

## CHAPTER 12

### **ACCOMMODATION TAX**

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## ACCOMMODATIONS TAX 12.01

12.01 PURPOSE AND AUTHORITY. This chapter is adopted pursuant to the authority granted by §66.75 Wis. Stats. The purpose of this chapter is to impose a tax on the privilege of furnishing accommodations, for the general promotion and development of tourism for the Town.

12.02 DEFINITIONS. In this chapter, the following words and phrases shall have the designated meaning unless a different meaning is expressly provided or the context clearly indicates a different meaning:

**ACCOMMODATIONS TAX.** A tax on the gross receipts derived from furnishing at retail, rooms or lodging to transients by hotel keepers, motel operators and other persons furnishing accommodations that are available to the public, irrespective of whether membership is required for the use of the accommodations.

**ACCOMMODATIONS TAX PERMIT.** A permit issued by the Town annually to any person furnishing at retail, rooms or lodging to transients or other accommodations that are available to the public, irrespective of whether membership is required for use of the accommodations.

**GROSS RECEIPTS.** The meaning given is §77.51(4) Wis. Stats., insofar as applicable to receipts from furnishing at retail, rooms or lodging to transients by hotel keepers, motel operators and other persons furnishing accommodations that are available to the public, irrespective of whether membership is required for use of the accommodations.

**HOTEL or MOTEL.** A building or group of buildings in which the public may obtain accommodations for a consideration including, without limitation, such establishments as inns, motels, tourist homes, tourist houses, rooming houses, summer camps, apartment hotels, resort lodges and cabins and any other building or group of buildings in which accommodations are available to the public, **including mobile homes as defined in §66.058(1)(d) Wis. Stats. This definition does not include accommodations** rented for a continuous period of more than one month and accommodations furnished by any hospital, sanatorium or nursing home, or by a corporation or association organized and operated exclusively for Religious, charitable or educational purposes, provided that no part of the net earnings of such corporation or association inures to the benefit of any private shareholder or individual.

**QUARTERLY ACCOMMODATIONS TAX RETURN.** A form prescribed and provided by the Town Treasurer for the purpose of computing and submitting quarterly payment of the accommodations tax. Such quarterly accommodations tax return shall report the gross receipts subject to the accommodations tax hereunder, the amount of the accommodations tax due and shall contain certain additional information as the Town Treasurer may require on such form.

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QUARTERLY AMENDED ACCOMMODATIONS TAX RETURN. A form prescribed and provided by the Town Treasurer for the purpose of amending a quarterly accommodations tax return previously filed with the Treasurer.

TRANSIENT. Any person residing for a continuous period of less than one month in a hotel, motel or other furnished accommodations available to the public.

12.03 ACCOMMODATIONS TAX IMPOSED. (1) ACCOMMODATIONS TAX. Pursuant to §66.75 Wis. Stats., an accommodations tax in **an amount to be periodically set by the St. Germain Accommodations Commission** is hereby imposed on the gross receipts derived from furnishing at retail, rooms or lodging to transients by hotel keepers, motel operators and other persons furnishing accommodations that are available to the public, irrespective of whether membership is required for use of the accommodations. **The current amount of the tax need not be specified in this ordinance, but shall be posted in writing by the Town Clerk in a conspicuous place at the Town Offices. In the event the tax is changed, notice of the new amount shall be posted by the Town Clerk within 24 hours of the change.** Such accommodations tax shall not be subject to the selective sales tax imposed by §77.52(2)(a)(1) Wis. Stats., and may not be imposed on sales to the federal government and persons listed under §77.54(9a) Wis. Stats.

(2) PACKAGE RATES. If accommodations are provided as part of a package rate which includes other goods and/or services, such as food, boat and motor, educational instruction, etc., irrespective of whether membership is required for use of the accommodations, the tax referred to in sub. (1) shall be applied only to that portion of the package rate representing gross receipts as defined in §12.02 of this chapter. The determination of the portion of the package rate representing gross receipts as defined in §12.02 of this chapter will be made by the Town Treasurer upon application by the owner or operator of the facility. In the event the Town Treasurer is unable to determine the portion of the package rate representing the gross receipts as defined in §12.02 of this chapter, he or she shall refer the determination to the Town Board, which shall make the final determination. The Town Board shall make such determination to based on evidence presented to it by the owner or operator of the facility and after investigation and recommendation by the St. Germain Accommodations Commission, created pursuant to §77.52(2)(a)(1) Wis. Stats.

(3) DISTRIBUTION OF TAX. On or before March 31, June 30, September 30 and December 31 of each year, the Town Board shall allocate and distribute the accommodations tax revenues collected in the quarter ending December 31, March 31, June 30 and September 30, respectively, as follows:

(a) Twenty-five percent shall be appropriated by the Town Board to the Town's cost to administer this chapter, for the maintenance and improvement of Town recreational facilities or, for tourism promotion and development in the Town.

