

CHAPTER 2

Room Tax

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SEC. 11-2-1 DEFINITIONS

In this chapter, the following definitions shall apply:

- (a) *Bed and breakfast establishment.* Any place of temporary lodging that provides eight (8) or fewer rooms for rent, which is open for rental more than ten (10) nights in a twelve (12) month period, is the owner's personal residence and is occupied by the owner at the time of rental, and in which the only meal served is breakfast.
- (b) *Gross receipts.* Has the meaning as defined in Wis. Stats. Sec. 77.51(4)(a), insofar as applicable.
- (c) *Hotel or motel.* A building or group of buildings in which the public may obtain accommodations for a consideration, including, without limitation, such establishments as inns, motels, tourist homes, tourist houses or courts, bed and breakfast establishments, lodging houses, rooming houses, summer camps, apartment hotels, resort lodges and cabins and any other building or group of buildings in which accommodations are available to the public, except accommodations, including mobile home as defined in Wis. Stats. Sec. 66.0435(1)(d), rented for a continuous period of more than one month and accommodations furnished by any hospital, sanitarium or nursing home or by corporations or associations organized and operated exclusively for religious, charitable or educational purposes provided that no part of the net earnings of such corporations and associations inures to the benefit of any private share-holder or individual.
- (d) *Taxpayer.* For purposes of this Chapter only, any person or business entity upon whom the room tax is imposed under Section 11-2-2 below.
- (e) *Transient.* Any person residing for a continuous period of less than one month in a hotel, motel or other furnished accommodation available to the public.

SEC. 11-2-2 IMPOSITION OF ROOM TAX

Pursuant to Wis. Stats. Sec. 66.0615, a tax is imposed on the privilege and service of furnishing, at retail, rooms or lodging to transients by hotel keepers, motel operators and other persons furnishing hotel and motel accommodations within the Village limits that are available to the public, irrespective of whether membership is required for the use of the accommodations. Such tax shall not be subject to the selective sales tax imposed by Wis. Stats. Sec. 77.52(2)(a)1.

- (a) *Tax rate.* Such tax shall be at the rate of six (6) percent of the gross receipts from such retail furnishing of rooms or lodgings.
- (b) *Exemptions.* The following room sales are exempt from this tax:
 - (1) Sales to the federal government;
 - (2) Sales to persons listed under Wis. Stats. § 77.54(9a).
- (c) *Exemption conditions.* The following conditions must occur for a sale to be exempt from the room tax under paragraph (b) above:
 - (1) The lodging establishment must issue the billing or invoice for the lodging in the name of the tax exempt entity; and
 - (2) The lodging establishment must receive from the exempt entity:
 - (a) In the case of federal, Wisconsin state or local governmental units, a purchase order or similar written document (such as a letter of authorization), or
 - (b) In the case of nonprofit religious, charitable, scientific or educational organization, the organization's certificate of tax exempt status number.
 - (3) The exemption still applies if the employee pays with his or her own funds, as long as the above conditions are met.
- (d) *Commencement of Tax Collection.* Commencing on July 1, 2009 and thereafter the net room tax collections shall be collected from approved hotels or motels within the Village of Prairie du Sac.

History: Sec. 11-2-2(a) amended, Ordinance No. 8, Series of 2014.

SEC. 11-2-3 ADMINISTRATION OF TAX COLLECTION

- (a) *Administration by Village Treasurer.* This tax shall be administered by the Village Treasurer who shall, at Village expense, provide the necessary application and reporting forms at no cost to the taxpayer.
- (b) *Disbursement to Commission and by Municipality.*
 - (1) Seventy percent (70%) of the amount collected from room taxes shall be forwarded to the commission created hereunder for tourism promotion and development.
 - (2) The remaining funds shall be used and disbursed at the discretion of the Village Board.

History: Sec. 11-2-3 amended, Ordinance No. 1, Series of 2013.

