

ORDINANCE GUIDANCE

CITY/COUNTY/CONSOLIDATED GOVERNMENT ADOPTING A HOTEL-MOTEL EXCISE TAX OF 5% UNDER O.C.G.A. § 48-13-51(a)(1).

Local governments wishing to adopt a Hotel-Motel Excise Tax (HMT) at a rate of 1, 2, or 3 percent must do so under authorization paragraph O.C.G.A. § 48-13-51(a)(1). A tax of 3 percent or less only requires a local ordinance be passed.

At a minimum the ordinance should specify the authorization paragraph under which the jurisdiction is imposing the tax, the specific rate of taxation being imposed, and the effective date of the tax.

This ordinance guidance is provided as a courtesy by the Department of Community Affairs (DCA) to provide basic information on the key components necessary in the adoption of a Hotel-Motel Excise Tax under O.C.G.A. § 48-13-51(a)(1).

DCA staff is available for consultation or clarification on certain issues surrounding the HMT, but this guidance is not a legal document or assurance of legal protection. Ultimate legal opinion should always stem from the city/county attorney. This document is intended to serve as a guide and is neither legal advice nor a directive from the Georgia Department of Community Affairs.

Jurisdictions may find additional sections appropriate, addressing concerns such as the process for transmission of funds, record-keeping and document retention, penalties for non-compliance, codified designation of the jurisdiction's destination marketing organization, short term rental regulations and others.

Upon adoption, a copy of the ordinance signed by the chief elected official and the city/county clerk should be forwarded to the DCA Office of Research at Research@dca.ga.gov.

If you have any questions, concerns, or needs surrounding the Hotel-Motel Excise Tax, please contact the DCA Office of Research at Research@dca.ga.gov.

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Section I: Ordinance Preamble, Name and Citation

- The preamble explains the purpose of the ordinance and the objectives sought to be accomplished by it. This may include “whereas” statements listing the requisite characteristics or legal citations necessary for implementing the tax.
- The title can be named anything your government chooses; common examples are:
 - Hotel-Motel Excise Tax Ordinance of _____
 - _____ Excise Tax on Rooms Lodging and Accommodations
 - _____, Georgia Lodging Tax Ordinance
- Identify which section of the O.C.G.A. your government is citing as authorization to collect the tax.
 - Be specific, avoiding "O.C.G.A. § 48-13-50 et seq."
 - Title 48, Chapter 13, Article 3, Section 51(a)(1).

Section II: Intent, Purpose, and Authorization to Levy Excise Tax

- The intent of this ordinance is to levy an excise tax on rooms, lodgings, and accommodations to provide additional funding for the promotion of tourism, conventions, and trade shows in the City or County.
- The purpose of this ordinance is to enact an excise tax upon the furnishing for value to the public of any room or rooms, lodgings or accommodations facilitated or furnished by an innkeeper.

Section III: Definitions

The following terms are widely used in Hotel-Motel Excise Tax statute or are specifically defined in to O.C.G.A. § 48-13-50.2. This is not an exhaustive or required list, the inclusion of certain definitions in the ordinance is at the discretion of the City or County attorney.

- (a) **Destination Marketing Organization:** a private sector nonprofit organization or other private entity which is exempt from federal income tax under Section 501(c)(6) of the Internal Revenue Code of 1986 that is supported by the tax under this article, government budget allocations, private membership, or any combination thereof and the primary responsibilities of which are to encourage travelers to visit their destinations, encourage meetings and expositions in the area, and provide visitor assistance and support as needed. O.C.G.A. § 48-13-50.2(1)
- (b) **Due Date:** The twentieth day after the close of the preceding calendar month. *The governing authority imposing the tax may provide by resolution or ordinance for quarterly or annual returns.*
- (c) **Estimated Tax Liability:** An innkeeper's tax liability under this article, adjusted to account for any subsequent change in the rate of tax imposed under this article or any substantial change in circumstances due to damage to the premises, based on his or her average monthly payments for the last fiscal year.

PROVIDED BY DCA AS COURTESY TO HELP GUIDE HOTEL-MOTEL EXCISE TAX EFFORTS. THIS DOCUMENT AND ANY PORTION THEREOF ARE NOT A LEGAL DOCUMENT OR GUARANTEE OF LEGAL STANDING.
CONSULT CITY/COUNTY ATTORNEY IN DEVELOPMENT & ADOPTION OF ALL DOCUMENTS RELATED TO HOTEL-MOTEL EXCISE TAX

