

**BOARD OF COMMISSIONERS  
COUNTY OF CARBON  
COMMONWEALTH OF PENNSYLVANIA**

**ORDINANCE 2019-03  
(AMENDMENT TO ORDINANCE 2018-01, 2016-02, 2016-04, 2006-02)**

**HOTEL ROOM RENTAL TAX**

**RULES AND REGULATIONS  
Effective March 28, 2019**

## **SECTION 1**

### **1.1 OBJECTIVES**

These Rules and Regulations are designed to establish a uniform practice and procedure for the imposition and collection of the Hotel Room Rental Tax as follows:

- Collection of the Hotel Room Rental Tax by Booking Agent and/or Operators within the County of Carbon's geographic boundaries; and
- Remittance of the Hotel Room Rental Tax by Booking Agent and/or Operators to the Carbon County Treasurer (hereinafter referred to as "Treasurer"); and
- Official reporting procedures and forms to be used by Booking Agent and/or Operators and other relevant Rules and Regulations concerning the collection of the Hotel Room Rental Tax.

### **1.2 BOOKING AGENT AND/OR OPERATOR – CERTIFICATE OF AUTHORIZATION**

- Within thirty (30) days after commencing business, each Booking Agent and/or Operator shall register with the Treasurer.
- The Treasurer shall issue a Certificate of Authorization to the Booking Agent and/or Operator which must be posted at all times in a conspicuous place on the Hotel premises.

### **1.3 DEFINITIONS**

All terms used in the Rules and Regulations shall have the same definitions as defined in Ordinance 2018 -01, Hotel Room Tax.

The following words and terms when used in these Rules and Regulations shall have the following meanings, unless the context clearly indicates otherwise:

**Accommodation Fee** – The amount by which the rent exceeds the discount room charge, if any.

**Bed and Breakfast or Homestead** – A public accommodation consisting of a private residence, which contains ten (10) or fewer bedrooms, used for providing overnight accommodations to the public, and in which breakfast is the only meal served and is included in the charge of the room.

**Booking Agent** – A person or entity which facilitates or collects payment for hotel accommodations on behalf of or for an Operator. The term “Booking Agent” shall not include a person who merely publishes advertisements for accommodations.

**Cabin** - A permanent structure with beds and running water that is located on a campground on State land or private property and is available to provide overnight lodging for Consideration to persons seeking temporary accommodations. The term does not include yurt or walled tent.

**Consideration** – Receipts, fees, charges, rentals, leases, cash, credits, property of any kind or nature, or other payment received by Booking Agent and/or Operators in exchange for or in consideration of the use or occupancy by a transient of a room or rooms in a Hotel for any temporary period.

**County** – Any County of the third through eighth class that was authorized to levy a Hotel occupancy or room rental tax under the former section 1770.2 or 1770.6.

**Discount Room Charge** – The amount charged by an Operator to a Booking Agent in connection with the sale of an accommodation by the Booking Agent.

**Hotel** – A Hotel, motel, inn, guest house, rooming house, bed and breakfast, homestead or other structure which holds itself out by any means, including advertising, license, registration with an innkeepers’ group, convention listing association, travel publication or similar association or with a government agency, as being available to provide overnight lodging for Consideration to persons seeking temporary accommodation; any place which advertises to the public at large or any segment thereof that it will provide beds, sanitary facilities or other space for a temporary period to members of the public at large; any place recognized as a hostelry or any cabin. The terms does not include any of the following:

- (a) A charitable institution.
- (b) A portion of a facility that is devoted to persons who have an established permanent residence.
- (c) A college or university student residence hall currently occupied by students enrolled in a degree program.
- (d) An educational or religious institution camp for child, including a camp registered under the act of November 10, 1959 (P.L. 1400, No. 497)<sup>8</sup>, entitled, “An act providing for the annual registration of organized camps for children, youth, and adults; defining the duties of the Department of Health of the Commonwealth of Pennsylvania; and prescribing penalties.”
- (e) A Hospital
- (f) A nursing Home.
- (g) Part of a campground that is not a cabin.