SEC. 11-2-4 LODGING REGISTRATION PERMIT

- (a) Every taxpayer furnishing rooms or lodging subject to the provisions of Section 11-2-2 above shall first obtain a permit for such place of business from the Village Treasurer. Every application for a permit shall be made upon a form prescribed by the Village

Treasurer. The application shall be signed by the owner if a sole proprietor and, if not a sole proprietor, by the person authorized to act on behalf of the business.

- (b) After compliance with (a), the Village Treasurer shall grant and issue to each applicant a separate permit for each place of business within the Village. Such permit is not assignable and is valid only for the person in whose name it is issued and for the transaction of business at the place designated therein. It shall at all times be available for inspection at the place for which issued.

SEC. 11-2-5 COLLECTION OF TAX

The room tax shall be collected each calendar quarter. The tax is due and payable and must be received in the office of the Village Treasurer at the Village Hall on or before the last business day of the month next succeeding the calendar quarter for which it is imposed (e.g., First Quarter is due on or before April 30, Second Quarter is due on or before July 31).

- (a) *Quarterly room tax returns.* A return shall be filed with the Village Treasurer on or before the same date on which such tax is due and payable. Such return shall be on a form provided by the Village Treasurer and shall show the gross receipts of the preceding calendar quarter from such retail furnishing of rooms or lodging, illustrating and indicating thereon any exemption from an imposed room tax, billed to the state and/or its departments or agencies, the amount of taxes imposed for such period, and such other information as the Village Treasurer deems necessary, provided it is directly related to the tax.
- (b) *Annual room tax return.* Every taxpayer shall also file an annual calendar year return on a form provided by the Village Treasurer which shall be due and filed as part of the quarterly return for the fourth quarter of each calendar year. The annual return shall summarize the quarterly returns, reconcile and adjust for errors in the quarterly returns, and shall contain certain such additional information as the Village Treasurer requires, provided it is directly related to the tax. All annual returns shall be signed by the taxpayer, or his or her duly authorized agent. The Village Treasurer may, for good cause, extend the time for filing any return, but in no event longer than one month from the filing date.

SEC. 11-2-6 AUDIT AUTHORITY

The Village Treasurer may, by field audit or office audit, determine the tax required to be paid to the Village or the refund due to any taxpayer under this Chapter. The determination shall be made upon the basis of the facts contained in the return being audited and upon any other information available to the Village Treasurer. The Village Treasurer is authorized to examine and inspect the books, records memoranda and property of any person or taxpayer which are directly related to the tax or which have a direct bearing upon the gross receipts upon which the tax due, including state sales tax records, to determine or verify the tax liability of any taxpayer. Nothing herein shall prevent the Village Treasurer from making a determination of tax at any time. Any taxpayer who fails to comply with a request to inspect or audit records, shall be subject to forfeiture equal to 5% of the prior year's room tax. Multiple violations may result in multiple forfeitures.

SEC. 11-2-7 DELINQUENT TAX RETURNS

Tax returns not timely filed hereunder, and that are less than 30 days late, shall be deemed delinquent and shall be subject to a ten-dollar (\$10.00) late filing fee. Any return filed more than 30 days late, is subject to a one hundred-dollar (\$100.00) late filing fee.

SEC. 11-2-8 FAILURE TO FILE TAX RETURN

If any taxpayer fails to file a return within 30 days of its due date, the Village Treasurer shall make an estimate of the amount of the gross receipts upon which the tax is determined. Such estimate shall be made for the period for which such taxpayer failed to make a return and shall be based upon any information which is in the Village Treasurer possession or may come into his or her possession or such other information as may have a bearing upon the determination of gross receipts. On the basis of this estimate the Village Treasurer shall compute and determine the amount required to be paid to the Village, adding to the sum thus arrived at a penalty of one percent (1%) thereof per month on the unpaid balance. Such determination may be made for each quarterly period for which no return is filed. Such penalty shall be due upon written notice to the taxpayer and shall not be in lieu of the tax due hereunder.

