

COUNCIL OF THE DISTRICT OF COLUMBIA

NOTICE

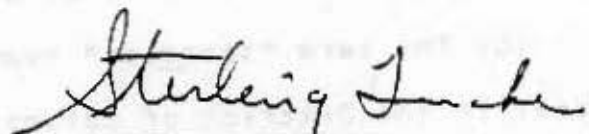
March 23, 1978

D.C LAW 2-58

"Hotel Occupancy and Surtax on Corporations
and Unincorporated Business Tax Act of 1977"

Pursuant to Section 412 of the District of Columbia Self-Government and Governmental Reorganization Act (PL 93-198), the Act, the Council of the District of Columbia adopted Bill No. 2-169 on first and second readings September 13, 1977, and October 11, 1977, respectively. Following the signature of the Mayor on December 30, 1977, this legislation was assigned Act No. 2-127, published in the January 13, 1978, edition of the D.C. Register, and transmitted to both Houses of Congress for a 30-day review, in accordance with Section 602(c)(1) of the Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional Review Period has expired and, therefore, cites the following legislation as D. C. Law 2-58, effective March 16, 1978.


STERLING TUCKER
Chairman of the Council

D.C. LAW

2-58

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

MARCH 15, 1978

To impose a tax on hotel occupancy, to extend the surtax on corporations and unincorporated businesses, and for other purposes.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA,

That this act may be cited as the "Hotel Occupancy and Surtax on Corporations and Unincorporated Business Tax Act of 1977".

TITLE I

DEFINITIONS

Sec. 101. For the purposes of this act:

(a) The term "person" means any individual, partnership, society, association, joint stock company, corporation, estate, receiver, trustee, assignee, referee, or any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and any combination of individuals or of the foregoing.

(b) The term "operator" means any person operating a hotel in the District of Columbia, including, but not limited to, an owner or proprietor of such premises, or a

-2-

lessee, sublessee, mortgagee in possession, licensee, or any other person otherwise operating such hotel.

(c) The term "occupant" means any person who, for a consideration, uses, possesses, or has the right to use or possess, any room or rooms in a hotel under any lease, concession, permit, right of access, license to use, or other agreement.

(d) The term "occupancy" means the use or possession, or the right to the use or possession, by any person of any room or rooms in a hotel.

(e) The term "hotel" means any hotel, motel, inn, tourist camp, tourist cabin, or any other place in which rooms, lodgings, or accommodations are regularly furnished to persons other than permanent residents.

(f) The term "room" means any room of any kind, other than a bathroom or lavatory, in any part or portion of a hotel, which use or possession is available for or let out for any purpose other than as a place of assembly.

(g) The term "rent" means the consideration received by an operator for occupancy valued in money, whether received in money or otherwise, including all receipts, cash, credits, property or services of any kind or nature, and also any amount for which credit is allowed by the operator to the occupant, without any deduction therefrom whatsoever.

(h) The term "permanent resident of a hotel" means any occupant of a room or rooms in a hotel for ninety (90) consecutive days or more.

(i) The term "place of assembly" means any room rented by the operator or used by the operator exclusively for dining, meetings, dances, entertainment, exhibitions, and the like. This term does not include any room or suites of rooms which are also customarily used or rented for sleeping accommodations.

(j) The term "Mayor" means the Mayor of the District of Columbia as established under section 421 of the "District of Columbia Self-Government and Governmental Reorganization Act", approved December 24, 1973 (27 Stat. 739; D.C. Code, sec. 1-151), or his duly authorized representative.

(k) The term "District" means the District of Columbia.
IMPOSITION AND RATE OF TAX

Sec. 102. (a) There is hereby imposed and there shall be paid a tax at the rate of eighty cents (80¢) for every occupancy of each room (irrespective of the number of occupants in each room) in a hotel in the District of Columbia. The tax shall apply to each occupancy of a room each time a daily rate or less than a daily rate is charged for such occupancy. If the rate charged for the occupancy

is more than for a daily period, the tax shall apply to each room for each day of occupancy during such period.

(b) The tax hereby imposed is in addition to any other taxes imposed on the sale or charges for such rooms or occupancy, and shall be separately stated from all other charges or taxes.

