



**Department of Finance
County of Henrico**

**Guidelines
Short-Term Residential Rental Registry and
Transient Occupancy Tax**

Effective July 1, 2020

SHORT-TERM RESIDENTIAL RENTAL REGISTRY AND TRANSIENT OCCUPANCY TAX GUIDELINES

The guidelines presented here are a summary of the laws and regulations concerning the short-term residential rental registry (STR) and transient occupancy tax. All applicable provisions of the Code of Virginia and Henrico County Code are controlling in all matters concerning the short-term residential rental registry and transient occupancy tax.

As of July 1, 2020, homeowners may register to rent space in their homes to guests for stays of less than thirty days. This includes rentals listed through such online platforms as AirBnB, VRBO, HomeAway, and others.

Note: Hosting platforms (AirBnB, VRBO, Homeaway, etc.) are required to collect the Henrico transient occupancy tax for the homeowners. Homeowners are only responsible for collecting the 8% transient occupancy tax from their guests for sales made outside of a hosting platform.

WHO MUST REGISTER?

In most cases, homeowners offering rentals of their homes for less than 30 days must register.

There are a few exceptions. First, registration is not required if more than 10 rooms are available to rent. This activity would be subject to the business license tax requirements, and the homeowner should contact the Business Section at (804) 501-4310 for additional information. Additional information is available on our website at this link: <https://henrico.us/services/business-license/>.

Second, if any of the following statements are true, registration is not needed, and the homeowner must contact the Business Section at (804) 501-4310 to determine their tax status:

- The homeowner has a business license for operating a hotel, motel, campground, or real property management business
- The rental is operated by or offered through a licensed real estate agent
- The rental is a timeshare
- The homeowner has a Virginia Health Department license or registration for providing room space or lodging

These businesses would still be subject to zoning approval and the transient occupancy tax.

WHAT IS THE PROCESS FOR REGISTRATION?

THESE STEPS MUST BE COMPLETED IN ORDER:

1. **Zoning Approval:** Contact the Permit Center at (804) 501-7280 to determine the appropriate zoning approval process. Upon completion of the zoning approval process, the homeowner will be issued a unique number that will be needed to complete the online registration process. **The homeowner cannot register online until written zoning approval is received;**
2. **Online Registration:** Register online at <https://secure.hostcompliance.com/henrico-county-va/permit-registration> and pay the \$200 registration fee (includes cost of safety inspection);
3. Once registered, a certificate of registration will be issued. This allows the homeowner to operate the short-term rental and to collect the transient occupancy tax from guests.

The registration must be renewed each year. Offering rentals without a registration can result in civil penalties of \$500 for each violation. Any operator required to register will be prohibited from offering a specific property for short-term rental upon three or more violations on more than three occasions of applicable state and local laws,

ordinances, and regulations, as they relate to the short-term rental. This means that failing to file or pay taxes on time could result in having the registration revoked.

WHAT IS THE TRANSIENT OCCUPANCY TAX FOR SHORT TERM RESIDENTIAL RENTALS?

The tax is 8% of the charges made to guests for lodging (including, but not limited to, room rentals, no-show fees, standard cleaning fees, pet fees, internet charges, late check-out fees, and extra person fees). The tax basis does not include taxes collected from guests.

Each month, the hosting platform (or homeowner, if a hosting platform is not used) must file a transient occupancy tax return with the county and send all taxes collected from guests to the county. A return must be filed each month, even if no rentals occurred that month.

WHO COLLECTS THE TRANSIENT OCCUPANCY TAX?

The hosting platform, such as AirBnB or VRBO, must collect the Henrico transient occupancy tax for the homeowner. For stays provided without a hosting platform, the homeowner is responsible for collecting the transient occupancy tax from the guest. All funds collected by short-term residential rental operators are held in trust for the county.

. Some hosting platforms will collect the Virginia state sales tax from the guest. **This is a separate tax from the Henrico County transient occupancy tax and it is administered by the Virginia Department of Taxation.** For sales tax questions, please contact the Virginia Department of Taxation at (804) 367-8031.

EXEMPTIONS FROM THE TRANSIENT OCCUPANCY TAX

The transient occupancy tax is calculated based on all charges in connection with the room rental. This includes room rentals, no-show fees, standard cleaning fees, pet fees, internet charges, late check-out fees, and extra person fees. Separately stated

charges for goods and services not connected to the room rental (such as photography, translation services, or transportation charges) are not taxed.

