

Chapter 70 - TAXATION

ARTICLE I. - IN GENERAL

Secs. 70-1—70-30. - Reserved.

ARTICLE II. - ROOM TAX

Sec. 70-31. - Definitions.

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

Gross receipts has the meaning as defined in § 77.51(11)(a), (b), and (c), Wis. Stats., insofar as applicable.

Hotel or motel means 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 or courts, lodging houses, rooming houses, summer camps, bed and breakfast establishments, apartment hotels, resort lodges and cabins, and any other building or group of buildings in which accommodations are available to the public, except accommodations rented for a continuous period of more than one month and accommodations furnished by any hospitals, sanitariums or nursing homes, or by corporations or associations organized and operated exclusively for religious, charitable or educational purposes provided that no part of the net earnings of such corporations and associations inures to the benefit of any private shareholder or individual.

Person means any person or individual who operates any hotel or motel and is responsible for compliance with this article.

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

Cross reference— Definitions generally, § 1-2.

Sec. 70-32. - Imposed.

Pursuant to § 66.75, Wis. Stats., a tax is imposed on the privilege and service of 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. Such tax shall be at a rate of five percent of the gross receipts from such retail furnishing of rooms or lodging. Such tax shall not be subject to the selective sales tax imposed by § 77.52(2)(a)1, Wis. Stats.

Sec. 70-33. - Administrator of article.

This article shall be administered by the treasurer. The tax imposed for the month of January 1999, and for each calendar month thereafter is due and payable on the last day of the month next succeeding the calendar month for which imposed. A return shall be filed with the treasurer, by those furnishing at retail such rooms and lodging, on or before the same date on which such tax is due and payable. Such return shall show the gross receipts of the preceding calendar month from such retail furnishing of rooms or lodging, the amount of taxes imposed for such period, and such other information as the treasurer deems necessary. In addition, every person required to file such monthly return shall elect to file an annual calendar year or fiscal year return and shall so notify the treasurer. Such annual return shall be filed within 30 days from the close of each such calendar or fiscal year. The annual return shall summarize the monthly returns, reconcile and adjust for errors in the monthly returns, and shall contain certain such additional information as the treasurer requires. Such annual returns shall be made on forms as prescribed by the treasurer. All such returns shall be signed by the person required to file a return or his duly authorized agent, but need not be verified by oath. The treasurer may, for good cause, extend the time for filing any return, but in no event longer than one month from the filing date.

Sec. 70-34. - Application for permit.

Every person furnishing rooms or lodging under section 70-32 shall file with the treasurer an application for a permit for each place of business. Every application for a permit shall be made upon a form prescribed by the treasurer and shall set forth the name under which the applicant transacts or intends to transact business, the location of his place of business, and such other information as the treasurer requires. The application shall be signed by the owner if a sole proprietor and, if not a sole proprietor, by the person authorized to act on behalf of such sellers. At the time of making an application, the applicant shall pay to the treasurer a fee set by the board for each permit.

Sec. 70-35. - Grant of permit.

After compliance with section 70-34 and section 70-43 by the applicant, the treasurer shall grant and issue to each applicant a separate permit for each place of business within the village. Such permit is not assignable and is valid only for the person whose name it is issued and for the transaction of business at the place designated in the permit. It shall at all times be conspicuously displayed at the place for which issued.

Sec. 70-36. - Revocation, suspension of permit.

Whenever any person fails to comply with this article, the treasurer may, upon ten days' notification and after affording such person the opportunity to show cause why his permit should not be revoked, revoke or suspend any or all of the permits held by this person. The treasurer shall give to such person written notice of the suspension or revocation of any of his permits. The treasurer shall not issue a new permit after the revocation of a permit unless the treasurer is satisfied that the former holder of the permit will comply with the provisions of this article. A fee set by the board shall be imposed for the renewal or issuance of a permit which has been previously suspended or revoked.

Sec. 70-37. - Procedure upon sale of business.

If any person liable for any amount of tax under this article sells out his business or stock of goods or quits the business, his successors or assigns shall withhold sufficient funds of the purchase price to cover such amount until the former owner produces a receipt from the treasurer that it has been paid or a certificate stating that no amount is due. If a person subject to the tax imposed by this article fails to withhold such amount of tax from the purchase price as required, he shall become personally liable for payment of the amount required to be withheld by him to the extent of the price of the accommodations valued in money.

Sec. 70-38. - Determination of tax or refund.