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(b) Seventy-five percent shall be appropriated by the Town Board to the St. Germain Accommodations Commission, created pursuant to §12.04 for tourism promotion and development in the Town.

12.04 ST. GERMAIN ACCOMMODATIONS COMMISSION. (1) CREATION OF COMMISSION. There is hereby created a St. Germain Accommodations Commission (the “Commission”) to coordinate tourism promotion and development in the Town.

(2) COMPOSITION OF THE COMMISSION. The Commission shall consist of the Town Treasurer and 5 other persons, at least one of whom shall represent the Wisconsin hotel and motel industry. Commissioners shall be appointed by the Town Chairman and confirmed by the Town Board as provided in §66.75( c) Wis. Stats. The St. Germain Chamber of Commerce and other entities engaged in tourism promotion may nominate representatives to serve as members of the Commission.

(3) TERMS OF COMMISSIONERS. Commissioners shall serve for one year terms expiring on June 30, 1999, and on June 30 every year thereafter, at the pleasure of the Town Board Chairman and may be reappointed.

(4) OFFICERS. The Commission shall elect a chairperson, vice-chairperson and secretary from among its members at the first meeting of the Commission held after June 30 of each year.

(5) MEETINGS. The Commission shall meet regularly and conduct its proceedings in accordance with Roberts rules of Procedure.

(6) DUTIES OF THE COMMISSION. The Commission shall:

**(a) Periodically set the amount of the Accommodation Tax imposed by the Town under this chapter.**

(b) Report any delinquencies or inaccuracies in the reporting of accommodations tax under this chapter to the Town Board.

( c) Use accommodations tax appropriated to the Commission to promote and develop tourism in the Town.

(d) Submit a report to the Town Board on or before October 1 of each year itemizing its expenditures and proposing its budget for the next calendar year.

(e) Work in cooperation with the Town Treasurer to administer this chapter.

(f) Cooperate with an annual audit of the expenditures of the Commission if such an audits is requested by the Town Treasurer.

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(g) Perform such other duties as prescribed by law.

12.05 ADMINISTRATION OF THE ACCOMMODATIONS TAX. (1)

ADMINISTRATION. This chapter shall be administered by the Town Treasurer and the St. Germain Accommodations Commission.

(2) APPLICATION FOR AN ACCOMMODATIONS TAX PERMIT. Every person furnishing at retail rooms or lodging to transients and other persons furnishing accommodations that are available to the public, irrespective of whether membership is required for use of the accommodations shall file annually with the Town Treasurer an application for accommodations tax permit for each place of business. Every application for an accommodations tax permit shall be made upon a form prescribed and provided by the Town Treasurer and at no cost to the applicant.

(3) ISSUING OF ACCOMMODATIONS TAX PERMITS. The Town Treasurer shall grant and issue to each applicant a separate accommodations tax permit for each place of business within the Town. Such accommodations tax permit is not assignable and is valid only for the applicant in whose name it is issued and for the transaction of business at the place designed therein. It shall at all times be displayed conspicuously at the place for which issued.

(4) QUARTERLY ACCOMMODATIONS TAX RETURN AND TAX PAYMENT DUE DATES. Every person furnishing at retail, rooms or lodging to transients and other persons furnishing accommodations that are available to the public, irrespective of whether membership is required for use of the accommodations, shall file a quarterly accommodations tax return and tax payment with the Town Treasurer on or before January 30, April 30, July 30 and October 30 of each year for the calendar quarter ending on the last day of the previous month.

(5) TIMELY FILING OF RETURNS. Any return to be filed under the provisions of this chapter that is postmarked by the United States Post Office on or before the date due shall be considered timely filed. If a return is postmarked after the due date, a delinquent filing fee will be imposed in an amount determined by the commission. Unpaid taxes bear interest of 12% per annum from due date, until first day of month following month of payment.

(6) EXTENSION OF TIME TO FILE RETURNS. The Town Treasurer may, for good cause, grant an extension of time to file a quarterly accommodations tax return or accommodations tax annual reconciliation return for a period not exceeding 30 days from the date due.

(7) ESTIMATE OF TAXES FOR FAILURE TO FILE. If any person fails to file a return as required by this chapter within 30 days following the due date, the Town Treasurer shall give such person written notice of the failure to file. In the event that such person fails to respond by filing all required returns within 10 days of the date of the notice, the Town Treasurer shall make an estimate of the amount of the gross receipts under this chapter. Such estimate shall be made

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for the period for which such person failed to file a return, base upon the prior year's returns, if

available, or upon any information as the Town Treasurer to inspect and audit his or her financial records. Each person required to pay accommodations tax determined pursuant to this subsection shall also pay interest at the rate of 1% per month on the unpaid balance.

