

Municipal Occupancy Tax – transient accommodations

Click on this link: [publication TB-81 R2](#) for guidance on the treatment of transient accommodations.

Some basic information:

Rentals through a realtor are exempt from Sales Tax, the State Occupancy Fee, and the municipal occupancy tax if the rental is “executed by a real estate broker.” This means that the real estate broker performs all the services necessary to carry out the rental (advertises the listing, solicits renters, executes the rental agreement, etc.). To be exempt, the following conditions must be met:

- The rental is executed by a real estate broker licensed by the New Jersey Real Estate Commission; and
- The keys or other means of physical entrance to the property are provided to the renter at the location of the offsite real estate broker; and
- The rental property is private residential property; and
- No common hotel services such as maid service, room service, or linen-changing service are provided.

Online marketplaces (i.e. Vrbo, Airbnb) operate a little differently from one another. If the marketplace is collecting the payment for the transient accommodation, they must also collect the Sales Tax, State Occupancy Fee, and municipal occupancy tax. Some of these marketplaces advertise listings placed by property owners, but then connect the renter to the property owner directly to make payment. In this case, the marketplace is not required to collect Sales Tax, State Occupancy Fee, or municipal occupancy tax since the marketplace is not collecting the rental payment. The homeowner is required to collect the appropriate taxes/fee if the homeowner is considered a “professionally managed unit” (i.e. they hold three or more properties out for rent). Publication TB-81 R2 goes into detail on these definitions and transactions.

A rental for 90 or more consecutive days is not considered a “transient accommodation” and is exempt from tax. Common ways to handle these transactions are:

1. If the WCM resident has executed a lease for a period of at least 90 days, they do not need to collect Sales Tax, State Occupancy Fee, or the municipal occupancy tax from the customer. If the lease is for at least 90 days, the rental would not be treated as a “transient accommodation.”
2. If the lease or agreement is for less than 90 days, the homeowner should collect the appropriate taxes until the renter stays 90 consecutive days. At that time, the homeowner can stop collecting these taxes/fee from the renter. The homeowner may even refund the taxes collected to the renter for the first 90 days if they have not already remitted the money to the State. There is a chance the homeowner has already remitted money to the State; in this case, the renter may apply for a refund of the taxes directly from the State using [Form A-3730](#).

Not all direct rentals from a homeowner to a renter are taxable. The property would have to be considered a “professionally managed unit” and be “transient” (less than 90 days). A “professionally managed unit” is well defined in publication TB-81 R2, but in short, it means that the property owner holds three or more properties for rent. If a WCM resident owns fewer than three rental properties,

they are not required to collect Sales Tax, State Occupancy Tax, or the municipal occupancy fee from direct rentals to customers.

Property owners who meet the definition of a “professionally managed unit” are required to collect these taxes/fee from direct renters of transient accommodations. The property owner must [register with the State](#) (<see link to registration). Once registered, the State will send them instructions on how to file. It is important that property owners charge the Sales Tax, State Occupancy Fee, and municipal occupancy tax from the renter, retain the taxes collected, and remit them to the State by or on the due dates. Each charge should be separately stated on an invoice to the customer. The property owner should keep good records in the event the State has any questions or needs supporting documentation about a tax return.

The homeowner will need to calculate the taxes/fee due and charge it to the renter on an invoice. Then, the homeowner must file tax returns with the State to remit the monies. The State Occupancy Fee and municipal occupancy tax collected on behalf of West Cape May are due the 20th of the month following the rental. For instance, taxes collected for April rentals are due on May 20th. The form is called the HM-100. It can be filed on the State website: the State will send registered property owners’ instructions and a PIN to access the online filing.

Sales Tax is due quarterly, not monthly. Sales Tax collected for each calendar quarter is due by the 20th of the month following the quarter. For instance, the first quarter (Jan - March) is due by or on April 20. Registered property owners will also receive instructions and a PIN to file Sales Tax online.

Once West Cape May’s ordinance goes into effect (August 1), the applicable marketplaces and homeowners must start to collect the 3% municipal occupancy tax adopted by WCM. The State will notify the marketplaces to collect the municipal tax beginning 8/1.

The State can assist residents directly if they have questions, need help registering, or need assistance filing their taxes by visiting the State website: www.nj.gov/treasury/taxation/ or by calling (609) 292-6400.