- (a) *By office audit.* The treasurer may, by office audit, determine the tax required to be paid to the village or the refund due to any person under this article. This determination may be made upon the basis of the facts contained in the return's being audited or on the basis of any other information within the treasurer's possession. One or more office audit determinations may be made of the amount due for any one or for more than one period.
- (b) *By field audit.* The treasurer may, by field audit, determine the tax required to be paid to the village or the refund due to any person under this article. The determination may be made upon the basis of the facts contained in the return's being audited or upon any other information within the treasurer's possession. The treasurer is authorized to examine and inspect the books, records, memoranda, and property of any person in order to verify the tax liability of that person or of another person. Nothing in this section shall prevent the treasurer from making a determination of tax at any time.

Sec. 70-39. - Procedure upon failure to file tax.

If any person fails to file a return as required by this article, the treasurer shall make an estimate of the amount of the gross receipts under section 70-32. Such estimate shall be made for the period for which such person failed to make a return and shall be based upon any information which is in the treasurer's possession or may come into his possession. On the basis of this estimate, the treasurer shall compute and determine the amount required to be paid to the village, adding to the sum thus arrived at a

penalty equal to ten percent of the sum due. One or more determinations may be made for one or more than one period.

Sec. 70-40. - Interest on unpaid, refunded taxes.

All unpaid taxes under this article shall bear interest at the rate of seven percent per annum from the due date of the return until the first day of the month following the month in which the tax is paid or deposited with the treasurer. All refunded taxes shall bear interest at seven percent per annum from the due date of the return until the first day of the month following the month in which such taxes are refunded. An extension of time within which to file a return shall not operate to extend the due date of the return for purposes of interest computation. If the treasurer determines that any overpayment of tax has been made intentionally or by reason of carelessness or neglect, or if the tax which was overpaid was not accompanied by a complete return, there shall not be allowed any interest on such tax.

Sec. 70-41. - Fee for delinquent returns.

Delinquent tax returns under this article shall be subject to a late filing fee set by the board. The tax imposed by this article shall become delinquent if not paid:

- (1) In case of a timely filed return, within ten days after the due date of the return, or within ten days after the expiration of an extension period if one has been granted.
- (2) In the case of no return filed or a return filed late, by the due date of the return.

Sec. 70-42. - Penalty for failure to file, late or incorrect return.

If due to negligence no return is filed, or a return is filed late, or an incorrect return is filed, the entire tax finally determined shall be subject to a penalty of 25 percent of the tax exclusive of interest or other penalties. If a person fails to file a return when due or files a false or fraudulent return with the intent in either case to defeat or evade the tax imposed in this article, or with the intent to delay payment, a penalty of 50 percent shall be added to the tax required to be paid, exclusive of interest and other penalties.

Sec. 70-43. - Security authorized.

In order to protect the revenue of the village, the treasurer may require any person liable for the tax imposed by this article to place with him, before or after a permit is issued, such security, not in excess of the estimated one month tax amount due plus interest and penalties, as the treasurer determines. If any taxpayer fails or refuses to place such security, the treasurer may refuse or revoke such permit. If any taxpayer is delinquent in the payment of the taxes imposed by this article, the treasurer may, upon ten days' notice, recover the taxes, interest and penalties from the security placed with the treasurer. No interest shall be paid or allowed by the village to any person for the deposit of such security.

Sec. 70-44. - Keeping of records required.

Every person liable for the tax imposed by this article shall keep or cause to be kept such records, receipts, invoices and other pertinent papers in such form as the treasurer requires.

Sec. 70-45. - Confidentiality of returns.

All tax returns under this article, or schedules, exhibits, writings or audit reports relating to such returns, on file with the treasurer are deemed confidential; except the treasurer may divulge their contents to the following, and no others:

- (1) The person who filed the return.
- (2) Officers, agents, or employees of the Federal Internal Revenue Service or the state department of revenue.
- (3) Officers, employees or agents of the village department of finance.

(4) Such other public officials of the village as may be deemed necessary.

Sec. 70-46. - Release of information restricted.

No person having an administrative duty under this article shall make known in any manner the business affairs, operations or information obtained by an investigation of records of any person on whom a tax is imposed by this article, or the amount or source of income, profits, losses, expenditures, or any particular, set forth or disclosed in any return, or to permit any return or copy to be seen or examined by any person except as provided in section 70-45.

Sec. 70-47. - Forfeiture.

Any person who is subject to the tax imposed by this article who fails to obtain a permit as required by section 70-43, or who fails or refuses to permit the inspection of his records by the treasurer after inspection has been duly requested by the treasurer, or who fails to file a return as provided in this article, or who violates any other provision of this article, shall be subject to a forfeiture set by the board. Each day or portion of a day that such violation continues is deemed to constitute a separate offense.