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- (d) **Hotel:** Includes any hotel, motel, inn, lodge, tourist camp, tourist cabin, campground, or any other place in which room or rooms, lodgings, or accommodations are regularly furnished for value and shall apply to the furnishing for value of any room, lodging, or accommodation.
- (e) **Innkeeper:** (A) Any person that furnishes for value to the public any room or rooms, lodgings, or accommodations in a county or municipality and that is licensed by, or required to pay business or occupation taxes to, such municipality or county for operating a hotel, motel, inn, lodge, tourist camp, tourist cabin, campground, or any other place in which room or rooms, lodgings, or accommodations are regularly furnished for value; or (B) A dealer as defined in subparagraph (M.3) of paragraph (8) of Code Section 48-8-2 that is required to collect and remit the tax imposed by Article 1 of Chapter 8 of this title for acting as a marketplace facilitator as such term is defined in paragraph (18.1) of Code Section 48-8-2 for facilitating the furnishing for value to the public any room or rooms, lodgings, or accommodations on behalf of another person. O.C.G.A. § 48-13-50.2(2)
- (f) **Monthly Period:** Any calendar month of any year.
- (g) **Occupancy:** The use or possession, or the right to use or possession, of any room or apartment in a hotel or motel, or the right to use or possession of the furnishings or to the services and accommodations accompanying the use and possession of the room or apartment.
- (h) **Occupant:** Any person (or persons utilizing as a single unit) who, for a consideration, uses, possesses, or has the right to use or possess, any room or hotel or motel under any lease, concession, permit, right of access, license, agreement or otherwise.
- (i) **Permanent Resident:** Any occupant who as of a given date shall have occupied, or has or shall have the right of occupancy, of any guest room in a hotel for more than 30 (thirty) consecutive days.
- (j) **Person:** An individual, firm partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, nonprofit corporation or cooperative nonprofit membership, estate, trust, business trust receiver, trustee, syndicate, business entity, or any other group or combination acting as a unit, to include the plural as well as the singular number, excepting, however, the United States of America, the State of Georgia, and any political subdivision of either thereof upon which the governing authority is without power to impose the tax herein provided.
- (k) **Private Sector Non-Profit Organization:** A chamber of commerce, a convention and visitors bureau, a regional travel association, or any other private group organized for similar purposes which is exempt from federal income tax under Section 501(c)(6) of the Internal Revenue Code of 1986; provided, however, that a county or municipality which has prior to April 1, 1990, contracted for a required expenditure under this Code section with a private group which is exempt from federal income tax under provisions of Section 501(c) of the Internal Revenue Code other than Section 501(c)(6) may continue to contract for required expenditures with such a private group. O.C.G.A. § 48-13-50.2(3)
- (l) **Promoting Tourism, Conventions, and Trade Shows:** Planning, conducting, or participating in programs of information and publicity designed to attract or advertise tourism, conventions, or trade shows. O.C.G.A. § 48-13-50.2(4)

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- (m) **State Authority:** An authority created by state law which serves a state-wide function, including, but not limited to, the Georgia Agricultural Exposition Authority, Georgia Aviation Authority, Georgia Building Authority, Georgia Development Authority, Georgia Environmental Finance Authority, Jekyll Island Authority, Lake Allatoona Preservation Authority, Georgia Medical Center Authority, Georgia Ports Authority, Georgia Regional Transportation Authority, State Road and Tollway Authority, Sports Hall of Fame Authority, Georgia Technology Authority, and Georgia World Congress Center Authority, but shall not mean an authority created for support of a local government or a local purpose or function and shall not include authorities such as area planning and development commissions and any organizational entities they may create, regional commissions and any organizational entities they may create, or local water and sewer authorities. O.C.G.A. § 48-13-50.2(5)

Section IV: Tax Rate

- This authorization paragraph allows for an excise tax at a rate not to exceed 3 percent of the charge for the furnishing for value to the public of any room or rooms, lodgings, or accommodations facilitated or furnished by an innkeeper.
- This section should specify the rate of either 1, 2, or 3 percent.

Section V: Effective Date

- Any action by a local governing authority to impose or change the rate of the tax authorized under this article shall become effective no sooner than the first day of the second month following its action by the local governing authority. O.C.G.A. § 48-13-51(g)(1)
- This section should state the effective date of the new rate or tax complying with the restriction in subsection (g).

Section VI: Exemptions

The tax imposed by this ordinance shall not apply to:

- Charges made for any rooms, lodgings, or accommodations provided to any persons who certify that they are staying in such room, lodging, or accommodation as a result of the destruction of their home or residence by fire or other casualty; O.C.G.A. § 48-13-51(h)(1)
- The use of meeting rooms and other such facilities or any rooms, lodgings, or accommodations provided without charge; O.C.G.A. § 48-13-51(h)(2)
- Any rooms, lodgings, or accommodations furnished for a period of one or more days for use by Georgia state or local governmental officials or employees when traveling on official business. Notwithstanding the availability of any other means of identifying the person as a state or local government official or employee, whenever a person pays for any rooms, lodgings, or accommodations with a state or local government credit or debit card, such rooms, lodgings, or accommodations shall be deemed to have been furnished for use by a Georgia state or local

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government official or employee traveling on official business for purposes of the exemption provided by this paragraph. For purpose of the exemption provided under this paragraph, a local government official or employee shall include officials or employees of counties, municipalities, consolidated governments, or county or independent school districts; O.C.G.A. § 48-13-51(h)(3)

- Charges made for continuous use of any rooms, lodgings, or accommodations after the first 30 days of continuous occupancy. O.C.G.A. § 48-13-51(h)(4)

Section VII: Use of Revenue

The ordinance should either include the minimum statutory restrictions below, or state that the revenue will be allocated in accordance with the requirements in O.C.G.A. § 48-13-51(a)(2)

- A county or municipality levying a tax as provided in paragraph (1) of this subsection shall in each fiscal year beginning on or after July 1, 1987, expend for the purpose of promoting tourism, conventions, and trade shows a percentage of the total taxes collected under this Code section which is not less than the percentage of such tax collections expended for such purposes during the immediately preceding fiscal year. In addition, if during such immediately preceding fiscal year any portion of such tax receipts was expended for such purposes through a grant to or a contract or contracts with the state, a department of state government, a state authority, or a private sector nonprofit organization, then in each fiscal year beginning on or after July 1, 1987, at least the same percentage shall be expended through a contract or contracts with one or more such entities for the purpose of promoting tourism, conventions, and trade shows. O.C.G.A. § 48-13-51(a)(2)

The Ordinance should then be signed by all necessary parties, dated and provided to DCA before the effective date to begin collecting the Tax.