(c) The tax hereby imposed shall be collected from the occupant by the operator and held by the operator in trust for the District of Columbia. The operator shall be liable for payment of the tax to the District of Columbia whether or not he or she has collected such tax from the occupants. The operator and each and every officer of any corporate operator, shall be personally liable for the tax collected or required to be collected under this title. The operator shall have the same right in respect to collecting the tax from the occupant, or in respect to nonpayment of the tax by the occupant, as if the tax were a part of the rent for the occupancy payable at the time such tax shall become due and owing, including all rights of eviction, dispossession, repossession and enforcement of any innkeeper's lien that he may have in the event of nonpayment of rent by the occupant.

(d) Where the occupant has failed to pay and the operator has failed to collect the tax imposed by this title, then in addition to all other rights, obligations and

remedies provided in this act, such tax shall be payable by the occupant directly to the District, and it shall be the duty of the occupant to file a return thereof with the District and to pay the tax imposed by this title.

EXEMPTIONS

Sec. 103. The tax imposed by this title shall not apply to occupancy by:

(a) permanent residents of a hotel;
(b) the United States government or any of its instrumentalities when payments for the occupancy are made directly to the operator by the United States government or its instrumentalities;

(c) the District of Columbia government or any of its instrumentalities when payments for the occupancy are made directly to the operator by the District of Columbia government or its instrumentalities; and

(d) members of the foreign diplomatic corps who possess and display to the operator a valid and current exemption card issued to them by the Department of State of the United States.

RETURNS AND PAYMENT OF TAX

Sec. 104. (a) Every operator or any other person liable for the tax imposed by this title shall file a return for each calendar month on or before the twentieth (20th) day of

-6-

the month immediately succeeding such calendar month or at such other times and for such other periods as the Mayor may prescribe. The return shall be in such form and contain such information as the Mayor may prescribe.

(b) At the time of filing the return as provided by this title, the operator or any other person liable for tax under this title, shall pay to the District the taxes imposed by this title. The taxes for the period for which a return is required to be filed, by an operator or any other person liable for tax under this title, shall be due from the operator or such other person, and payable to the District on the date prescribed for the filing of the return for such period, without regard to whether a return is filed.

MISCELLANEOUS

Sec. 105. The provisions of sections 133, 139, 140, 141, 142, 144, 145, 147, 148, 149, 150, 151, and 152 of the District of Columbia Sales Tax Act, approved May 27, 1949 (53 Stat. 119 - 124; D.C. Code, secs. 47-2615, 47-2616, 47-2617, 47-2618, 47-2619, 47-2621, 47-2622, 47-2623, 47-2624, 47-2625, 47-2626, 47-2627, 47-2628, and 47-2629), are hereby incorporated in and made a part of this title. For the purposes of this title, wherever the word "vendors" appears in the aforementioned sections, it shall include

operators and any other person liable for tax under this title, and wherever the word "assessor" appears it shall be deemed to mean the Mayor.

REGULATIONS

Sec. 106. The Mayor is hereby authorized to promulgate regulations implementing this title.

TITLE II

AMENDMENTS TO THE DISTRICT OF COLUMBIA INCOME AND FRANCHISE TAX ACT OF 1947

Sec. 201. Section 2 of title VII of the "District of Columbia Income and Franchise Tax Act of 1947", approved July 15, 1947 (51 Stat. 343; D.C. Code, sec. 47-1571a), is amended to read as follows:

"Sec. 2. For the privilege of carrying on or engaging in any trade or business within the District and of receiving income from sources within the District, there is hereby levied (a) for one taxable year beginning on or after January 1, 1975, a tax at the rate of twelve per centum (12%) upon the taxable income of every corporation, whether domestic or foreign, (except those expressly exempt under title II of this article); (b) for the taxable years beginning on or after January 1, 1976, a tax at the rate of nine per centum (9%) upon the taxable income of every corporation, whether domestic or foreign (except those

expressly exempt under title II of this article); and (c) for the taxable years beginning on or after January 1, 1975, a surtax at the rate of ten per centum (10%) of the tax determined under clause (b) hereof. The minimum tax payable under this section shall be twenty-five dollars (\$25.00).".

