



1 **Code of the County of Washington, Virginia (2002, as amended)**

2 **Chapter 58. --Taxation**

3 **Article VII. --Transient Occupancy Tax**

4  
5 **Sec. 58-251. Definitions.**

6 The following words, terms and phrases, when used in this article, shall have the meanings  
7 ascribed to them in this section, except where the context clearly indicates a different meaning:

8 Accommodations means any room or space for which tax is imposed on the retail sale of the  
9 same pursuant to this article.

10 Accommodations fee means the room charge less the discount room charge, if any, provided that  
11 the accommodations fee shall not be less than \$0.

12 Accommodations intermediary means any person other than an accommodations provider that  
13 facilitates the sale of an accommodation, charges a room charge to the customer, and charges  
14 an accommodations fee to the customer, which fee it retains as compensation for facilitating the  
15 sale. For purposes of this definition, "facilitates the sale" includes brokering, coordinating, or in  
16 any other way arranging for the purchase of the right to use accommodations via a transaction  
17 directly, including via one or more payment processors, between a customer and an  
18 accommodations provider. Accommodations intermediary does not include a person:

19 1. If the accommodations are provided by an accommodations provider operating under  
20 a trademark, trade name, or service mark belonging to such person; or

21 2. Who facilitates the sale of an accommodation if (i) the price paid by the customer to  
22 such person is equal to the price paid by such person to the accommodations provider for  
23 the use of the accommodations and (ii) the only compensation received by such person  
24 for facilitating the sale of the accommodation is a commission paid from the  
25 accommodations provider to such person.

26 Accommodations provider means any person that furnishes accommodations to the general  
27 public for compensation. The term "furnishes" includes the sale of use or possession or the sale  
28 of the right to use or possess. Accommodations provider shall include hotel, motel, inn, tourist  
29 camp, tourist cabin, camping grounds, club, boarding houses, travel campgrounds, and other  
30 persons offering a room or space that is suitable or intended for occupancy by transients for  
31 dwelling, lodging, or sleeping purposes.

1 Affiliate means with respect to any person, any other person directly or indirectly controlling,  
2 controlled by, or under common control with such person. For purposes of this definition,  
3 "control" (including controlled by and under common control with) shall mean the power,  
4 directly or indirectly, to direct or cause the direction of the management and policies of such  
5 person whether through ownership or voting securities or by contract or otherwise.

6 Commissioner means the commissioner of the revenue of the county.

7 Discount room charge means the full amount charged by the accommodations provider to the  
8 accommodations intermediary, or an affiliate thereof, for furnishing the accommodations.

9 *Hotel* means any public or private hotel, inn, apartment hotel, hostelry, tourist home or house,  
10 motel, boardinghouse, roominghouse, bed and breakfast, or other lodging place in the county  
11 which offers lodging to any transient for compensation.

12 *Lodging* means any space or room furnished to any transient.

13 *Person* includes any individual, firm, partnership, association, corporation, person acting in a  
14 representative capacity or any group of individuals acting as a unit.

15 Retail sale means a sale to any person for any purpose other than for resale.

16 Room charge means the full retail price charged to the customer by the accommodations  
17 intermediary or by the accommodations provider, as applicable, for the use of the  
18 accommodations, including without limitation any accommodations fee and accommodations  
19 intermediary fee, before taxes.

20 ~~Room rental means the total charge, exclusive of any tax imposed on such charge, made by any~~  
21 ~~hotel or travel campground for occupancy of any lodging occupied by a transient. If the charge~~  
22 ~~made by the hotel or travel campground to a transient includes any charge for services or~~  
23 ~~accommodations in addition to that of lodging and/or use of space, then such portion of the total~~  
24 ~~charge representing only lodging and/or space rental shall be distinctly set out and billed to such~~  
25 ~~transient by such hotel or travel campground as a separate item.~~

26 Short-term rental means the provision of a room or space that is suitable or intended for  
27 occupancy for dwelling, sleeping, or lodging purposes, for a period of fewer than 30 consecutive  
28 days, in exchange for a charge for the occupancy.

1 *Transient* means any person who, for a period of fewer than 30 consecutive days ~~not more than~~  
2 ~~29 consecutive days~~, either at his own expense or at the expense of another, obtains ~~lodging or~~  
3 ~~use of space in any hotel or travel campground~~ room or space from an accommodations provider  
4 for which a charge is made.

5 *Travel campground* means any area, site, lot, field or tract of land offering spaces for recreational  
6 vehicles, campers or campsites for transient dwelling purposes, or temporary dwelling during  
7 travel, camping, recreation or vacation uses.

