real estate broker licensed by the New Jersey Real Estate Commission, the keys or other means of physical entrance to the property are provided to the lessee at the location of the offsite real estate broker, the rental property is private residential property, and the lessor does not provide common hotel services such as maid service, room service, or linen-changing service;
- The occupancy occurs for at least 90 consecutive days (permanent resident exemption);
- The occupant is an entity that has been granted exempt status by the Division and has been issued an Exempt Organization Certificate (Form ST-5); or
- The occupant is the federal government or the State of New Jersey or any of their agencies or instrumentalities.

## **State Occupancy Fee**

The law imposes the State Occupancy Fee at the rate of 5 % on charges for the rental of transient accommodations that are subject to Sales Tax. If Atlantic City, Newark, Jersey City, Wildwood, Wildwood Crest, or North Wildwood amend their municipal ordinance to impose a local tax on the rental of transient accommodations, the State Occupancy Fee will be imposed at a lower rate (Atlantic City: 1 %; Newark and Jersey City: 1 %; and Wildwood, Wildwood Crest, and North Wildwoods: 3.15 %). None of these municipalities have imposed a local tax on the rental of transient accommodations, therefore, the State Occupancy Fee is currently imposed on transient accommodations at a rate of 5% statewide. Additional information will be provided if Atlantic City, Newark, Jersey City, Wildwood, Wildwood Crest, or North Wildwood amend their ordinance to impose a local tax on transient accommodations.

## **Meadowlands Regional Hotel Use Assessment**

Charges for the rental of transient accommodations located in the Meadowlands area are subject to the 3 % Meadowlands Regional Hotel Use Assessment. The municipalities are:

- Bergen County – Carlstadt, East Rutherford, Little Ferry, Lyndhurst, Moonachie, North Arlington, Ridgefield, Rutherford, South Hackensack, Teterboro; and
- Hudson County – Jersey City, Kearny, North Bergen, Secaucus.

Charges for the rental of transient accommodations are **not** subject to the Meadowlands Regional Hotel Use Assessment if:

- The sale is executed by a real estate broker licensed by the New Jersey Real Estate Commission, the keys or other means of physical entrance to the property are provided to the lessee at the location of the offsite real estate broker, the rental property is private residential property, and the lessor does not provide common hotel services such as maid service, room service, or linen-changing service;
- The occupancy occurs for at least 90 consecutive days (permanent resident exemption);
- The occupant is an entity that has been granted exempt status by the Division and has been issued an Exempt Organization Certificate (Form ST-5); or
- The occupant is the federal government or the State of New Jersey or any of their agencies or instrumentalities.

### **Municipal Occupancy Tax**

The law authorizes any New Jersey municipality, other than Newark, Jersey City, Atlantic City, Wildwood, Wildwood Crest, and North Wildwood, to amend or adopt an ordinance that imposes the Municipal Occupancy Tax on charges for the rental of transient accommodations in that municipality, which can be up to 3 %. **No** municipality has amended their ordinance to impose the Municipal Occupancy Tax on transient accommodations. Therefore, transient accommodations are not subject to the Municipal Occupancy Tax. This tax is currently only imposed on hotel occupancies. Additional information will be provided if a municipality amends their ordinance to impose the Municipal Occupancy Tax on transient accommodations.

### **Atlantic City Promotion Fee**

The law authorizes Atlantic City to adopt or amend an ordinance that imposes a one dollar per day Atlantic City Promotion Fee on charges for the rental of transient accommodations in Atlantic City. Atlantic City has not amended their ordinance to impose the Atlantic City Promotion Fee on transient accommodations. Therefore, transient accommodations occurring in Atlantic City are not subject to the Atlantic City Promotion Fee. Additional information will be provided if Atlantic City amends their ordinance to impose the Atlantic City Promotion Fee on transient accommodations.

### **Atlantic City Luxury Tax**

The law also authorizes Atlantic City to adopt or amend an ordinance that imposes the 9 % Atlantic City Luxury Tax on charges for the rental of transient accommodations which occur for less than one year in Atlantic City. Atlantic City has not amended their ordinance to impose the Atlantic City Luxury Tax on transient accommodations. Therefore, transient accommodations occurring in Atlantic City are not subject to the Atlantic City Luxury Tax. Additional information will be provided if Atlantic City amends their ordinance to impose the Atlantic City Luxury Tax on transient accommodations.