**Immediate Family** – A spouse, parent, brother, sister, or child.

**Marketing** – An action by a recognized tourism promotion agency that includes, but is not limited to, promoting and encouraging visitors to visit a specific County, Counties, or geographic region.

**Occupancy** – The use or possession, or the right to the use or possession by a person, other than a Permanent Resident of any Hotel room or rooms for any purpose, or the right to the use or possession of the furnishings, services or to the services accompanying the use and possession of a room.

**Operator** – An individual, partnership, non-profit or profit-making association or corporation, or other person or group of persons who maintain, operate, manage, own, have custody of or otherwise possess the right to rent or lease overnight accommodations in a building to the public for Consideration.

**Patron** – Any natural person who pays the Consideration for occupancy of a Hotel room or rooms.

**Permanent Resident** – A person who has occupied or has the right to occupancy of a room or rooms in a Hotel as a Patron or otherwise for a period exceeding thirty (30) consecutive days.

**Recognized Tourist Promotion Agency** – The nonprofit corporation, organization, association or agency which is engaged in planning and promoting programs designed to stimulate and increase the volume of tourist, visitor, and vacation business within the County and certified by the County as of the effective date of this subsection or under section 1770.11

**Records** – Includes, but is not limited to, the number of daily transactions, rate of each occupancy, revenues received for all transactions, cash receipts and sales journals, cash disbursements and purchase journals, and general ledgers.

**Room** – A space in a building set aside for use and occupancy by patrons or otherwise, for Consideration, having at least one (1) bed or other sleeping accommodations provided.

**Tax Year** – The tax year is the calendar year.

**Temporary** – Occupancy of a Room or Rooms in a Hotel for a period of thirty (30) consecutive days or less.

**Transaction** – The activity involving a transient or patron obtaining occupancy of a Hotel room from which Consideration is payable to the Booking Agent and/or Operator under an express or implied contract.

**Transient** – An individual who obtains Hotel accommodations by means of registering at the facility for temporary occupancy of a room for personal use by paying a fee to the Booking Agent and/or Operator.

**Treasurer** – The Office of Treasurer for the County of Carbon.

## SECTION 2.

### 2.1 IMPOSITION AND COMPUTATION OF TAX

- a) **Tax Imposed Upon Patrons** – An excise tax of three percent (3%) of the Consideration is imposed upon every Hotel room occupied by a patron in this County, effective January 11, 2018. The terms Consideration and Occupancy are defined in Section 1.3, Definitions. The tax shall be collected from the patron by the Booking Agent and/or Operator at the time the Consideration is due, whether on a daily, weekly, or biweekly rental period basis. In the absence of evidence to the contrary, it is presumed that Consideration is due at the expiration of a rental period.
  
- b) **Tax Not Imposed Upon Permanent Residents** – A tax is imposed upon patron, and not upon Permanent Residents. Reference shall be made to Section 1.3, Definitions. A Booking Agent and/or Operator may not collect tax upon the Consideration for a rental period during or at the expiration of which the lessee becomes a Permanent Resident. If a Booking Agent and/or Operator collects tax in advance for a rental period which is or becomes exempt from tax by reason of the lessee becoming a Permanent Resident, the Booking Agent and/or Operator shall refund the tax so collected to the Permanent Resident.
  
- c) **Price of Meals Included in Consideration Charges** – Where the amount of Consideration charged by a Booking Agent and/or Operator includes the price of any meals, the tax upon the meals shall be separately reported. The charges for meals, when not separately stated and itemized by the Booking Agent and/or Operator shall be presumed to be distributed as follows unless upon application of a Booking Agent and/or Operator, the county approves a different Consideration basis.

