

## NEBRASKA AND LOCAL TAXES ON LODGING

### OVERVIEW

The lodging tax is imposed on the total gross receipts charged for sleeping accommodations furnished by a hotel (see the term “hotel” below) in this state. The 1.0% state lodging tax is collected and remitted to the Department of Revenue (Department) and managed by the Department of Economic Development (DED). DED uses the proceeds of this fund to promote, encourage, and attract visitors to Nebraska and enhance the use of travel and tourism facilities within Nebraska.

In addition to the 1.0% state lodging tax, counties may also impose a lodging tax of not more than 4.0%. The county lodging tax proceeds may be used for local visitor promotion and improvement activities.

The county tax is imposed, collected, and reported in the same manner as state lodging tax. Counties wishing to impose a county lodging tax must provide specific documentation to the Department. See “Establishing a County Lodging Tax” below.

For a listing of the counties that impose a lodging tax and their various rates, please refer to [Nebraska Tax Rate Chronological History of Nebraska Tax Rates - Table 4, County Lodging Tax](#).

Charges for sleeping accommodations are subject to sales tax in addition to lodging tax. This guide includes information on sales tax, use tax, and lodging tax responsibilities since many services provided by a hotel are subject to these taxes.

For purposes of this information guide, the term “sales tax” will mean both sales and use taxes.

All hotels are required to hold BOTH a lodging tax permit and a sales tax permit. Lodging tax is reported and remitted on the [Nebraska and County Lodging Tax Return, Form 64](#). Sales and use taxes are reported and remitted on the [Nebraska and Local Sales and Use Tax Return, Form 10](#).

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*This information guide is intended to provide an overview. Nothing in this guide supersedes, alters, or otherwise changes any provisions of the Nebraska tax code, regulations, Nebraska Department of Revenue (Department) rulings, or court decisions.*

*This information guide may change with updated information or added examples. The Department recommends you do not print this guide, and instead, check [www.revenue.ne.gov](http://www.revenue.ne.gov) periodically for changes.*

### TERMS

**Gross Receipts.** Gross receipts are the total receipts for providing sleeping accommodations, including amounts charged for additional persons, beds, or bedding. Gross receipts include amounts paid for any city-imposed occupation tax.

**Hotel.** A hotel is a commercial, nonprofit, or state-owned facility where the public may obtain sleeping accommodations for payment. This includes any hotel, motel, tourist home, bed and breakfast, court, lodging house, campground (charges for RV pads or tent sites), or inn. “Hotel” does not include: the portion of a health care facility (licensed under the Health Care Facility Licensure Act) which provides rooms, lodging, or sleeping accommodations for a charge; or a facility operated by an approved educational institution established under [Neb. Rev. Stat. §§ 79 1601 to 79-1607](#) or [85-1101 to 85-1111](#), used to house students.

**Occupancy.** Occupancy is the use or possession of, including the right to use or possess, any space in a hotel if:

- ❖ The space is ordinarily used for sleeping accommodations; **and**
- ❖ The occupant’s use is for less than 30 continuous days.

It does not include a function room (for example, a ballroom, banquet room, reception room, or meeting room) provided it is not used as temporary sleeping accommodations.

**Occupant.** An occupant is anyone who pays for the use or possession of any space in a hotel that is normally used for sleeping accommodations. Occupant also includes an organization that pays for a room for a period of 30 continuous days or more, even if a different person occupies the room each night, or a different room is provided each night.

**TRANSACTIONS WITH OCCUPANTS**

The gross receipts of a hotel providing accommodations to an occupant for less than 30 days are subject to:

- ❖ State lodging tax;
- ❖ Any applicable county lodging tax;
- ❖ State sales tax; and
- ❖ Any applicable local option sales tax.

