

SUMMARY OF CHAUTAUQUA COUNTY OCCUPANCY TAX

Updated: January 2010

Occupancy Tax Rate Increases to 5% Effective February 1st, 2008

Chautauqua County Local Law #6 of 2009, adopted December 16, 2009 and known as the Chautauqua County Occupancy Tax Law, amends Local Law #2 of 2008, and continues the imposition of **5%** tax upon the rent for every occupancy of a room or rooms in a hotel or motel units or any other property including but not limited to, cottages, condominiums or other buildings kept open for the lodging of guests in the County except that the tax shall not be imposed upon (1) a permanent resident, or (2) exempt organizations, as set forth in the local law. The imposition of such tax shall apply to occupancies in the same manner as the New York State Sales Tax as set forth in applicable sections of the Tax Law except that Chautauqua County's law defines a permanent resident as someone who occupies a room for at least 30 days as opposed to 90 days provided in the State regulations. Local Law #12-2003 was amended by Local Law #7-2004 to eliminate the **Bungalow Exemption** effective April 1, 2005. The Bungalow Exemption excluded taxation on rental units that were rented for at least seven (7) days. **The elimination of the Bungalow Exemption requires that Occupancy Tax be collected on all properties that rent or lease a room for any continuous period, to the same party, less than 30 days.**

E.g. Elimination of Bungalow Exemption - If a room is rented/leased to the same party for 29 days or less, occupancy tax **shall** be collected.

The intent of this local law shall be to promote Chautauqua County in order to increase tourism and convention business in the County.

On and after the first day of January, two thousand four, as an operator of a hotel or motel units ***including, but not limited to, cottages, condominiums or other buildings***, in the County you will have the responsibility of collecting the tax and remitting it to the County.

(1) LOCAL LAW

Complete information is available by consulting the Local Law, which is available at the County's web site, <http://www.co.chautauqua.ny.us>, under General Services, Financial click on Treasury, then click on Occupancy Tax or at the Chautauqua County Finance Department at 3 North Erie Street, Mayville, NY. 14757; phone (716) 753-4223.

(2) WHO IS REQUIRED TO COLLECT THE TAX

The tax must be collected by any person who owns, operates, or manages a hotel or motel units ***including, but not limited to, cottages, condominiums or other buildings*** kept open for the lodging of guests. The imposition of such tax shall apply to occupancies in the same manner as the New York State Sales Tax. If you are required to collect sales tax for a rental unit, you are also required to collect the Occupancy Tax, except as noted in the first paragraph. Additionally, Chautauqua County's Occupancy tax law differs from New York State Sales Tax law in that the

Bungalow exemption has been eliminated. Therefore, properties that may be exempt from collecting New York State Sales Tax may have to collect Occupancy Tax as prescribed in the summary above.

(3) REGISTRATION

Every operator who is required to collect the tax must register with the County Finance Department. This is accomplished by filling out the form, "Certification of Registration", and returning it to the County Finance Department.

(4) CERTIFICATE OF AUTHORITY

Within seven days of receipt of a Certification of Registration, the Director of Finance shall issue a Certificate of Authority to each operator and location that is required to collect the tax. Upon receipt of the Certificate of Authority, the operator is empowered to collect the 5% tax on occupancy rentals. If an operator maintains more than one place of business, a duplicate Certificate of Authority will be issued. Each certificate or duplicate shall state the hotel or motel to which it is applicable. Such Certificates of Authority shall be prominently displayed in each location. Each facility will be assigned a certificate number, which will be on all correspondence relative to the Occupancy Tax.

(5) EXEMPT AGENCIES

- a. The State of New York or any public corporation or political subdivision of the State;
- b. The United States of America, insofar as it is immune from taxation;
- c. Any corporation, or association, or trust, or community chest, fund or foundation organized and operated exclusively for religious, charitable, or educational purposes.

(6) RETURNS

Every operator shall file remittance, using the County Tax Return Form, to the Director of Finance as follows:

<u>QUARTER</u>	<u>DATE DUE</u>
January 1 st – March 31 st	April 20 th
April 1 st – June 30 th	July 20 th
July 1 st – September 30 th	October 20 th
October 1 st – December 31 st	January 20 th

Businesses that collect less than \$1,500 in occupancy tax per year may file annually. Payment must be received by the Finance Department by January 20th of the following year.

(7) LATE RETURNS

Any person failing to file a return or to pay over any tax to the Director of Finance within the time required by this local law shall be subject to a **penalty of ten percent (10%) of the amount of tax due**; plus interest at the rate of one percent (1%) of such tax for each month of delay excepting the first month after such return was required to be filed or such tax became due; but the Director of Finance, if satisfied that the delay was excusable, may remit all or any part of such penalty, but not interest. Such penalties and interest shall be paid and disposed of in the same manner as other revenues from this local law. Unpaid penalties and interest may be enforced in the same manner as the tax imposed by this local law.

(8) RECORDS TO BE KEPT

Every operator must keep records of all occupancies and tax payable on them. Such records shall be available for inspection, examination and audit at any time upon demand by the Director of Finance or his duly authorized agent or employee and shall be preserved for a period of three (3) years after the payment of the tax and filing of the quarterly return.

(9) ENFORCEMENT

Any operator or occupant and any officer of a corporate operator or occupant failing to file a return required by this local law, or filing or causing to be filed, or making or causing to be made or giving or causing to be given any return, certificate, affidavit, representation, information, testimony, or statement required or authorized by this local law, which is willfully false may be found to be guilty of a misdemeanor, punishment for which shall be a fine of not more than one thousand dollars (\$1,000.00) or imprisonment for not more than one (1) year, or both such fine and imprisonment.