

CHAPTER 58. TAXATION

ARTICLE II. Lodging Tax*

*State law reference--Lodging tax, Minn. Stats. § 469.190.

Section 58-31. Purpose.

There is hereby created a tax upon lodging at hotels, motels, rooming houses, tourist courts or resorts. The purpose of the tax is to provide funding for a convention and visitors bureau to promote tourism and conventions.

Section 58-32. Definitions.

As used in this article, the following terms shall have the respective meanings ascribed to them:

City Finance Director means the individual designated by the City Manager to fulfill the duties of City Treasurer as specified in the City Charter.

Hotel means the furnishing for consideration, of lodging by a hotel, tourist court, or motel, and the granting of any similar license to use real property other than the renting or leasing thereof for a continuous period of 30 days or more. The furnishing of rooms by any legally constituted religious, educational or nonprofit organization shall not constitute lodging for the purposes of this article.

Operator means the person who is the proprietor of the hotel, whether in the capacity of owner, lessee, sublessee, licensee, or any officer, agent or employee of such person, is an operator.

Cross reference--Definitions generally, § 1-2.

Section 58-33. Imposition of tax.

The following tax, as authorized by Minn. Stats. § 469.190, shall apply in the city:

- (a) For the privilege of occupation of any hotel, each person shall pay a tax in the amount of three percent of the charge made by the operator.
- (b) Those persons qualifying under subsection (1) of this section shall pay the tax to the operator of the hotel at the time the charge is paid. Such tax constitutes a debt owed to the city by the operator and is extinguished only by payment to the city.

Section 58-34. Collections.

- (a) *Operator's duties.* Each operator shall collect the tax imposed by this article at the time the rent is paid. The amount of tax shall be separately stated from the rent charged. Those persons paying the tax shall receive a receipt of payment from the operator.

- (b) *Reports.* Each operator collecting such tax shall make a report to the City by submitting to the City Finance Director signed copies of the sales tax reporting forms required by the State Department of Revenue. The Finance Director may require such additional information from the operator to verify the amount of the tax to be paid is correct. Such reports shall contain, at minimum:
- (1) The amount of room rentals collected.
 - (2) The amount of tax required to be collected and due for the period.
 - (3) The signature of the operator or that of the agent if the operator has not made the report.
 - (4) The period the return covers.
 - (5) The amount of room rental uncollectible.
 - (6) Such additional information as the City Council in its discretion, from time to time requires.
- (c) *Payment to the City.* Payment of the tax shall be submitted by the operator to the City along with the required reports. Payment shall cover the tax due for the preceding calendar month, or any alternative four-week accounting period, whichever it shall be, and such payment shall be made no later than 25 days after the end of such calendar or alternative accounting month.
- (d) *Uncollectible charges.* The operator may offset against the tax due with respect to any reporting period the amount of taxes imposed by section 58-37 previously paid as a result of any transaction which becomes uncollectible during such reporting period, but only in proportion to the portion of such amount which becomes uncollectible.
- (e) *Examination of return.* After a return is filed, the city finance director may make any examination of the records and accounts of the person making the return which he deems necessary for determining its correctness. The tax computed on the basis of such examination shall be the tax to be paid. If the tax due is found be greater than that paid such excess shall be paid within ten days after receipt of such notice. Such notice shall be given either personally or sent by registered mail to the address listed on the return. If the tax paid is greater than the tax found to be due, the excess paid shall be refunded to the operator at the address listed on the return.

Section 58-35.

Refunds.

- (a) Any operator may file for a refund for taxes paid in excess of the amount actually due for that period, provided that no such claim shall be entertained unless filed within one year after such tax paid.
- (b) Upon application, the City Finance Director shall determine the correctness of the claim and return any excess paid. If no excess is found, the City shall so inform the operator. The operator may make written application for city council hearing within five days after receipt of notice that the claim has been denied. The operator shall be informed at least five days in advance of the scheduled Council hearing.

Section 58-36. Penalties for late payment.

Any operator failing to make payment within the 25-day period specified in subsection 58-34(c) shall be required to pay a penalty of ten percent. If the delinquency continues beyond 30 days after the tax is due as specified in subsection 58-34(c), such delinquent taxes, plus penalty, as heretofore provided, shall be entered, shown and placed on the tax assessment rolls of the city for the hotel, generating the delinquency, or the city attorney may commence such action necessary to collect the tax and penalties due including all costs of collection including, but not limited to attorney's fees.

Section 58-37. Tax determined by the City Council.

- (a) If the operator refuses to collect the tax imposed or fails to make the required report, the City Finance Director shall obtain facts and information and make an estimate of the amount of tax due and shall give the operator a statement of the tax due to his estimate and give notice personally or through registered mail to such operator of the amount due. Depending upon the time periods as specified in section 58-33, the amount of tax estimated shall include the applicable penalties and interest. Payments shall be made within ten days after receipt of the notice. For the purpose of carrying out the provisions of this section, the city finance director shall have the right of access to the books and records of the operator.
- (b) The operator shall have ten days after receipt of notice to make a written application for a hearing on the amount estimated to the City Finance Director. If no request is made during this ten-day period, the amount specified in the statement of the City Finance Director, including penalties, becomes final and payable within ten days.
- (c) If a hearing is properly requested, the running of the time periods described in section 58-36 is automatically stayed. Notice of the hearing shall be given to the operator at least ten days in advance. All hearings are to be held before the City Council. The Council may determine the amount due, when it shall be paid, and whether or not the penalty time period under section 58-36 still resume running until payment. Once the amount due becomes fixed under either subsection (a), (b), or (c) of this section, any further steps necessary to ensure collection as described in subsection 58-36 may be taken for the collection of deficiencies.

Section 58-38. Administration.

The City Finance Director shall be charged with the responsibility for enforcement and administration of this article.

Cross reference--Administration, ch. 2.

Section 58-39. Violations.

Any willful violations of any provision of this article or tendering a false report required pursuant to this article shall be a misdemeanor.

Section 58-40. Deposit in special purpose fund.

All revenues collected by the City pursuant to this article shall be deposited in a special purpose fund hereby established to be known as the hotel/motel tax fund.

Section 58-41. Distribution.

Distribution of all revenues relating to three percent of the charge made by the operator and collected pursuant to this article shall be used for the purpose of the advancement of the City as a tourist and convention center. The City may retain a sum not to exceed five percent of the gross proceeds from the tax authorized in section 58-33.