**Other Service Charges**

Hotels may also provide various optional services to their occupants. Only those charges for optional services that relate to the provision of accommodations are subject to both sales tax and lodging tax. **In addition, hotels may impose other service charges on the occupant for costs associated with the occupant’s use of the room.**

<b>Other Service Charges Subject to BOTH Sales and Lodging Taxes</b>	
❖ Extra persons in the room	❖ Early departure fees
❖ Beds	❖ Fees for smoking rooms
❖ Bedding	❖ Cancellation fees on guest rooms (see “Cancellation Fees” below)
❖ Reservation fees	❖ Pet charges
❖ Guaranteed no-show fees	

Separately stated charges for the following other services are not subject to lodging tax but are subject to sales tax.

<b>Other Services Subject to Sales Tax ONLY</b>	
❖ Telephone service	❖ Restocking fee for mini-bar
❖ Cable, satellite, or wireless access charges	❖ Gift shop purchases
❖ Pay-per-view movies and video games	❖ Copy machine and fax charges
❖ Meals in restaurants in the hotel	❖ Safe charges
❖ Room service - food, beverage, mandatory gratuity charges	❖ Fitness facility fees

The following are examples of charges that are not subject to either lodging tax or sales tax, provided they are separately stated on the invoice.

#### **Nontaxable for BOTH Sales and Lodging Taxes**

- ❖ Porter or bellhop services
- ❖ Wake-up services
- ❖ Valet services including laundry, shoe shine, and parking
- ❖ Child care services
- ❖ Complimentary meals and beverages

## **Cancellation Fees**

When a hotel charges a cancellation fee to a person or group for failing to occupy the number of rooms that have been reserved at the hotel, the cancellation fee is not subject to sales or lodging tax, provided the hotel is free to rent the unused rooms to any potential occupant. Cancellation fees are considered “administrative damages” or “penalties resulting from a failure to complete the terms of a contract” and are not charges for occupancy.

A person or group may make another reservation with the hotel, and is given credit for all or a portion of the cancellation fee previously paid. Sales and lodging taxes are due on the hotel’s charges for accommodations and food service before subtracting the credit. The payment of the cancellation fee, at that point, becomes a payment for accommodations, and is subject to tax.

Forfeited room deposits are, however, subject to sales and lodging taxes because a room was reserved for the occupant, and the hotel received “consideration” or payment. Reservation fees, or “no-show charges” for guaranteed rooms, are also subject to sales and lodging taxes when a room has been reserved for the occupant.

## **Vacation Packages**

Vacation packages (e.g., hunting, golf, honeymoon) are not subject to lodging and sales taxes. The tour operators are the consumers of any lodging, prepared food, and admissions included in the tour/vacation package and must pay tax when these items are purchased.

A hotel is not allowed to accept a [Nebraska Resale or Exempt Sale Certificate, Form 13](#), from tour operators or others who are not in the business of providing lodging.

Complimentary rooms, room upgrades, or discounted rooms are subject to sales and lodging taxes based on the actual amount charged to the occupant for the room. If a room is provided at no charge, the hotel does not incur a use tax liability.

## **Occupation Tax**

Some cities impose an occupation tax on hotel operators. A city-imposed occupation tax is a cost imposed **on the hotel** and is an expense of the hotel. Typically, the occupation tax is passed on to the customer by the hotel to recover its cost. Regardless of how the occupation tax is stated on the customer’s invoice, it is part of **gross receipts** and subject to both sales tax and lodging tax. **The hotel may itemize the occupation tax on the room charge, but is NOT allowed to add the occupation tax rate to the sales and lodging tax rates and charge its customers one flat rate** (see Examples 2 and 3 on page 6 of this guide).

## **EXEMPTIONS**

Any organization or governmental unit that is exempt from sales tax is also exempt from lodging tax. To document qualified purchases, an exempt organization must properly complete and issue the hotel a [Form 13](#). Affiliated or subsidiary organizations (although operating in support of, or under the guidance of, an exempt organization or governmental unit) may not use the Certificate of Exemption. Exempt organizations from other states are not exempt from Nebraska sales and lodging taxes, unless they have specifically applied for, and been granted, a Nebraska Certificate of Exemption.