**TABLE 1 – MEALS INCLUDED WITH ROOM CONSIDERATION**

	Allocation of Charges For rooms and meals	
	<u>Room</u>	<u>Meals</u>
Breakfast only	90%	10%
Lunch or dinner only	75%	25%
Breakfast and dinner, or lunch and dinner	65%	35%
Breakfast, lunch, and dinner	50%	50%

- d) Presumption of Taxability – For the purpose of proper administration of the tax, it is presumed that all patrons are subject to tax until the contrary is established, and the burden of proving that a patron is not taxable is on the Booking Agent and/or Operator:

A three percent (3%) tax is imposed on Consideration received by a Booking Agent and/or Operator for the transaction of occupying a room or rooms to accommodate transients.

The Hotel Room Rental Tax shall be collected by the Booking Agent and/or Operator at the time of the transaction.

### **SECTION 3.**

#### **3.1 PERMANENT RESIDENT**

The Hotel Room Rental Tax shall be imposed for occupancy by patrons and not by Permanent Residents. Permanent Resident status is only attainable by a natural person and not a firm, partnership, association, corporations, fiduciary, or other entity unless otherwise specifically included by these Rules and Regulations.

- a) Procedure for Permanent Resident Credits – If a patron completes thirty (30) days of consecutive occupancy, the patron is a Permanent Resident and such status remains effective as long as the patron's occupancy remains continuous and uninterrupted at the same Hotel. Upon a patron obtaining Permanent Resident status, the patron shall be given a refund or credit by the Booking Agent and/or Operator for the thirty (30) days preceding the patron achieving Permanent Resident status. The Booking Agent and/or Operator is entitled to a credit for the Booking Agent and/or Operator's refund or credit to the patron and the Booking Agent and/or Operator's credit shall be noted on the next monthly return filed by the Booking Agent and/or Operator. To report exemptions, a Booking Agent and/or Operator may file an internally generated report from the Hotel's operating system that clearly identifies those patrons that qualified for an exemption.
- b) Guidelines for Implementation – A rental period, for the purpose of this subsection, is a period of time (day, week, month or the like), during which, under and subject to terms of a legally enforceable contract, a patron has a continuous right to occupy a room or rooms in a Hotel and is legally bound to pay Consideration therefore. (In absence of evidence to the contrary, it is presumed that a rental period runs from the date of first occupancy or first payment of rental to the date on which a subsequent payment or Consideration is due). A mere statement of intention to occupy or to permit occupancy on the part of a patron, Booking Agent and/or Operator or both, does not create a rental period unless the period in question is the subject of a legally enforceable contract.

The occupancy or right of occupancy must be for thirty (30) consecutive days. A patron who merely has the right to use a room or rooms on intermittent days of a week or month is not

qualified to become a Permanent Resident, even though the patron cumulatively occupies a room for a period exceeding thirty (30) days.

A Permanent Resident who breaks the consecutive and continuing occupancy loses the status of Permanent Resident and will be considered a transient patron and subject to the Hotel Room Rental Tax.

If a Permanent Resident transfers from one Hotel to another, even though both Hotels are owned and/or operated by the same Booking Agent and/or Operator, continuous occupancy has been interrupted. If Permanent Resident changes rooms in the same hotel, continuous occupancy has not been interrupted.