Sec. 202. Section 3 of title VIII of the "District of Columbia Income and Franchise Tax Act of 1947", approved July 15, 1947 (61 Stat. 346; D.C. Code, sec. 47-1574c), is amended to read as follows:

"Sec. 3. For the privilege of carrying on or engaging in any trade or business within the District and of receiving income from sources within the District, there is hereby levied (a) for one taxable year beginning on or after January 1, 1975, a tax at the rate of twelve per centum (12%) upon the taxable income of every unincorporated business, whether domestic or foreign (except those expressly exempt under title II of this article); (b) for the taxable years beginning on or after January 1, 1975, a tax at the rate of nine per centum (9%) upon the taxable income of every unincorporated business, whether domestic or foreign (except those expressly exempt under title II of this article); (c) for the taxable years beginning on or

after January 1, 1975, a surtax at the rate of ten per centum (10%) of the tax determined under clause (b) hereof. The minimum tax payable under this section shall be twenty-five dollars (\$25.00)."

TITLE III

MAYOR'S REPORTS

Sec. 301. The Mayor shall report to the Council each year, on or before the date he or she submits to the Council a budget as required under section 442 of the "District of Columbia Self-Government and Governmental Reorganization Act", approved December 24, 1973 (37 Stat. 795; D.C. Code, Sec. 47-221), on the detailed and total annual costs and revenues associated with the civic center. Such report shall include cost and revenue data beginning with the first year the costs were incurred in planning, constructing, or operating a civic center and ending with cost and revenue data in the most recent time period for which data are available. Each report shall also include cost and revenue projections for five (5) years in the future from the date each report is submitted.

Sec. 302. Annual revenue data estimates and projections, as required under section 301 of this act, shall include, but not be limited to:

-10-

(a) direct, indirect, and induced revenues resulting from construction and operation of the civic center, including but not limited to revenues from the operation of the civic center, real property tax revenue increases, hotel occupancy tax revenues, retail sales tax revenue increases, income tax revenue increases, plus other revenues generated by the civic center, less taxes and other revenues generated by land, buildings, jobs, and other sources from land uses which were replaced or displaced by the civic center and replaced or displaced by the indirect effects of the civic center (these revenues shall be listed in detail and all assumptions used in developing estimates and projections shall be clearly stated); and

(b) direct and indirect costs resulting from construction and operation of the civic center, including but not limited to start-up administrative costs, capital construction costs, capital improvements, direct and indirect operating costs, financing of capital costs, costs of additional city services required by the civic center, and other administrative and other costs.

Sec. 303. As part of the report required by section 301 of this act, the Mayor shall analyze the revenue and cost data required by section 301 of this act. When necessary, the Mayor shall recommend to the Council tax and rate

-11-

structure changes which would (a) terminate or reduce the hotel occupancy tax imposed by title I of this act and/or terminate or reduce the corporate and unincorporated business surtax extended by title II of this act in the event that direct and indirect revenues exceed direct and indirect costs associated with construction and operation of the civic center, or (b) increase the hotel occupancy tax imposed by title I of this act and/or increase the corporate and unincorporated business surtax extended by title II of this act in the event that direct and indirect revenues do not exceed the direct and indirect costs associated with the operation and construction of the civic center without such further tax rate increases.

Sec. 304. The Council of the District of Columbia shall evaluate annually the recommendations proposed by the Mayor under section 303 of this act, and adopt tax and rate structure changes which would terminate or reduce the hotel occupancy tax imposed by title I of this act and/or (a) terminate or reduce the corporate and unincorporated business surtax extended by title II of this act in the event that direct and indirect revenues exceed direct and indirect costs associated with construction and operation of the civic center, or (b) increase the hotel occupancy tax imposed by title I of this act and/or increase the corporate

-12-

and unincorporated business surtax extended by title II of this act in the event that direct and indirect revenues do not exceed direct and indirect costs associated with operation and construction of the Civic Center without such further tax rate increases.

Sec. 305. The District government may expend on civic center construction and operation, no more than fifty per cent (50%) of the revenues received from the corporate and unincorporated business surtax enacted and extended under title II of this act.

Sec. 306. At the same time the Mayor submits cost and revenue data as required by section 301 of this act, the Mayor shall report to the Council of the District of Columbia on the total number of jobs, in person-years and in payroll dollars, created by the construction and operation of the Civic Center, and the portion of those jobs which are held by minorities, women, and District of Columbia residents.