If a guest stays for 30 consecutive days or more, then their entire stay is exempt from the transient occupancy tax.

Additionally, charges made directly to, and paid directly by, the federal government, are exempt from the transient occupancy tax. For questions related to exemptions please contact the Business Section at (804) 501-4310 for assistance.

CALCULATION OF TAXES

The transient occupancy tax is 8% of the charges for room rentals paid by the guest and received. From the gross room charges, subtract any taxes paid, any stays of thirty or more consecutive days, any federal government exemptions, and any charges not connected with the room rental.

\$_____	Gross amount paid by guest
-Minus \$_____	Taxes paid by guest (sales tax, transient occupancy tax)
-Minus \$_____	Exemptions (stays of 30 consecutive days or more, etc.)
-Minus \$_____	Charges unrelated to room rental
\$_____	Tax basis (subtotal) This is the amount reported on the online tax filing return
X Multiply by 8%	
\$_____	Transient occupancy tax

When filing online each month, report the tax basis amount (gross amount minus deductions). The online filing system will calculate the 8% tax due.

REMITTANCE OF TAX COLLECTED

The party collecting the taxes must file a return and remit to the County any transient occupancy taxes collected on or before the 20th day of the month following collection. For example:

<u>Month Collected</u>	<u>Due Date</u>
January	February 20
February	March 20
March	April 20
April	May 20
May	June 20
June	July 20
July	August 20
August	September 20
September	October 20
October	November 20
November	December 20
December	January 20

If the due date falls on a weekend, or holiday where the County is closed, then the due date would be the next business day when the County is open.

The transient occupancy taxes can be filed and paid online, at the following link: <https://businesstax.henrico.us/#/> . To established a transient tax account, please contact the Business Section at (804) 501-4310.

PENALTIES AND INTEREST

A penalty of ten percent (10%) of the tax assessable shall be assessed for failure of a homeowner to **file** by the due date. The penalty becomes part of the tax due.

And

A penalty of ten percent (10%) of the tax assessable shall be assessed for failure of a homeowner to **pay** the tax by the due date. The penalty becomes part of the tax due.

And

Interest shall be assessed at the rate of ten percent (10%) per year on the amount of tax (including filing and payment penalties) past due. The interest will commence on the day following the day on which the tax was due and continue until paid.

Failure to collect and remit the taxes can also result in criminal penalties.

RECORD RETENTION AND AUDIT

Each seller is required to keep and preserve for a period of **five years** records showing gross receipts from room charges, the amount charged to the guest for each room, the taxes collected on the room charges, the amount of tax required to be collected, and documentation supporting any exemptions.

The director of finance has the power to examine tax records at reasonable times and without unreasonable interference and to make copies of all or any parts of the records.

HENRICO COUNTY ORDINANCES

Henrico County Code Section 20-273 Definitions:

Accommodations mean any room or space, suitable or intended for occupancy by transients for dwelling, lodging, or sleeping purposes, where a price is paid in a retail sale by or for a transient for the use or possession of the room or space in any hotel, motel, boarding house, travel campground, short-term rental, or other facility offering guest rooms rented out for continuous occupancy for fewer than 30 consecutive days.

“Accommodations” does not include rooms or space offered by a person in the business of providing conference rooms, meeting space, or event space if the person does not also offer rooms available for overnight sleeping.

Accommodations fee means the room charge less the discount room charge, if any, provided that the accommodations fee may not be less than \$0.

Accommodations intermediary means any person other than an accommodations provider that (i) facilitates the sale of an accommodation and (ii) either (a) charges a room charge to the customer, and charges an accommodations fee to the customer, which fee it retains as compensation for facilitating the sale; (b) collects a room charge from the customer; or (c) charges a fee, other than an accommodations fee, to the customer, which fee it retains as compensation for facilitating the sale. For purposes of this definition, “facilitates the sale” includes brokering, coordinating, or in any other way arranging for the purchase of the right to use accommodations via a transaction directly, including via one or more payment processors, between a customer and an accommodations provider.

Accommodations intermediary does not include a person:

1. If the accommodations are provided by an accommodations provider operating under a trademark, trade name, or service mark belonging to such person;
2. Who facilitates the sale of an accommodation if (i) the price paid by the customer to such person is equal to the price paid by such person to the accommodations provider for the use of the accommodations and (ii) the only compensation received by such person for facilitating the sale of the accommodation is a commission paid from the accommodations provider to such person; or
3. Who is licensed as a real estate licensee pursuant to Code of Virginia, title 54.1, ch. 21, art. 1 (Code of Virginia, § 54.1-2100 et seq.), when acting within the scope of such license.

