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Navigating Hotel Taxes and Fees in New York State

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The landscape of sales tax and occupancy taxes for hotel operators operating in New York State is a complicated structure in that it requires hotel operators to collect various tax levies. This article discusses some of the most common sales and occupancy taxes that must be collected by hotel operators doing business in New York.

Hotel operators are responsible to remit to the New York State Department of Taxation and Finance the collection of New York State Sales Tax, New York City Sales Tax, and the New York City Hotel Unit Fee (\$1.50 per unit per day).

The New York State sales and use tax is required to be collected on room rates or rental charges for every hotel occupancy in New York State. The terms hotel includes hotels, motels, inns, bed and breakfasts, ski lodges, apartment hotels, and certain bungalows, condos, cottages, and cabins. The rent for hotel occupancy is taxable except for occupancies of permanent residents, or where the rent is \$2 or less a day. An individual will be considered a permanent resident for New York State sales taxes (other than New York City sales tax) and the hotel unit fee tax as discussed below if the occupant has at least 90 days of consecutive occupancy. For New York City purposes, the period is 180 consecutive days of occupancy. Other than permanent residents, which were previously mentioned, certain individuals and organizations including but not limited to the following are exempt occupants:



New York State and any of its agencies, instrumentalities, public corporations, and political subdivisions;





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- the United States of America and its agencies and instrumentalities;
- the United Nations and any international organizations of which the United States is a member;
- diplomatic missions and diplomats
- organizations that are organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary or educational purposes, or to foster national or international amateur sports competition, or for the prevention of cruelty to children or animals and that have qualified for exempt status under New York State sales tax law (to be referred to hereinafter as section 1116(a)(4) exempt organizations);
- certain posts or organizations consisting of past or present members of the armed forces of the United States; and
- certain Native American nations or tribes.

"Certain localities (counties, cities, towns, etc.) in New York State charge an additional tax on hotel occupancy commonly known as a *bed tax*."

New York State Publication 848, provides detailed information on the sales tax on hotel occupancy in addition to other information.

In addition to the sales tax on hotel occupancy outlined above, and any local occupancy taxes, a New York City Hotel unit fee, known to many as the Javits tax in the amount of \$1.50 per unit, per day is imposed on every hotel occupancy of a unit located in New York City. Like the sales tax on rent for hotel occupancy, this hotel unit fee is not imposed on a permanent resident, where the

rent is \$2 or less per day or on rent for any occupancy that is excluded or exempted from sales tax under the tax law or any other provision of law.

Certain localities (counties, cities, towns, etc.) in New York State charge an additional tax on hotel occupancy commonly known as a *bed tax*. This tax is not administered by New York State and any questions regarding this tax should be directed to the local taxing jurisdiction. A bed tax must be shown as a separate charge on a customer's bill, and is not subject to state and local sales tax.

New York City administers a two tier Hotel Occupancy Tax. The Hotel Room Occupancy Tax must be paid on the occupancy, or the right of occupancy, of a room or rooms in a hotel. A "hotel" includes an apartment, hotel, motel, boardinghouse, bed-and-breakfast, bungalow, or club, whether or not meals are served. The occupant of any room or rooms in a hotel must pay the tax. A building is not considered a hotel if rooms are only rented up to 14 days or are rented once or twice during any four consecutive tax quarters of a 12-month filing period. Rentals to permanent residents should not be included in the total number of rooms counted as hotel room rentals. Included in those who are exempt from the New York City Hotel Room Occupancy Tax, are permanent residents who occupy a room at least 180 consecutive days and nonprofit organizations that have been formed exclusively for religious charitable or education purposes or for the cruelty of children or animals. The first tier is 5.875% of the rent charged. In addition there is a Hotel Room Occupancy tax, based on "rent" being charged for a room as follows:

If the rent for the room is	The tax will be
\$10 or more, but less than \$20	50 cents per day per room + the hotel room occupancy tax rate
\$20 or more, but less than \$30	\$1.00 per day per room + the hotel room occupancy tax rate
\$30 or more, but less than \$40	\$1.50 per day per room + the hotel room occupancy tax rate
\$40 or more	\$2.00 per day per room* + the hotel room occupancy tax rate





For example, a hotel suite may have more than one room. The tax will be \$2.00 per room per day on each of the rooms that make up the suite plus the hotel room occupancy tax for the entire suite rental. (The tax on a suite with 3 rooms will be \$6.00 per day plus the hotel room occupancy tax for the entire suite rental).

Similar exemptions to those outlined above for New York sales and use tax exist for the New York City Occupancy Tax

For additional information and more general information on New York State Sales tax, please consult your WeiserMazars tax professional.

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