Employees of exempt organizations or governmental units must pay the lodging and sales taxes when they personally pay for accommodations, even if they are reimbursed by the organization or governmental unit.

For specific details regarding who is exempt, please refer to the “Resource List” below.

## 30 Continuous Day Exemption

Except for services provided by an RV park, sales and lodging taxes do not apply when occupancy is provided to the same occupant for a period of 30 continuous days or more. RV park services provided to the same tenant for a period of 30 continuous days:

- ❖ are subject to sales tax; and
- ❖ are not subject to lodging tax.

“Occupant” includes an organization that pays for a room for a period of 30 continuous days or more, even if a different person occupies the room each night, or a different room is provided each night.

**Example 1:** An airline leases 15 hotel rooms for at least 30 continuous days and pays directly for the rooms. Whether the rooms are actually used or not, the charge is exempt from sales and lodging taxes. The occupants and rooms can be different each night, or unoccupied, but when the airline pays directly for the rooms, the charge is exempt from sales and lodging taxes. The exemption is contingent on the occupant having exclusive use of a room or rooms for periods of 30 continuous days or more.

The hotel must have a written or verbal agreement with the occupant from the first day of occupation stating that the term of occupancy, is for at least 30 continuous days. Without an agreement, the hotel must collect sales and lodging taxes starting on the first day of occupation and can only issue a credit once the occupant stays for 30 continuous days or more. Detailed records must be maintained to support this exemption. Form 13 is not required.

## Nonprofit Organizations

Most nonprofit organizations are NOT exempt from sales or lodging tax. The fact that a nonprofit organization is exempt from **income tax** under section 501(c) of the Internal Revenue Code DOES NOT entitle the organization to an exemption from Nebraska sales and lodging taxes. For a complete list of nonprofit organizations that are exempt, please see the “Resource List” below. To be exempt, a nonprofit organization that performs exempt activities must have applied for and been granted a Certificate of Exemption from the Department. Furthermore, only the specific entity issued the Certificate of Exemption is exempt.

Many organizations, particularly in the health care industry, offer multiple services and types of care; however, only specific services or levels of care are exempt. To document qualified purchases made by an exempt nonprofit organization that has been granted an exemption certificate, it must properly complete and issue the hotel a [Form 13](#).

## Religious Organizations

Only religious organizations that have applied for and been granted a Certificate of Exemption from the Department are exempt from sales and lodging taxes. An exempt religious organization must issue the hotel a properly completed Form 13. See the “Resource List” below for additional information on religious organizations.

## Educational Institutions

Only private and public educational institutions that have applied for and been granted a Certificate of Exemption from the Department are exempt from sales and lodging taxes. An exempt educational institution must issue the hotel a properly completed Form 13. See the “Resource List” below for additional information on educational institutions.

## Governmental Units

Not all governmental units are exempt from sales and lodging taxes. For more information, see the “Resource List” below. Federal, state, and local governmental units are not issued numbered exemption certificates. An exemption number is not required on the Form 13 issued by a governmental unit.

## Federal Governmental Units

Purchases made by the United States (federal) government and its agencies and employees using a federal government charge card, where all charges are **directly** paid by the government unit, are considered exempt from any Nebraska sales or lodging taxes without the completion of an exemption certificate. However, purchases made by an employee of the federal government or one of its agencies using a federal government charge card, where all charges are NOT directly paid by the government unit, but rather are reimbursed to the employee, are taxable under Nebraska law.

**The United States General Services Administration (GSA) Smart Pay2® Charge Card Program** provides charge card services to federal government agencies for conducting official business. There are four business lines in this program: Purchases, Travel, Fleet, and Integrated accounts. Travel cards issued by the federal government may be centrally billed **or** individually billed. Only the Centrally Billed Accounts (CBA) in which **all** charges are billed directly to the federal government and paid directly by the federal government, qualify to be tax exempt without the completion of a [Form 13](#). Purchases made using an Individually Billed Account (IBA) card, in which charges are paid by the government employee who is later reimbursed by the government agency, are not exempt.

