City and County of Denver, Colorado

TAX GUIDE

Topic No. 97

SHORT-TERM RENTALS

Denver's short-term rental ordinance allows primary residences to be rented for lodging accommodations to transients for a period of less than 30 consecutive days.

Those who provide short-term rentals of their primary residences are required to obtain a (1) **business license** from Denver's Department of Excise and Licenses and (2) a **lodger's tax license** from Denver's Department of Finance. Those who make their primary residences available for short-term rentals should be aware that there are several taxes for which they will be responsible.

A. Definitions

The following definitions are intended to aid in understanding the subject matter. They are subject to interpretation by the Manager of Finance and do not replace, alter, or supplant the definitions in the Denver Revised Municipal Code ("DRMC").

1. Host: Means a person who makes its primary residence or any portion of its primary residence available for Short-Term Rental.

2. Guest: Means a person who pays to stay at a Short-Term Rental

3. Lodging Platform: Means a marketplace of any kind that enables Hosts to publish the availability of their primary residences for Short-Term Rental.

4. Short-Term Rental: Means a primary residence used for lodging accommodations by a Guest for a period of less than 30 consecutive days.

B. Denver's Lodger's Tax

1. Denver's Lodger's Tax Applies to Short-Term Rentals

The DRMC imposes lodger's tax in the amount of 10.75% on every person exercising the taxable privilege of purchasing lodging in the city for a period of less than 30 consecutive days. This includes Guests who purchase Short-Term Rentals in the city.

Lodger's tax is required to be collected at the time of the sale, regardless of when the lodging occurs. As an example, if a customer books and pays for a Short-Term Rental in October that will occur the following February, the lodger's tax is required to be collected in October (the time of sale) and remitted in accordance with Section B.3. below.

Please see the Tax Guide No. 52 for additional information about Denver's Lodger's Tax.

NOTE: The State of Colorado also imposes a sales tax in the amount of 4% on the sale of lodging. As a result, the

total tax rate charged in the city is 14.75%. For more information about the State of Colorado's sales tax on lodging, please visit the Colorado Department of Revenue at: www.colorado.gov/revenue.

2. Who Is Required to Collect Denver's Lodger's Tax?

The DRMC requires vendors to collect Denver's lodger's tax from Guests at the time of the sale and remit such tax to the Department of Finance. A vendor is the person who sells or furnishes lodging in Denver.

Who is a vendor of Short Term Rentals?

a. Hosts Are Vendors

Hosts who make their primary residences available for Short-Term Rentals are vendors because they sell and/or furnish lodging.

b. Lodging Platforms May Be Vendors

Depending upon the structure of a transaction, a Lodging Platform may also be a vendor.

A Lodging Platform is a vendor if the following are true:

- The payment for a Short-Term Rental is transacted via the Lodging Platform and
- The Lodging Platform appears as the merchant of record on the Guest's credit card or account statement.

c. Who Is Required to Collect the Lodger's Tax, Hosts or Lodging Platforms?

The Host is responsible for collecting and remitting the lodger's tax to the Manager of Finance, if the Short-Term Rental is (1) not transacted via a Lodging Platform or (2) transacted via a Lodging Platform, but the Lodging Platform is not a vendor as described in B.2.b. above. The Lodging Platform is responsible for collecting and remitting the lodger's tax to the Manager of Finance, if the Short-Term Rental is transacted via Lodging Platform and the Lodging Platform is a vendor as described in B.2.b. above,

3. Lodger's Tax Licenses

Each vendor (Hosts, as well as Lodging Platforms that are vendors as described in B.2.b. above) is required to obtain a lodger's tax license. A Lodging Platform is required to obtain only one lodger's tax license, regardless of the number of Hosts that publish the availability of their primary residences for Short-Term Rental on the Lodging Platform.