### **3.2 EXEMPTIONS AND NON-EXEMPTIONS**

- a) Permanent Residents – A Permanent Resident, defined in Section 1.3, Definitions, is excluded from Hotel Room Rental Tax liability upon the occupancy of any room or rooms in a Hotel for any rental period during which, or at the expiration of which, he/she is or becomes a Permanent Resident. Permanent Resident status is only attainable by a natural person and not a firm, partnership, association, corporation, fiduciary, or other entity.
- b) Ambassadors, Ministers and Consular Officers of Foreign Governments – Ambassadors, ministers, and other diplomatic representatives of foreign governments properly accredited to the United States are exempt from tax upon their occupancy of room or rooms. This exemption does not apply to consular officers or to officers of foreign governments other than those specified in this section, unless such exemption arises from treaties or reciprocal agreements existing between such foreign governments and the United States.
  - A person claiming exemption from the Tax under this subsection is required to apply in writing therefore to the Bureau of Accounts Settlement, Department of Revenue, Harrisburg, Pennsylvania, Attention: Exemption Unit. Ambassadors, ministers and other diplomatic representatives of foreign governments should submit written proof that they are properly accredited to the United States. Consular officers and officials of foreign governments should submit written proof to the treaty or agreement under which similar exemption is granted by their country to consular officers and officials of the United States together with proof that such treaty or reciprocal agreement is presently in effect and that they are an officer or official entitled to prerogatives there under. If exemption has already been accorded under the sales and use tax portion of the Tax Reform Code, the numbered identification card is valid for Hotel Room Rental Tax purposes.
  - If a request for exemption is approved, a numbered identification card will be issued to the applicant. This card shall be shown by the exempt patron to the Booking Agent and/or Operator when a claim for exemption is made.
- c) Occupancy of Hotel Rooms by the United States Government



- Occupancy of Rooms by the United States Government or its agencies, or by an employee or representative of the United States Government or its agencies, when the occupancy is solely for official purposes and Consideration is paid by the United States Government or its agencies, is exempt from the Hotel Room Rental Tax.
  - Occupancy of Rooms by National Banks, Federal Savings and Loan Associations, Joint Stock Land Banks, National Park Commissioners or their employees or representatives, or by Federal licensees such as warehouses, stockyards, construction contractors engaged in the improvement of real estate owned by a Federal agency, or similar corporations, companies, institutions, or persons, or their employees or representatives, regardless of the occupancy purpose, is not exempt from the Hotel Room Rental Tax. Occupancy of Rooms by members of the Armed Forces are not exempt from the Hotel Room Rental Tax unless acting as authorized representatives of the United States Government or its agencies, and are otherwise entitled to exemption.
- d) Occupancy of Hotel Rooms by Other Exempt Entities – The following entities are exempt from the Hotel Room Rental Tax:
- Federal Credit Unions organized under the provisions of the Federal Credit Union Act (12 U.S.C.A. §§ 1751 – 1795k).
  - Commonwealth Credit Unions formed and incorporated under Credit Union Act (15 P.S. §§ 12301 – 12333).
  - Public Authorities created under the Act of June 28, 1935 (P.L. 463) and the Municipal Authorities Act of 1945 (53 P.S. §§ 301-322).
  - Co-operative agriculture associations required to pay corporate net income Tax under the provisions of the Co-operative Agricultural Association Corporate Net Income Tax Act (72 P.S. §§ 3420-21 – 3420-30).
  - Electric cooperative corporations formed under the Electric Cooperative Corporation Act (15 P.S. §§12401 – 12438).
  - Another organization claiming an exempt status under a particular statute shall make application to the Bureau of Sales and Use Tax, Attn: Legal Division for approval to use the exemption.
- e) Occupancy of Hotel Rooms by the Commonwealth of Pennsylvania – Occupancy of Rooms by the Commonwealth of Pennsylvania or its agencies, or by an employee or representative of the Commonwealth or its agencies, when such Occupancy is solely for official purposes and the Consideration is paid by the Commonwealth of Pennsylvania or its agencies, are exempt from the Hotel Room Rental Tax.