### **Sports and Entertainment Facility Tax – Millville**

The law authorizes Millville to adopt or amend an ordinance that imposes the 2 % Sports and Entertainment Facility Tax on charges for the rental of transient accommodations which occur in Millville. Millville is currently the only municipality that imposes the Sports and Entertainment Facility Tax. Millville has not amended their ordinance to impose the Sports and Entertainment Facility Tax on transient accommodations. Therefore, transient accommodations occurring in Millville are not subject to the Sports and Entertainment Facility Tax. This Tax is currently only imposed on hotel occupancies. Additional information will be provided if Millville amends their ordinance to impose the Sports and Entertainment Facility Tax on transient accommodations.

## **Cape May County Tourism Tax and Assessment**

The law authorizes Wildwood, Wildwood Crest, and North Wildwood to adopt or amend an ordinance that imposes the 2 % Cape May County Tourism Tax and the 1.85 % Cape May County Tourism Assessment on charges for the rental of transient accommodations which occur in Wildwood, Wildwood Crest, and North Wildwood. Wildwood, Wildwood Crest, and North Wildwood have not amended their ordinances to impose the Cape May County Tourism Tax or the Cape May County Tourism Assessment on transient accommodations. Therefore, transient accommodations occurring in these municipalities are not subject to the Cape May County Tourism Tax or the Cape May County Tourism Assessment. The Cape May County Tourism Tax and the Cape May County Tourism Assessment are currently only imposed on hotel occupancies. Additional information will be provided if Wildwood, Wildwood Crest, or North Wildwood amend their ordinance to impose the Cape May County Tourism Tax or the Cape May County Tourism Assessment on transient accommodations.

## **Tax Collection Responsibility of Transient Space Marketplace**

A transient space marketplace is required to collect and remit Sales Tax, the State Occupancy Fee, the Meadowlands Regional Hotel Use Assessment (if applicable), and any applicable State and local occupancy tax, assessment, or fee listed above on behalf of sellers of rentals of transient accommodations or hotel rooms located in New Jersey, but only when such sales are solely consummated through the transient space marketplace.

In order for the sale to be “solely consummated through the transient space marketplace” the payment for the transient accommodation must be made, either directly or indirectly, through the transient space marketplace. Therefore, when marketplaces do not collect the payment from the customer, marketplaces are not required to collect tax on transactions that occur through the transient space marketplace.

**Example 1:** Homeowner posts an advertisement to rent out his home on a transient space marketplace (Marketplace). Marketplace does not charge Homeowner to post the advertisement. Customer rents the home for a week on Marketplace and Marketplace collects Customer’s payment via credit card. Marketplace deducts its commission and provides the remaining balance to Homeowner. Since this transaction is solely consummated through the transient space marketplace, Marketplace is required to collect all applicable taxes from Customer and remit them to the Division.

**Example 2:** Homeowner posts an advertisement to rent out her home on a transient space marketplace (Marketplace). Marketplace charges Homeowner a fixed amount to post the advertisement. The advertisement contains Homeowner’s contact information. In order to rent the home, Customer must contact and pay Homeowner directly. Since this transaction was not solely consummated through a transient space marketplace, Marketplace is **not** required to collect and remit applicable taxes on behalf of Homeowner. Rather, Homeowner is required to collect all applicable taxes from Customer and remit them to the Division. (See Registration information.)

## **Required Document Retention**

Transient space marketplaces are required to keep the following information for four years after the transaction occurs:

- The name of the person who provided the transient accommodation or hotel room;
- The name of the customer who purchased the transient accommodation or hotel room;

- The address, including any unit designation, of the transient accommodation or hotel room;
- The dates and nightly rates for which the consumer purchased the transient accommodation or hotel room;
- The municipal transient accommodation registration number, if applicable;
- A statement as to whether such booking services will be provided in connection with (i) short-term rental of the entirety of such unit, (ii) short-term rental of part of such unit, but not the entirety of such unit, and/or (iii) short-term rental of the entirety of such unit, or part thereof, in which a non-short-term occupant will continue to occupy such unit for the duration of such short-term rental;
- The individualized name or number of each such advertisement or listing connected to such unit and the uniform resource locator (URL) for each such listing or advertisement, where applicable; and
- Such other information as the Division may require.

The Division may audit transient space marketplaces to ensure data accuracy and enforce tax compliance.

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Note: A Technical Bulletin is an informational document designed to provide guidance on a topic of interest to taxpayers and describe changes to the law, regulations, or Division policies. It is accurate as of the date issued. However, taxpayers should be aware that subsequent changes in the tax law or its interpretation may affect the accuracy of a Technical Bulletin. The information provided in this document does not cover every situation and is not intended to replace the law or change its meaning.