Accommodations provider means any person that furnishes accommodations to the general public for compensation. The term “furnishes” includes the sale of use or possession or the sale of the right to use or possess.

Discount room charge means the full amount charged by the accommodations provider to the accommodations intermediary, or an affiliate thereof, for furnishing the accommodations. Operator means the proprietor of any dwelling, lodging, or sleeping accommodations offered as a short-term rental, whether in the capacity of owner, lessee, sublessee, mortgagee in possession, licensee, or any other possessory capacity.

Person includes, but is not limited to, an individual, firm, partnership, association, corporation, person acting in a representative capacity, or any group of individuals

acting as a unit.

Retail sale means a sale to any person for any purpose other than for resale. Room charge means the full retail price charged to the customer for the use of the accommodations before taxes.

Room charge includes any fee charged to the customer and retained as compensation for facilitating the sale, whether described as an accommodations fee, facilitation fee, or any other name. The room charge will be determined in accordance with 23VAC10-210-730 and the related rulings of the Virginia Department of Taxation on the same.

Short-term rental means the provision of a room or space that is suitable or intended for occupancy for dwelling, sleeping, or lodging purposes, for a period of fewer than 30 consecutive days, in exchange for a charge for the occupancy.

Transient means the same person who, for a period of less than 30 consecutive days, either at his own expense or at the expense of another, obtains the use or possession of a room or space in any accommodation for which a charge is made in a retail sale.

Henrico County Code Section 20-275 Collection of Transient Occupancy Tax:

(a) For any retail sale of accommodations not facilitated by an accommodations intermediary, the accommodations provider must collect the tax imposed pursuant to this article, computed on the total price paid for the use or possession of the accommodations. The accommodations provider must separately state the amount of the tax in the bill, invoice, or similar documentation and must add the tax to the total price paid for the use or possession of the accommodations.

(b) For any retail sale of accommodations facilitated by an accommodations intermediary, the accommodations intermediary will be deemed under this article as a facility making a retail sale of an accommodation. The accommodations intermediary must collect the tax imposed pursuant to this article, computed on the room charge. The accommodations intermediary must separately state the amount of the tax on the bill, invoice, or similar documentation and add the tax to the room charge; thereafter, such tax is a debt from the customer to the accommodations intermediary, recoverable at law in the same manner as other debts.

(c) If the total price paid by the customer for any accommodation includes any charge for services in addition to that of use or possession of the room or space occupied, then such portion of the total charge as represents only use or possession of the room or space occupied must be distinctly set out and billed to such transient as a separate item.

(d) Every person receiving any payment in accordance with the provisions of this section for any accommodation with respect to which a tax is levied under this article must collect the amount of tax thereby imposed from the transient on whom the tax is

levied, or from the person paying for such accommodation, at the time payment for such accommodation is made. Such tax will be deemed to be held in trust by the person required to collect the tax until remitted to the county as required in this article.

Henrico County Code Section 20-276 Reports and Remittance of Tax:

(a) Generally. The person collecting the tax levied under this article is liable for the tax and must make a report upon such forms and setting forth such information as the director may prescribe and require. Such reports must show the amount of room rental charges collected and the tax required to be collected and must be signed and delivered to the director with a remittance of such tax. Such report and remittance must be made at least once in every 30-day period and not later than the 20th day of the month next following the month in which such tax was collected.

(b) Additional information from accommodations intermediaries. Subject to applicable laws, an accommodations intermediary must also submit to the director the property addresses and gross receipts for all accommodations facilitated by the accommodations intermediary in the county. Such information must be submitted monthly and may be included on the return required in subsection (a).

(c) Agreements among two or more accommodations intermediaries. For any transaction for the retail sale of accommodations involving two or more parties that meet the definition of accommodations intermediary, nothing in this article prohibits such parties from making an agreement regarding which party is responsible for collecting and remitting the tax, so long as the party so responsible is registered with the locality for purposes of remitting the tax. In such event, the party that agrees to collect and remit the tax is the sole party liable for the tax, and the other parties to the agreement are not liable for the tax.