-13-

TITLE IV
EFFECTIVE DATES

Sec. 401. Title I of this act shall become effective on the first day of the first month which follows more than thirty (30) days after this act shall take effect in accordance with the provisions of section 502(a) of the "District of Columbia Self-Government and Governmental Reorganization Act".

Sec. 402. Title II and title III of this act shall become effective in accordance with the provisions of section 502(c) of the "District of Columbia Self-Government and Governmental Reorganization Act".

RECORD OF OFFICIAL COUNCIL ACTION

Docket Nos 2-169

First Reading Action: September 13, 1977

VOICE VOTE: Adopted Unanimously (2 abs.) Hardy, D Moore

Robert Williams
Secretary to the Council

ROLL CALL VOTE:

COUNCIL MEMBER	APR	MAY	JUN	JUL	COUNCIL MEMBER	APR	MAY	JUN	JUL	COUNCIL MEMBER	APR	MAY	JUN	JUL
TUCKER					MASON					SPAWLING				
HARDY					MOORE, D.					WILSON				
BARRY					MOORE, J.					WENTER				
CLARKE					ROLAND									
DIXON					SHACKLETON									

Continuation Page A. Enclosure B. Voting Tables

Secretary to the Council

Amended First Reading Action: _____

VOICE VOTE: _____

Secretary to the Council

ROLL CALL VOTE:

COUNCIL MEMBER	APR	MAY	JUN	JUL	COUNCIL MEMBER	APR	MAY	JUN	JUL	COUNCIL MEMBER	APR	MAY	JUN	JUL
TUCKER					MASON					SPAWLING				
HARDY					MOORE, J.					WILSON				
BARRY					MOORE, J.					WENTER				
CLARKE					ROLAND									
DIXON					SHACKLETON									

Continuation Page A. Enclosure B. Voting Tables

Secretary to the Council

Final Reading or Emergency Action: October 11, 1977

VOICE VOTE: Adopted Unanimously (1 abs.) D Moore

Robert Williams
Secretary to the Council

ROLL CALL VOTE:

COUNCIL MEMBER	APR	MAY	JUN	JUL	COUNCIL MEMBER	APR	MAY	JUN	JUL	COUNCIL MEMBER	APR	MAY	JUN	JUL
TUCKER					MASON					SPAWLING				
HARDY					MOORE, D.					WILSON				
BARRY					MOORE, J.					WENTER				
CLARKE					ROLAND									
DIXON					SHACKLETON									

Continuation Page A. Enclosure B. Voting Tables

Secretary to the Council

RECORD OF OFFICIAL COUNCIL ACTION (Page 2)

Docket No: 2-169

Presented to the Mayor: DEC 20 1977

Robert C. Williams
Secretary to the Council

Action of the Mayor: 30 DEC 1977

- Approved: Disapproved:
 Disapproved in part --*Reference Documents:
 - *Budget Actions.

M. W. White 30 DEC 1977
Mayor of the District of Columbia

Returned Without Action

Executive Secretary, D. C.

Enacted without Mayor's Signature _____

Secretary to the Council

Council Reenactment: _____

VOICE VOTE: _____

Secretary to the Council

ROLL CALL VOTE:

COUNCIL MEMBER	ATE	RAY	N.Y.	ALL	COUNCIL MEMBER	ATE	RAY	N.Y.	ALL	COUNCIL MEMBER	ATE	RAY	N.Y.	ALL
TUCKER					MASON					SPAULDING				
HARRY					MOORE, D.					WILSON				
BARRY					MOORE, I.					WINTER				
CLARKE					ROLARK									
DEKON					SACKETT									

Indefinite Vote A. Enacted N. Y. Not Voted

Secretary to the Council

Presented to the President: _____

Secretary to the Council

Action of the President: _____

Reenactment Approved

Mayor's Veto Sustained

President of the U. S.

Submitted to the Congress: _____

Secretary to the Council

Senate Action: _____

Resolution Number: _____

House Action: _____

Resolution Number: _____

Secretary of the Senate

Clerk of the House

Enacted Without Congressional Action:

D. C. Law No. _____ Effective Date _____