**THIS SECTION SHALL NOT BE CONSTRUED TO GRANT AN EXEMPTION TO ANY LOCAL GOVERNMENT, BE IT A COUNTY OR MUNICIPALITY, WHERE OCCUPANCY OF HOTEL ROOMS SHALL BE SUBJECT TO THE HOTEL ROOM RENTAL TAX.**

- f) Occupancy of Hotel Rooms by the American Red Cross – Pursuant to a Federal Court Case (Department of Employment, et al v. US, et al, 87 S. Ct. 464 (1966). The Court ruled that the American Red Cross was an instrument of the United States Government for purposes of immunity from State Taxation. Although employees of the American Red Cross are not actually employees of the United States Government, the Court agreed that they should be treated as tax exempt entities when Occupancy is used for official purposes and provided that the American Red Cross pays the applicable Consideration. A Hotel room or rooms occupied by homeless victims of a disaster are exempt from Hotel Room Rental Tax so long as the American Red Cross pays for the room or rooms and proper documentation is presented.
- g) Religious Organizations, Charities, Educational Institutions etc. – A Hotel room or rooms occupied by these organizations and institutions are required to pay Hotel Room Rental Tax.
- h) Other Non-Exemptions – No person or entity other than those referenced above may be exempt from paying Hotel Room Rental Tax.
- i) Requests for Exemptions – The burden of proving a Hotel room or rooms is exempt from paying Hotel Room Rental Tax is the sole responsibility of the Booking Agent and/or Operator who must demonstrate the same through accurate records. Any request for exemption from paying the Hotel Room Rental Tax liability based upon Federal, State, or Local statutory authority or other proper entitlement, shall be reviewed by the Booking Agent and/or Operator on a case by case basis to determine the nature and extent of the requested exemption.

### **3.3 RECORDS**

- a) Records of Exempt Occupancies – The Booking Agent and/or Operator shall maintain records of support and identification for all exempt occupancies, exemption certificates, exemption letters, direct payment permits, and other documents relating to exemptions from paying Hotel Room Rental Tax. In all instances where a Booking Agent and/or Operator claims an exemption to the Ordinance pursuant to the Rules and Regulations, the Booking Agent and/or Operator will retain copies of patron identification cards or other records indicating the exempt patron's job number, employer, place of employment, or other identifying information. In any case, where a Booking Agent and/or Operator fails to maintain adequate support documentation as required under these Rules and Regulations, any room for which there is inadequate records shall be considered to be occupied for the entire period for which the support records are lacking.

- So long as a Carbon County Hotel Room Rental Tax Exemption Certificate was completed upon qualifying for a permanent resident exemption and subsequently submitted to the Treasurer, that particular permanent resident patron will not need to complete the Hotel Room Rental Tax Exemption Certificate every month going forward, so long as the continuity of renting the room goes uninterrupted. Refer to paragraph 3.1, Permanent Resident.
- b) Monthly Exemption Statement – The Booking Agent and/or Operator shall provide to the Treasurer a Monthly Exemption Statement itemizing all exemptions claimed. The Treasurer will accept Hotel computer software generated exemption reports so long as they list all the same information as the Monthly Exemption Statement. As backup for all exemptions claimed, a completed copy of the Hotel Room Tax Exemption Certificate should be attached to the Monthly Exemption Statement.
- c) Upon the Treasurer’s request, any Booking Agent and/or Operator shall provide a list of all Booking Agent and/or Operators in the County that have listed Hotels with it, including but not limited to the Hotel’s address, phone number, email address, the Booking Agent and/or Operator’s contact information, and any other requested information.
- d) Any Booking Agent and/or Operator that lists one (1) or more County Hotels and that does not collect the tax on behalf of all Booking Agent and/or Operators of such Hotels, shall provide the County quarterly and within thirty (30) days of the end of the calendar quarter, a list of all County Hotels that it listed the prior calendar year but for which it did not collect and remit, along with each Booking Agent and/or Operator’s address, phone number, email address, and any other requested information.
- e) Any Booking Agent and/or Operator that lists one or more County Hotels (i) shall, at the time any Booking Agent and/or Operator first lists a County Hotel with it, notify the Booking Agent and/or Operator of the Booking Agent and/or Operator’s tax obligations to the County; and (ii) shall annually provide all Booking Agent and/or Operators of one or more County Hotels with a reminder of their tax obligations to the County. In both cases, The Booking Agent and/or Operator shall use language provided or approved by the Treasurer.