(8) **RECORD KEEPING REQUIREMENTS.** Every person subject to the tax imposed by this chapter shall keep or cause to be kept accurate records of gross receipts from furnishing at retail, rooms or lodging to transients and other persons furnishing accommodations that are available to the public, irrespective of whether membership is required for use of the accommodations.

(9) **RESPONSIBILITY FOR UNPAID TAX.** If any person liable for any amount of tax under this chapter sells his or her business, stock of goods, or quits the business, **the original owner and**, his or her successors or assigns shall be **jointly and severally liable** for any unpaid tax due under this chapter.

(10) **AUDIT PROCEDURES.** Whenever the Town Treasurer has probable cause to believe the correct amount of accommodations tax has not been assessed or that any return required to be filed under this chapter is not correct, the Town Treasurer may, by the Office of field audit, inspect an audit the financial records of any person pertaining to the furnishing of accommodations to determine whether or not any return required to be filed under this chapter is correct. The Town Treasurer may determine the tax required to be paid to the Town or the refund due any person under this chapter. This determination may be made upon facts contained in the returns being audited or on the basis of any other information within the Town Treasurer's possession.

(11) **CONFIDENTIALITY.** All tax returns, schedules, exhibits, writing or audit reports relating to such returns on file with the Town Treasurer are deemed to be confidential, except that the Town Treasurer may divulge their contents to the following and no others:

(a) The persons who filed the return or their legal representatives.

(b) The Wisconsin Department of Revenue.

(c) Persons using the information in the discharge of duties imposed by law or the duties of their office or by order of a court.

12.06 **SEVERABILITY.** The provisions of this chapter shall be deemed severable. If any sections subsection, paragraph, subparagraph, sentence, clause, phrase or portion of this chapter is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion of this chapter.

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12.07 **REFERENCES.** Reference to the terms "person," "anyone," "others" or like references shall be deemed to refer to the person, sole proprietorship, company, partnership,

corporation, municipal corporation and also a responsible member, a responsible office or responsible managing agent of any single proprietorship, partnership, company or corporation, unless the context clearly indicates otherwise.

12.08 STATE LAW APPLIES. Nothing contained in this chapter shall be deemed to limit or restrict the application of any State law or administrative regulation of any State agency regulating the subject of this chapter.

12.09 REPEAL OF CONTRARY OR INCONSISTENT ORDINANCES. All ordinances or parts of ordinances which are inconsistent or contrary to this chapter are repealed.

12.15 ENFORCEMENT. (1) REVOCATION OF PERMIT. When any person fails to comply with any provision of this chapter, the Town Treasurer may, upon 10 days written notification and after affording such person the opportunity to show cause why **their** permit should not be revoked, revoke or suspend any or all of the permits held by such person under this chapter. In the event that such a permit is revoked or suspended, the Town Treasurer shall **send** to such person written notice of the same. The Town Treasurer shall not issue a new permit after revocation of a permit until such person complies with the provisions of this chapter. A fee of \$10 shall be imposed for the renewal of a permit which has been previously suspended or revoked.

(2) FORFEITURES. (a) Except as otherwise provided herein, any person violating this chapter may be required to **pay a** forfeiture of not less than \$100 nor more than \$500, **for each day the violation exists.** Each day or portion thereof that such violation continues is hereby deemed to constitute a separate offense.

(b) Any person who fails to comply with a request to inspect and audit the person's financial records shall **pay a forfeiture in** an amount equal to 5% of the tax determined pursuant to the provisions of this chapter.

(c) Each person who fails to pay accommodations tax imposed under this chapter shall **pay a forfeiture in** an amount equal to 25% of the accommodations tax due from that person for the previous year or \$5,000, whichever is less.

(3) ISSUANCE OF CITATION. The Town Clerk or the Town Treasurer shall be authorized to issue a citation pursuant to §778.25 Wis. Stats., for any violation of this chapter.

**(a) The citation may be enforced by the Town attorney by commencing an action against the violator in the circuit court for Vilas County, or by other means, as allowed by law.**

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**(b) In the event the Town initiates legal action for a violation of this Chapter, if the Town prevails in whole or in part in the action, the defendant shall pay the Town's actual attorney fees and costs incurred in the prosecution of such action, in addition to any other penalty or forfeiture imposed by the court.**

(c) Any unpaid judgment taken under this Chapter or any room tax due under this Chapter that goes unpaid for a period of 90 days from the date of the judgment or from the date that the tax is due, may be added by the Town Treasurer to the annual property tax due for the affected parcel. Notice of such assessment shall be provided by the Town, in writing, to the owner, or owners of the affected parcel, within 10 days of levying the assessment.