8 *Treasurer* means the treasurer of the county.

9 (Code 1997, § 58-241; Ord. No. 2016-003, § 3, 5-11-2016, eff. 7-1-2016)

10 Cross reference(s)—Definitions generally, § 1-2.

11

12 **Sec. 58-252. Levy and rate.**

13 (a) In addition to any other tax imposed by law, there is hereby imposed and levied ~~on each and~~  
14 ~~every transient a tax equivalent to five percent of the total amount paid for room rental by~~  
15 ~~or for such transient to any hotel or travel campground as defined in section 58-251 a~~  
16 transient occupancy tax on hotel, motel, inn, tourist camp, tourist cabin, camping grounds,  
17 club, boarding houses, travel campgrounds, and other facilities offering room or space rented  
18 out for continuous occupancy for fewer than 30 consecutive days.

19 (b) The transient occupancy tax imposed pursuant to the authority of this article shall be  
20 imposed only for the use or possession of any room or space that is suitable or intended for  
21 occupancy by transients for dwelling, lodging, or sleeping purposes.

22 (c) The transient occupancy tax shall be imposed at the rate of five percent of the room charge  
23 paid by the customer for the use or possession of the room or space.

24 (d) The revenue from three percent of such tax shall be designated and spent solely for tourism  
25 and travel, marketing of tourism or initiatives that, as determined after consultation with the  
26 local tourism industry organizations, including representatives of lodging properties located  
27 in the county, attract travelers to the locality, increase occupancy at lodging properties, and  
28 generate tourism revenues in the locality.

29

30 (Code 1997, § 58-242; Ord. No. 2016-003, § 3, 5-11-2016, eff. 7-1-2016)

1 State law reference(s)—Transient occupancy tax, Va. Code § 58.1-3819(A), Imposed only on room  
2 or space suitable for dwelling, lodging, or sleeping, Va. Code § 58.1-3826(A)

3 **Sec. 58-253. Exceptions to tax.**

4 (a) No transient occupancy tax shall be payable ~~under this article~~ on room rental charges for  
5 rooms or spaces paid to any hospital, medical clinic, convalescent home, or home for the  
6 aged.

7 (b) The transient occupancy tax shall not be levied on charges for rooms or spaces rented and  
8 continuously occupied by the same individual or same group of individuals for 30 or more  
9 days in hotels, motels, boarding houses, travel campgrounds, and other facilities offering  
10 short-term rentals.

11 (Code 1997, § 58-243)

12 State law reference(s)—Transient occupancy tax not applicable to continuous rental for 30 or  
13 more days, § 58.1-3819(B)

14  
15 **Sec. 58-254. Collection.**

16 (a) Every person receiving any payment for room rental with respect to which a tax is levied  
17 under this article shall collect the amount of tax imposed by this article ~~from the transient on~~  
18 ~~whom the tax is levied, or from the person paying for such room rental,~~ at the time payment  
19 for such room rental is made. Such tax shall be deemed to be held in trust by the person  
20 required to collect the tax until remitted to the county as required by section 58-255.

21 (b) For any retail sale of accommodations not facilitated by an accommodations intermediary,  
22 the accommodations provider shall collect the tax imposed pursuant to this article and shall  
23 remit the same to the locality and shall be liable for the same.

24 (c) For any retail sale of accommodations facilitated by an accommodations intermediary, the  
25 accommodations intermediary shall collect the tax imposed pursuant to this article and shall  
26 remit the same to the locality and shall be liable for the same, except as follows. When the  
27 accommodations are at a hotel, the accommodations intermediary shall remit the taxes on  
28 the accommodations fee to the locality and shall remit any remaining taxes to the hotel,  
29 which shall remit such taxes to the locality.

30 (d) An accommodations intermediary shall not be liable for taxes under this article remitted to  
31 an accommodations provider but that are then not remitted to the locality by the

1 accommodations provider. For any retail sale of accommodations facilitated by an  
2 accommodations intermediary, an accommodations provider shall be liable for that portion  
3 of the taxes under this article that relate to the discount room charge only to the extent that  
4 the accommodations intermediary has remitted such taxes to the accommodations provider.