## **SECTION 4**

### **4.1 TAX COLLECTIONS, REPORT FORMS, RETURNS, PAYMENTS, RECORDS RETENTION, HOTEL BOOKING AGENT AND/OR OPERATOR RECORDS, RECORDS LOCATION**

- a) Tax Collections – The Booking Agent and/or Operator shall collect Hotel Room Rental Tax from the patron as imposed by Ordinance 2018-01 and remit tax to the Treasurer, as detailed herein. Any Hotel Room Rental Tax collected by the Booking Agent and/or Operator that is not paid to the Treasurer shall be deemed a debt owed to Carbon County.

Any patron, Booking Agent and/or Operator owing any monies to Carbon County pursuant to the provisions of Ordinance 2018-01 and these Rules and Regulations, shall be liable to Carbon County for the same. Any action to collect under Ordinance 2018-01 or these Rules and Regulations, shall be brought by Carbon County or Carbon County's designee. Except as otherwise provided in Ordinance 2018-01 or the Rules and Regulations, a Booking Agent and/or Operator's duty as considered by the Treasurer, is to collect Hotel Room Rental Tax under the same fiduciary obligation as placed on local tax collectors under the Pennsylvania Local Tax Collection Law.

b) Report Forms – The following reports and returns are available on the Treasurer's web page: [www.CarbonCounty.com](http://www.CarbonCounty.com)

- Monthly Tax Collection Report
- Hotel Room Rental Tax Exemption Certificate

c) Returns

(1) Quarterly Returns

- a. Every Booking Agent and/or Operator shall transmit to the County Treasurer, on or before the 25<sup>th</sup> day of the month (April, July, October, and January) following each calendar quarter, a return for the calendar quarter ending during the month immediately preceding the month in which the return is made. The return shall report the amount of consideration received for transactions during the calendar quarter for which the return was made, the amount of the tax due from the Booking Agent and/or Operator for such calendar quarter, and such other information as the County Treasurer may reasonably require.
- b. Every Booking Agent and/or Operator, at the time of filing such required return, shall compute and pay over to the County Treasurer the Hotel Room Rental Excise Tax shown as due on the return for the period for which the return is made.

<b>QUARTER ENDING</b>	<b>DUE DATE</b>
March 31	April 25
June 30	July 25
September 30	October 25
December 31	January 25

The report shall include the amount of Hotel Room Rental Tax collected by the Booking Agent and/or Operator and any other information required or requested by the Treasurer.