SEC. 11-2-9 INTEREST ON UNPAID TAXES

All unpaid taxes under this chapter shall bear interest at the rate of twelve percent (12%) per annum from the due date of the return until the first day of the month following the month in which the tax was paid.

SEC. 11-2-10 LIABILITY FOR UNPAID TAX

The room tax imposed herein shall be a continuing liability upon the taxpayer upon whom it is imposed until paid in full. The taxpayer's successors, heirs, partners or assigns shall be liable for any preceding calendar quarter or year for which a return has not been filed and payment not received.

SEC. 11-2-11 RECORDS TO BE MAINTAINED

Every taxpayer shall keep or cause to be kept such records, receipts, invoices and other pertinent papers for seven years in such form so as to enable the Village Treasurer to determine the tax due hereunder.

SEC. 11-2-12 CONFIDENTIALITY

All tax returns, schedules, exhibits, writings or audit reports relating to such returns on file with the Village Treasurer are deemed to be confidential, except the Village Treasurer may divulge their contents to the following and no others:

- (a) The person who filed the return.
- (b) Officers, agents or employees of the Federal Internal Revenue Service or the State Department of Revenue.
- (c) Officers, employees or agents of the Village Auditors.
- (d) Such other public officials of the Village when deemed necessary.

No person having an administrative duty under this Section shall make known in any manner the business affairs, operations or information obtained by an investigation of records of any person on whom a tax is imposed by this Section or the amount or source of income, profits, losses, expenditures or any particulars thereof, set forth or disclosed in any return, or to permit any return or copy thereof to be seen or examined by any person, except as provided above.

SEC. 11-2-13 PENALTY

- (a) Any person who fails to pay the tax imposed under Section 11-2-2 hereof when due, shall pay forfeiture of twenty-five percent (25%) of the room tax for the previous year, or \$5,000, whichever is less.
- (b) Any violation of, or noncompliance with, any of the provisions of this chapter for which a penalty has not been prescribed herein shall subject the violator to a forfeiture of not less than \$100.00 nor more than \$500.00.
- (c) Any violation shall be subject to the prescribed forfeiture, together with allowable court costs and the costs of prosecution. Each day of violation or noncompliance shall constitute a separate offense.

History: Sec. 11-2-1 thru 11-2-13 created, Ordinance No. 5, Series of 2009.

SEC. 11-2-14 ROOM TAX COMMISSION

- (a) Creation of a commission. The participating municipalities shall enter into a contract as required by § 66.0615, Wis. Stats., to create a commission under the intergovernmental agreement provisions of § 66.0301, Wis. Stats. The commission shall receive a minimum of 70% of the room tax collected by each municipality to be disbursed for tourism promotion and development.
- (b) Commission membership. Commission membership shall be determined in accordance with Wis. Stat. §66.0615(1m)(c)2:
 - (1) The commission shall consist of one member from each municipality in which annual tax collections are \$300,000.00 or less.
 - (2) Two additional members who represent the Wisconsin hotel and motel industry shall be appointed to the commission by the chairperson of the commission. Those individuals shall serve for a one-year term at the pleasure of the chairperson and may be reappointed to subsequent terms.
- (c) Commission appointments. The municipality's principal elected official shall appoint the municipality's representative to the commission, subject to confirmation by the governing body. Commissioners shall serve a one-year term, at the pleasure of the appointing official, and may be reappointed to subsequent terms. If a municipality's representative resigns or is removed for cause, then the municipality that appointed the member may appoint a successor to fulfill the unexpired term.
- (d) Members of the commission shall receive no pay, but may be reimbursed for travel expenses pre-approved by the commission.
- (e) The commission shall perform the duties as specified in the intergovernmental agreement between the participating municipalities.

History: Sec. 11-2-14 created, Ordinance No. 1, Series of 2013.