5 (e) In any retail sale of any accommodations in which an accommodations intermediary does not  
6 facilitate the sale of the accommodations, the accommodations provider shall separately  
7 state the amount of the tax in the bill, invoice, or similar documentation and shall add the tax  
8 to the room charge. In any retail sale of any accommodations in which an accommodations  
9 intermediary facilitates the sale of the accommodation, the accommodations intermediary  
10 shall separately state the amount of the tax on the bill, invoice, or similar documentation and  
11 shall add the tax to the room charge; thereafter, such tax shall be a debt from the customer  
12 to the accommodations intermediary, recoverable at law in the same manner as other debts.

13 (Code 1997, § 58-244; Ord. No. 2016-003, § 3, 5-11-2016, eff. 7-1-2016)

14 State law reference(s)—Transient occupancy tax collections held in trust for county, Code of  
15 Virginia, § 58.1-3819; Transient occupancy tax obligations, accommodations intermediary, and  
16 accommodations provider, Code of Virginia, § 58.1-3826.

17 **Sec. 58-255. Reports required and remittance of tax.**

18 The person collecting the tax levied under this article shall make a report upon such forms and  
19 setting forth such information as the commissioner ~~of the revenue~~ may prescribe and require.  
20 Such report shall show the amount of room charge, rental charges, fees, and tax collected and  
21 the amount of transient occupancy tax required to be collected; and shall be signed by a duly  
22 authorized representative of the person; and shall be delivered to the commissioner of the  
23 revenue with the remittance of such tax. Such reports and remittances shall be made quarterly  
24 on or before October 31, January 31, April 30 and July 31 in each year and shall include the  
25 amount of tax collected during the three months immediately preceding the months in which  
26 such reports and remittances are required. If the remittance is by check or money order, the  
27 check or money order shall be made payable to the county. The commissioner ~~of the revenue~~  
28 and treasurer of the county shall have the power to examine pertinent records for the purpose  
29 of administering or enforcing the provisions of this article.

30 (Code 1997, § 58-245; Ord. No. 2016-003, § 3, 5-11-2016, eff. 7-1-2016)

31 State law reference(s)—Authority to levy up to five percent, Code of Virginia, § 58.1-3819.

32

1 **Sec. 58-256. Commission allowed for collection of tax.**

2 The person collecting the transient occupancy tax ~~provided for in this article~~ shall be allowed a  
3 commission of five percent of the total amount of tax collected during each quarterly reporting  
4 period, this commission to be deducted from the remittance of the amount of tax due and  
5 accounted for in each quarterly reporting period specified in this article. No commission shall be  
6 allowed if the amount due is delinquent. The commission allowed in this section is for the  
7 purpose of defraying the expenses incurred by persons required to collect this tax.

8 (Code 1997, § 58-246)

9 State law reference(s)—Authority to allow commission of amount not less than three percent  
10 and not more than five percent, Code of Virginia, ~~§ 58.1-3819~~ § 58.1-3819(D).

11 **Sec. 58-257. Surcharge and interest.**

12 If any person fails or refuses to remit to the commissioner of the revenue the tax required to be  
13 collected and paid under this article within the time and in the amount specified in this article,  
14 there shall be added to such tax by the treasurer ~~of the county~~ a surcharge of ten percent.  
15 Further, if the tax remains delinquent and unpaid for a period of one month from the date it is  
16 due and payable, there shall be added to such tax by the treasurer interest at the rate of ten  
17 percent per annum, which shall be computed on the taxes and surcharge from the first day of  
18 the month for each month or portion thereof from the date upon which the tax was due as  
19 provided in this article.

20 (Code 1997, § 58-247; Ord. No. 2016-003, § 3, 5-11-2016, eff. 7-1-2016)

21 State law reference(s)—Penalty for failure to pay by due date, §§ 58.1-3915, 58.1-3916; Interest  
22 assessment, § 58.1-3916.

23 **Sec. 58-258. Penalty.**

24 It shall be unlawful for any person to fail or refuse to collect the taxes proposed under this article,  
25 or to fail or refuse to make the reports and remittance as required. Whoever violates or fails to  
26 comply with any of the provisions of this article or any regulation promulgated pursuant thereto  
27 shall be subject to criminal prosecution and penalty in accordance with provisions of state law.

28 (Code 1997, § 58-248; Ord. No. 2016-003, § 3, 5-11-2016, eff. 7-1-2016)

29 State law reference(s)—Penalty for failure to collect and account for tax, Code of Virginia, § 58.1-  
30 3907.

1 **Sec. 58-259. Applicability.**

2 The provisions of this article shall apply throughout the county, including the incorporated towns  
3 within the county that do not impose a tax on transient occupancy.

4 (Code 1997, § 58-249)

5 **Secs. 58-260—58-280. Reserved.**

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Proposed