d) Payments

- (1) Payment Calculation – The Booking Agent and/or Operator shall timely and accurately compute the amount of Hotel Room Rental Tax due the County based on Hotel Room Consideration transactions.
- (2) Interest and Penalties for Late Returns –If any amount of tax due is not received by the Treasurer by the due date, a late charge of eighteen percent (18%) per year, or one and one-half percent (1.5%) per month shall be added for each month or fraction thereof during which any of the Hotel Room Rental Tax remains unpaid or not properly remitted in accordance with these Rules and Regulations
- (3) Payment Methods to the Treasurer – At the time of filing the monthly reports, the Booking Agent and/or Operator shall compute and timely and unconditionally remit to the Treasurer in immediately available fund, the Hotel Room Rental Tax collected by the Booking Agent and/or Operator and due to the County.
- (4) Failure to Collect and Report Tax; Determination of Tax by the Treasurer – If any Booking Agent and/or Operator shall fail or refuse to collect the Hotel Room Rental Tax or to make, within the time provided, any report and remittance of said tax or any portion thereof required by this article or the regulations relative thereto, the Treasurer shall proceed in such manner as he/she may deem best to obtain facts and information on which to base his/her estimate of the tax due. As soon as the Treasurer is able to obtain information upon which to base the assessment of any tax imposed by this article and payable by any Booking Agent and/or Operator who has failed or refused to collect the same and to make such report and remittance, the Treasurer shall proceed to determine and assess against such Booking Agent and/or Operator or the tax and penalties provided for by the Ordinance as well as lawfully interest. In the event such determination is made, the Treasurer shall give a notice of the amount so assessed by serving it personally or by depositing it in the U.S. Mail, postage prepaid, addressed to the Booking Agent and/or Operator so assessed at his/her last known place of business. Such Booking Agent and/or Operator may within ten (10) days after the serving or mailing of said notice make application in writing to the Treasurer for a hearing on the amount assessed. If application by the Booking Agent and/or Operator for a hearing is not made within the time prescribed, the tax, interest, and penalties, if any determined by the Treasurer, shall become final and conclusive and immediately due and payable. If such application is made, the Treasurer shall give not less than five (5) days written notice in the manner prescribed herein to the Booking Agent and/or Operator to show cause at the time and place fixed in said notice why said amount specified therein should not be fixed for such tax, interest, and penalties. At such hearing, the Booking Agent and/or Operator may appear and offer evidence of why such specified tax, interest, and penalties should not be so fixed. After such hearing, the Treasurer shall determine the proper tax to be remitted and shall thereafter give written Notice to the person in the manner prescribed herein of such determination and



the amount of such tax, interest, and penalties. The amount determined to be due shall be payable after thirty (30) days unless an appeal is taken as provide for in paragraph 4.1 (d) (5).

- (5) Appeal – Any Booking Agent and/or Operator aggrieved by any decision by the Treasurer with respect to the amount of such tax, interest, and penalties, if any, may appeal to the Court of Common Pleas by filing a notice of appeal with the Treasurer within thirty (30) days of the serving or mailing of the determination of tax due.
- e) Records Retention – For each calendar year or partial year during which a Hotel does any business or receives any Consideration, the Booking Agent and/or Operator shall maintain and retain all back up documents for such year until the expiration of three (3) years after the Hotel Room Rental Tax reports for such year have been filed.
- f) Booking Agent and/or Operator Records – Every Booking Agent and/or Operator shall be liable to keep and preserve all records as may be necessary to determine the amount of the Hotel Room Rental Tax. Said records shall include, but not limited to as follows: lease agreements; general ledgers; night auditor and maid reports; traffic summaries; source of business reports; and any other documents which support room revenues and exemptions. Said records shall be filed in a manner that allows ready access by an authorized agent of the County, who shall have the right to inspect same at all times.
- g) Records Location – The records shall be maintained at the place of business where the subject rooms were rented.

#### **4.2 FAILURE TO COLLECT AND REPORT**

- a) Determination Process – If any Booking Agent and/or Operator fails to register with the Treasurer or fails or refuses to collect the Hotel Room Rental Tax under these Rules and Regulations, or fails or refuses to produce any report on the official Treasurer forms as required by these Rules and Regulations, the Treasurer or any duly authorized representative of the County shall proceed in such manner as deemed necessary to obtain the facts and information on which to base an estimation of the Hotel Room Rental Tax due, together with any interest late charges, costs, and attorney fees.
- b) Access to Records – The County or duly authorized representative shall have access to any books, documents, papers, and records of the Booking Agent and/or Operator and recognized Tourist Promotion Agency which are directly pertinent to the collection and expenditure of the proceeds of the Hotel Room Rental Tax authorized by this Ordinance for the purpose of making audit examination, excerpts, and transcriptions.
- c) Determination Calculation – If the Treasurer or any duly authorized representative of the County is unable to determine the Hotel Room Rental Tax due from the Booking Agent and/or Operator records, the Hotel Room Rental Tax due for each unpaid tax year, or part thereof, shall be determined to be the lesser of the following.