4. When Are Lodger's Tax Returns Due?

Vendors (Hosts, as well as Lodging Platforms that are vendors as described in B.2.b. above) are required to file lodger's tax returns with the Manager of Finance and pay over the tax due to the Manager of Finance as follows:

- **Monthly**. A vendor whose monthly tax liability over the preceding six months averages more than $1,100.00 shall file a return monthly and pay over the tax due on or before the 20th day of each calendar month.

- **Quarterly**. A vendor whose monthly tax liability over the preceding six months averages $1,100.00 or less may file a return quarterly and pay over the tax due on or before:

  - April 20 for the months of January through March;
  - July 20 for the months of April through June;
  - October 20 for the months of July through September; and
  - January 20 for the months of October through December.

- **Annually**. A vendor whose monthly tax liability over the preceding six months averages $50.00 or less may file a return annually and pay over the tax due on or before January 20 for the preceding calendar year. * This frequency may be elected for hosts that use only licensed lodging platforms to rent their property and do not have any direct sales of their own nor any sales through unlicensed lodging platforms. A return is still required to be remitted and any sales made through the licensed lodging platform may be deducted in the Other Deductions line.

5. Lodger's Tax Returns

Lodger's tax returns are required to be filed by the 20th day of the month succeeding the sales for the reporting period.

- Taxpayers whose monthly tax liability is more than $1,100.00 are required to file monthly lodger's tax returns.
- Taxpayers whose monthly tax liability falls between $50.01 and $1,100.00 are required to file quarterly lodger's tax returns.
- Taxpayers whose monthly tax liability is $50.00 or less may file annually.

The entire amount charged to any person for a room (defined as sleeping accommodations in a hotel, apartment hotel, lodging house, motor house, motor hotel, guest house, guest ranch, resort, mobile home, auto camp, trailer court or park), who is not a permanent resident and a natural person, and who has not entered into a written agreement for occupancy of a room or rooms or sleeping accommodations for a period of at least thirty (30) consecutive days (and actually pays to occupy the room or rooms or sleeping accommodations for at least (30) consecutive days) is taxable at the rate of 10.75%.

NOTE: Lodger's returns are not income tax returns. Deductions for ordinary business expenses including, but not limited to, mattresses, bedding, repairs, etc. are not allowed to be taking against gross lodging sales on the return.

C. SALES/USE TAX

Hosts are required to pay sales or use tax for all the tangible personal property used to provide Short-Term Rentals, including beds, linens, soaps, etc. If the Host does not pay sales tax for such items, the Host is required to accrue and remit a use tax to the Denver Manager of Finance.

In addition, if Hosts separately charge Guests for food, beverages, or other tangible personal property, they are required to collect sales tax from their Guests.

A separate sales tax license and return forms are used to report retail sales.

Please see the Tax Guide No. 52 for further information and examples.

D. OCCUPATIONAL PRIVILEGETAX

Those engaging in the sale of Short-Term Rentals are required to register for and remit the Denver occupational

privilege tax. Employees who perform sufficient services within Denver to earn $500.00 per month are required to pay the EMPLOYEE occupational privilege tax at the rate of $5.75 per month. The tax is withheld by the employer. In addition, EMPLOYERS are required to pay a BUSINESS occupational privilege tax at the rate of $4.00 per month for each taxable employee, owner, partner, or manager. Thus, a total of $9.75 per month per employee must be remitted to the City by the EMPLOYER.

Businesses located in Denver who do not have any taxable employees are required to pay the $4.00 per month BUSINESS occupational privilege tax for each owner, partner or manager actively participating in the business. There is no $500.00 minimum for self-employed owners or proprietors.

Please see the Tax Guide Topic No. 61 for further information and examples.

