

# SHORT-TERM RENTAL TAXES IN DELAWARE: EXPLAINED



As of July 17, 2024

On June 27, 2024, the Delaware General Assembly passed [HS 2 for HB 168 with HA 1](#). It now waits for the Governor's signature. This legislation creates a new state license category for accommodations intermediaries and a new state short-term rental lodging tax. While state regulation still needs to be developed to implement the new state tax, the basics of the legislation may be found below, including basic information about county/municipal short-term rental taxes.

## NEW STATE TAX

*It's important to note that the new state short-term rental lodging tax is not the same as the current state hotel lodging tax of 8%. The legislation created separate rules for short-term rentals as advocated for by the Delaware Association of REALTORS®.*

**License:** "Accommodations intermediary" means any person (or company) engaged in the business of facilitating or arranging a short-term rental to an occupant on a website or through other means, including the renting of properties subject to a timeshare plan.

- An accommodations intermediary includes a licensed real estate broker, but only includes the broker of record and not real estate licensees working under that broker (individual salespersons under a broker do not need an individual state license).
- An owner of a short-term rental that exclusively uses a third-party accommodations intermediary shall not be deemed an accommodations intermediary. This means individual owners not using an accommodations intermediary must also obtain this license.

**Short-Term Rental Lodging Tax:** Short-term rental means a house, duplex, multi-plex, apartment, condominium, houseboat, trailer, or other residential dwelling unit where a tourist or transient guest, for consideration, rents sleeping or living accommodations for no more than 31 consecutive nights.

- Short-term rental *does not* include the following:
  - Hotels, motels, and tourist homes.
  - Rooms, groups of rooms, or other spaces used for assembly.
  - Dormitories or other residential facilities of educational or vocational institutions.
  - Healthcare facilities licensed by the State.
  - Campsites, cabins, or similar facilities in campgrounds.
  - Overnight camps for adults or children.
  - A rental arranged directly by the property owner, on a casual and isolated basis, that meets all the following qualifications: 1. The rent is substantially below market rates and 2. The property is used as a rental for no more than 10 nights in aggregate per calendar year.

**QUESTIONS?**

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## Short-Term Rental Lodging Tax (Cont.):

- The state short-term rental lodging tax is 4.5% of the rent upon every occupancy of a short-term rental within this State. Rent does not include municipal taxes, linen rental fees, cleaning fees, insurance fees, security deposits, other add-on fees not usually considered part of the rent, and money received from a month-to-month holdover leases.
- Accommodations intermediaries are responsible for collecting and remitting the short-term rental lodging tax unless the accommodations intermediary has a contractual arrangement with a hotel, motel, tourist home, or other accommodations intermediary to collect and remit tax in accordance with this chapter. The short-term rental tax must be collected no later than the earlier of the final payment of all rent due or occupancy of the short-term rental. If a short-term rental stay is cancelled in whole, or in part, the cancelled portion of the stay must not be subject to the short-term rental tax and any amount of tax collected for such cancelled portion must be refunded.
- The amount of the tax collected for each month shall be reported and paid over to the Department of Finance not later than the fifteenth day of the month following the month of collection. Interest at the rate of 1% per month, or fraction thereof, shall be charged on payments made after the prescribed due date. \*At this time, the forms have not been developed by the Department of Finance.\*
- Timing: All accommodations intermediaries will be required to obtain a new license from the Department of Finance 90 days after the Governor signs it into law (currently unknown as to the date). The tax then starts to be collected on short-term rental agreements entered on or after January 1, 2025.
  - It's important to note that if an agreement is signed prior to January 1, tax is not required to be collected in 2025.

## Current County Taxes:

- **New Castle County**
  - The county is empowered to collect short-term rental taxes in unincorporated areas of the county—up to 3%. They currently do not.
- **Kent County**
  - The county does not have the ability to implement a short-term rental tax per state law currently.
- **Sussex County**
  - The county is empowered to collect short-term rental taxes in unincorporated areas of the county—up to 3%. They currently do not.

## Local Municipal Taxes:

- Please inquire with the specific municipality in which the short-term rental unit is located. They may have individual short-term rental taxes or short-term rentals may be covered under the local hotel lodging tax. Many towns have these taxes currently in place and the new state legislation does not impact them.