- Three percent (3%) for the Consideration that could have been received by the Booking Agent and/or Operator for all Hotel Rooms during the tax year at occupancy rates in effect at the time of the determination.
  - Three percent (3%) of the annualized Consideration received during the tax year prior to the determination.
- d) Determination Notification – The Treasurer shall give determination notice to the Booking Agent and/or Operator either in person or United States Mail at Booking Agent and/or Operator’s last known place of business.
- e) Booking Agent and/or Operator’s Response to Determination – The Booking Agent and/or Operator has ten (10) days to respond in writing to the Treasurer to request a hearing on the amount calculated in the determination. If the Booking Agent and/or Operator responds in writing within the time prescribed, the Treasurer shall give no less than five (5) days prior written notice to the Booking Agent and/or Operator of a hearing to show cause why the determination is improper. If the Booking Agent and/or Operator does not make such application within the time prescribed, the amount due in the determination shall become final and conclusive and immediately become due and payable to the County of Carbon.
- f) Determination Hearing Outcomes (Assessment) – At the conclusion of the determination hearing, the Treasurer shall ascertain the proper amount of Hotel Room Rental Tax due, together with any late charge, interest, costs, and attorney fees. A written notice shall be provided to the Booking Agent and/or Operator for the total assessment amount due. The assessment will be payable within thirty (30) days unless an appeal is taken pursuant to these Rules and Regulations.
- g) Failure to Remit Assessment – The Booking Agent and/or Operator shall have thirty (30) days to remit the amount of the assessment. If the Booking Agent and/or Operator fails to remit the assessment amount to the Treasurer within thirty (30) days after receipt of written notice, the County Solicitor may bring or cause to be brought a civil action in any court having jurisdiction to enforce payment of all tax and late payment fees due, or file a municipal lien against the Hotel in the name of the County and for the use of the County as provided by law.

### **4.3 APPEAL PROCESS**

An Booking Agent and/or Operator aggrieved by any decision of the Treasurer with respect to the amount due for the Hotel Room Rental Tax, interest late charges, costs, and attorney fees, may appeal the decision of the County to the Court of Common Pleas of Carbon County, pursuant to the applicable rules of the Pennsylvania Rules of Civil Procedure. The Treasurer reserves the right to waive such late charges, costs, or attorney fees based upon good cause shown.

## **SECTION 5**

### **5.1 REFUNDS TO BOOKING AGENT AND/OR OPERATOR**

- a) Overpayments – Whenever the amount of Hotel Room Rental Tax, interest late charges, costs, or attorney fees has been overpaid, the overpayment may be refunded to the Booking Agent and/or Operator provided a verified written claim is filed by the Booking Agent and/or Operator with the Treasurer within three (3) years of the payment date and stating the specific grounds why the claim was made. The Booking Agent and/or Operator must either return the refunded payment to the patron or credit such amount to the patron's account. If the patron's whereabouts are unknown or unascertainable after a reasonable investigation, such refund shall be resubmitted by the Booking Agent and/or Operator to the Treasurer and shall be subject to the applicable escheat laws and statutes.

## **SECTION 6**

### **6.1 RIGHT TO PRIVACY**

All reports, returns, and forms submitted to the Treasurer are subject to public disclosure under the Pennsylvania Right to Know Law. The Treasurer shall not disclose any confidential information that is otherwise protected by law.

### **6.2 SEVERABILITY OF PROVISIONS**

In the event any provision section, sentence, clause, or part of these Rules and Regulations shall be held invalid, such invalidity will not affect or impair any remaining provision, section, sentence, clause, or part of these Rules and Regulations; it being the intent of the Treasurer that the remainder of these Rules and Regulations shall remain in full force and effect.

### **6.3 AMENDMENTS**

The Treasurer reserves the right to, from time to time without advanced notice, amend and/or supplement these Rules and Regulations. Amendments and/or supplements to the Rules and Regulations will be made available to each Booking Agent and/or Operator.