

ORDINANCE NO. 2022-25

AN ORDINANCE OF THE BOROUGH OF RED BANK, COUNTY OF MONMOUTH, STATE OF NEW JERSEY IMPOSING THREE PERCENT (3%) TRANSIENT ACCOMMODATION OCCUPANCY TAX

WHEREAS, the Borough of Red Bank has found that it is in the public interest to impose a three percent (3%) Transient Accommodation Occupancy Tax; and;

THEREFORE, BE IT ORDAINED by the Mayor and Borough Council of the Borough of Red Bank, State of New Jersey, as follows:

SECTION I

There shall be added to Chapter 628, entitled Taxation the following

Article IV Transient Tax

628.34 Purpose.

It is the purpose of this ordinance to implement provisions of N.J.S.A. 40:48F-1, which authorizes the governing body of the Borough to adopt an ordinance imposing a tax at a uniform percentage rate not to exceed three percent (3%) on all charges of rent for every occupancy on or after November 10, 2021, of a room, rooms, or other sleeping or living space subject to taxation pursuant to N.J.S.A. 40:48F-1.

628.35 Transient Accommodation Occupancy Tax Established

- a. It is the purpose of this section to implement the provisions articulated under P.L. 2018 c. 49 and N.J.S.A. 40:48F. Under this law, a municipality may establish a tax on transient accommodation occupancies, including, but not limited to, such accommodations conveyed by transient space marketplaces.
- b. This ordinance shall hereby establish a transient accommodation occupancy tax in the Borough of Red Bank, which shall be fixed at a uniform percentage rate of three percent (3%) on charges of rent for every occupancy of a transient accommodation obtained through a transient space marketplace, subject to taxation pursuant to N.J.S.A. 40:48F-1. This tax shall not limit, abridge, or supplant any other tax lawfully assessed pursuant to the Federal Tax Code, or the laws of the State of New Jersey, and shall be in addition to any such tax.
- c. This tax shall be collected on behalf of the Borough of Red Bank by the person collecting receipts, charges, or rent from the customer.
- d. Each person required to collect a tax imposed by the ordinance shall be personally liable for the tax imposed, collected or required to be collected hereunder. Any such person shall have the same right in respect to collecting the tax from a customer as if the tax were a part of the rent and payable at the same time; provided, however, that the chief financial officer of the Borough of Red Bank shall be joined as a party in any action or proceeding brought to collect the tax.
- e. Notwithstanding any other provision of law of administrative action to the contrary, transient space marketplaces shall be required to collect and pay on behalf of persons

engaged in the business of providing transient accommodations located in the State of New Jersey for tax transactions solely consummated through the transient space marketplace.

628.36 Definitions.

Transient accommodation means a room, group of rooms, or other living or sleeping space for the lodging of occupants, including but not limited to residences or buildings used as residences that is obtained through a transient space marketplace or is a professionally managed unit. The following are not considered transient accommodations: Hotel or hotel room; Room, group of rooms, or other living or sleeping space used as a place of assembly; Dormitory or other similar residential facility of an elementary or secondary school or a college or university; Hospital, nursing home, or other similar residential facility of a provider of services for the care, support, and treatment of individuals that is licensed by the State; Leases of real property with a term of at least 90 consecutive days; Campsite, cabin, lean-to, or other similar residential facility of a campground or an adult or youth camp; or Furnished or unfurnished private residential property, including but not limited to condominiums, bungalows, single-family homes, and similar living units, where no maid service, room service, linen-changing service, or other common hotel services are made available by the lessor, and the rental transaction is executed by a real estate broker licensed by the New Jersey Real Estate Commission pursuant to N.J.S.A. 45:15-1 et seq., and where the keys to the property, whether a physical key, access to a keyless locking mechanism, or other means of physical entrance to the property, are provided to the lessee at the offsite location of the licensed real estate broker.

Transient space marketplace means a marketplace or travel agency through which a person may offer transient accommodations to customer and through which customers may arrange for occupancies of transient accommodations. This does not include a marketplace or travel agency that exclusively offers transient accommodations in the State owned by the owner of the marketplace or travel agency.

Obtained through a transient space marketplace means a rental where the agreement for the rental is made through the marketplace or travel agency and where payment for the accommodation is made through a means provided by the marketplace or travel agency, regardless of who receives the payment.

628-37 Tax Is Additional To Any Other Tax or Fee

The transient accommodation occupancy tax shall be in addition to any other tax or fee imposed pursuant to statute or Borough of Red Bank ordinance or resolution by any governmental entity upon the occupancy of transients accommodations.

628-38 Requirements.

In accordance with the requirements of N.J.S.A. 40:48F-2:

- a. All taxes imposed by this Ordinance shall be paid by the purchaser.
- b. A vendor shall not assume or absorb any tax imposed by this Ordinance.
- c. A vendor shall not, in any manner, advertise or hold out to any person or to the public in general, any manner, directly or indirectly, that the tax will be assumed or absorbed by the vendor, that the tax will not be separately charged and stated to the customer, or that the tax will be refunded to the customer.
- d. Each assumption or absorption by a vendor of the tax shall be deemed a separate offense and each representation or advertisement by a vendor for each day that the representation or advertising continues shall be deemed a separate offense.

628-39 Violations and penalties

In addition to the special provisions and penalty provided in this article, any person who violates, or who fails or refuses to comply with this article, shall be liable for penalty, upon conviction thereof, as provided in Chapter 1, General Provisions, Article II, General Penalty, of the Code of the Borough of Red Bank.

628-40 Effective Date

The tax is effective on the first day of the first full month following 90 days after the New Jersey Division of Taxation has received the adopted ordinance.

SECTION II

A copy of this ordinance shall be transmitted to the New Jersey Division of Taxation.

SECTION III

All ordinances or parts of ordinances inconsistent with the provision of this Ordinance are hereby repealed.

SECTION IV

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed as separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

SECTION V

This Ordinance shall take effect immediately upon its final adoption, approval and publication as required by law. The tax shall be effective on the first day of the first full month following 90 days after the New Jersey Division of Taxation has received the adopted ordinance.