Henrico County Code Section 20-277 Penalty for Failure to File Report or Pay Tax:

(a) If any person, whose duty it is so to do, shall fail or refuse to file with the director the report required under this article within the time specified in this article, there shall be assessed a penalty in the amount of ten percent of the tax assessable on such report. Such penalty shall be assessed on the day following the day on which the report was due unless otherwise provided by Code of Virginia, § 58.1-3903. Any such penalty, when assessed, shall become a part of the tax. The imposition of such penalty shall not be deemed a defense to any criminal prosecution for failing to make any report required in this article.

(b) If any person, whose duty it is so to do, shall fail or refuse to remit to the director the tax required to be collected and paid under this article within the time specified in this article, there shall be assessed a penalty in the amount of ten percent of the tax past due. Such penalty shall be assessed on the day following the day on which the tax was due unless otherwise provided by Code of Virginia, § 58.1-3903. Any such penalty, when assessed, shall become a part of the tax.

(c) In addition, there shall be assessed interest at the rate of ten percent per year on the amount of tax past due, which interest shall commence on the day following the day on which the tax was due unless otherwise provided by Code of Virginia, § 58.1-3903.

Henrico County Code Section 20-278 Procedure Upon Failure to File Return or Pay Tax:

If any person shall fail or refuse to collect the tax imposed under this article or to make within the time provided in this article the reports and remittance required in this article, the director shall make an estimate of the amount of taxes due the county by such person upon the best information available and shall proceed to determine and assess against such person such tax and penalty and interest as provided for in this article. The director shall notify such person by registered mail, sent to his last known place of address, of the amount of such tax and interest and penalty, and the total amount thereof shall be payable within ten days from the date of such notice. The director shall have the power to examine such books and records as is provided for by section 20-374.

Henrico County Code Section 20-374 Powers and Duties of Director of Finance in Regard to Incorrect Returns:

In any case, except where otherwise provided in this article, in which the director of finance has reason to believe that the return or statement filed is incorrect, he shall cause an investigation of the taxpayer's books and records to be made and shall ascertain whether such person has made a true and correct return or statement, and to that end the director of finance or his assistant is expressly authorized and empowered, when necessary, to summon such person before him and require the production of all his books and papers which he has reasonable cause to believe will throw any light upon the matter under investigation and shall also be authorized and empowered to make such other and further investigation and examination as he may deem proper in order to accurately determine the proper return or statement to be made by such person.

Henrico County Code Section 20-279 Criminal Penalties:

Any corporate or partnership officer as defined in Code of Virginia, § 58.1-3906, or any other person required to collect, account for and pay over the tax levied in this article who willfully fails to collect or truthfully account for and pay over such tax, and any such officer or person who willfully evades or attempts to evade any such tax or the payment thereof, shall be guilty of a misdemeanor.

Henrico County Code Section 20-280 Registration:

There is hereby established a short-term rental registry in the county. Operators within the county are required to register annually with the director of the department of

finance and provide (i) the complete name of the operator and (ii) the address of each property in the locality offered for short-term rental by the operator. The operator must pay a fee of \$200.00 at the time of registration each year. Registrations are valid for one year from the date of registration. No operator may offer a property for short-term rental without a valid registration.

Henrico County Code Section 20-281 Exemptions:

The following operators are exempt from the registration requirement of § 20-280:

- (1) Operators licensed by the Real Estate Board or who are property owners represented by a real estate licensee;
- (2) Operators registered pursuant to the Virginia Real Estate Time-Share Act, Code of Virginia, § 55.1-2200 et seq.
- (3) Operators licensed or registered with the Department of Health, related to the provision of room or space for lodging;
- (4) Operators licensed or registered with the county, related to the rental or management of real property, including licensed real estate professionals, hotels, motels, campgrounds, and bed and breakfast establishments.

Henrico County Code Section 20-282 Penalties:

- (a) Penalties for violations of registration requirement. Any operator required to register who violates § 20-280 is liable to the county for a penalty of \$500 for each violation. Unless and until the operator pays the penalty and registers the property, the operator may not continue to offer such property for short-term rental. Upon more than one violation of this article as it related to a specific property, the operator will be prohibited from registering and offering that property for a short-term rental.
- (b) Penalty for violations of other applicable laws and regulations. Any operator required to register will be prohibited from offering a specific property for short-term rental upon three or more violations on more than three occasions of applicable state and local laws, ordinances, and regulations, as they related to the short-term rental.