EXAMPLES:

1. John is a Host. As a result, he must obtain (1) a business license and (2) a lodger's tax license. He lists his primary residence on an Lodging Platform. John charges $50.00 per night for a room. Additionally, John charges a $25.00 cleaning fee, a $20.00 pet fee, and a $150.00 security deposit. John rents out a room in his primary residence to a Guest with a pet for a three-night stay. The Guest pays $345.00 ($150.00 for the room, $25.00 cleaning fee, $20.00 pet fee and $150.00 security deposit). Since the security deposit is refundable, it is not taxable. John should collect 10.75% Denver lodger's tax and 4% State of Colorado tax on $195.00 ($195.00 ($150.00 for three-night lodging, $25.00 cleaning fee and $20.00 pet fee) x 14.75% = $28.76.
2. Mary is a Host. As a result, she must obtain (1) a business license and (2) a lodger's tax license. She lists her primary residence for Short-Term Rental on an Lodging Platform. Mary charges $100.00 per night for renting her primary residence, plus a cleaning fee of $25. A Guest booked a four day stay at Mary's home. Mary collected lodger's tax on the $425.00 paid by the Guest at the time of purchase in the amount of $62.69 ($425.00 x 14.75%). However, two months later, the Guest canceled 24 hours before the time of check-in. Mary's cancelation policy states if the Guest cancels less than 5 days in advance of the stay, the first night is non-refundable. Therefore, Mary would retain $114.75 ($100 first night and $14.75 tax) the balance of $372.94 would be refunded. Since Mary has already remitted the entire amount of Denver's portion of the lodger's tax to the City ($45.69), Mary can apply for a refund or take the difference of $34.94 as a credit on a future lodger's tax return. For the State portion of the tax, Mary should contact the Colorado Department of Revenue for instructions.

3. Bill and Sue are hosts. As a result, they must obtain (1) a business license and (2) a lodger's tax license. They decide to rent their primary residence for Short-Term Rental by using the online Lodging Platform HomeAirHotel.com, which is not a vendor as described in B.2.b above. They anticipate approximately $1,000 a month in lodging sales, which would result in a monthly tax liability of $107.50. This amount of sales would require them to file quarterly lodger's tax returns and pay over the tax due. Additionally, since Bill and Sue are now engaged in business they **will be required to register for occupational privilege tax (please see Tax Guide Topic No. 61).**

4. Tom and Sara are hosts. As a result, they must obtain (1) a business license and (2) a lodger's tax license. They use the online Lodging Platform RentAwayHome.com to list their primary residence for Short-Term Rental. RentAwayHome.com is a vendor as described in B.2.b. above. RentAwayHome.com collects all the proceeds from Guests reserving Short-Term Rentals on their platform, including Denver's lodger's taxes. RentAwayHome.com will remit Denver's lodger's taxes directly to Denver. If Tom and Sara choose to use other Lodging Platforms that do not require payment of Short-Term Rentals be transacted via the Lodging Platform (in other words, the Lodging Platform is not a vendor as described in B.2.b. above), Tom and Sara must collect the Denver's lodger's tax for those lodging stays and report them on their own lodger's tax returns.

- DRMC Section 33-46 through 33-57. Denver's Short-Term Rental Ordinance
- DRMC Sections 53-50 through 53-140. Sales & Use Tax
- DRMC Sections 53-150 through 53-164. Lodger's Tax
- DRMC Sections 53-200 through 53-260. Employee and Business Occupational Privilege Taxes
- Treasury Tax Rule 004 – Rules Relating to the Frequency of Sales, Use, Lodger's, Employee Occupational Privilege, and Business Occupational Privilege Tax Returns and Requirements For Filing and Paying Tax Returns Electronically.

THE ABOVE INFORMATION IS A SUMMARY IN LAYMAN'S TERMS OF THE RELEVANT DENVER TAX LAW FOR THIS INDUSTRY OR BUSINESS SEGMENT. IT IS NOT INTENDED FOR LEGAL PURPOSES TO BE SUBSTITUTED FOR THE FULL TEXT OF THE DRMC AND APPLICABLE RULES AND REGULATIONS.

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