Some federal government agencies also make purchases using an “integrated” charge card. The unique nature of the integrated card is that purchases made with that card can be either centrally billed or individually billed. Since all purchases are not paid directly by the federal government, purchases made in Nebraska with the integrated cards are not exempt.

Purchases made with an IBA card are taxable. IBA cards are issued to employees of federal agencies to pay for official travel expenses, and the employee is responsible for payment. These purchases are billed to the individual employee, and even though the employee’s agency reimburses the employee for authorized purchases, they are NOT exempt from Nebraska lodging and sales taxes.

Below are common federally issued SmartPay2® charge card numbers. Note that the sixth digit determines whether charges to the card are exempt or taxable.

Prefix (1st four digits)	Sixth Digit	Platform	Exemption Status for Nebraska Sales and Lodging Taxes
4486 & 4614	1, 2, 3, 4	Visa	Taxable
5565 & 5568	1, 2, 3, 4	MasterCard	Taxable
5568	6	MasterCard	Taxable
4486 & 4614	0, 6, 7, 8, 9	Visa	Exempt
5565	6	MasterCard	Exempt
5565 & 5568	0, 7, 8, 9	MasterCard	Exempt

**Please note:** This chart differs from the [GSA website chart](#). It provides information on exempt purchases from Nebraska sales and lodging taxes without the need for a Form 13.

Charges to a **federal** governmental unit may also be supported by payment with a federal treasury warrant.

## State or Local Governmental Units

Purchases are exempt if they are:

- ❖ Documented with a Form 13; **and**
- ❖ Paid with a government warrant.

Charge card purchases are taxable when the charges are billed to an individual employee, even though they are later reimbursed by the agency. A governmental unit may request a refund of any tax paid via the use of a charge card that is directly billed to, and paid by, the governmental unit. The refund is claimed by submitting a [Nebraska Claim for Overpayment of Sales and Use Tax, Form 7](#). The governmental unit submitting the claim must provide documentation showing the charge card purchases were directly billed to, and paid by, the governmental unit.

State and local governmental units from other states are NOT exempt from Nebraska lodging or sales tax.

## Documenting Exempt Transactions

A [Nebraska Resale or Exempt Sale Certificate, Form 13](#), Section B must be obtained to document the exempt status of these purchases. The exemption category entered on the Form 13 should be either 1 or 3.

**Please Note:** The common carrier exemption cannot be used to exempt the charges for sleeping accommodations from sales or lodging tax.

## PURCHASES MADE BY HOTELS

Items purchased by the hotel to furnish hotel rooms, or any other areas within the hotel, are subject to sales tax when purchased. Hotels must also pay sales tax on all supply items such as soap, towels, stationary, business equipment, (including equipment provided for guests' use), bedding, and beds. If Nebraska and applicable local sales tax is not paid at the time of purchase, the hotel must remit use tax on the total cost of the item. Use tax is reported on lines 4 and 5 of the [Nebraska and Local Sales and Use Tax Return, Form 10](#).

## GENERAL TAX INFORMATION

### Obtain Permits

Every individual or business that operates a hotel must obtain a Nebraska Sales Tax Permit and a Lodging Tax Permit for each hotel location. The actual hotel name and location of the hotel, not just the hotel ownership, must be provided for these permits.

Application for the required permits is made by filing a [Nebraska Tax Application, Form 20](#), with the Department. The Form 20 is available at [www.revenue.ne.gov](http://www.revenue.ne.gov).

### Calculate and Collect the Tax

Sales and lodging taxes are calculated on the total gross receipts from the provision of sleeping accommodations, unless a specific exemption applies. The total amount charged for the room, **(including any charges for a city-imposed occupation tax)** and charges for additional persons, beds, or bedding, are all part of the gross receipts that are subject to both sales and lodging taxes.

When collecting the sales and lodging taxes, hotel operators are agents of the state. The tax collected is a trust fund owned by the State of Nebraska. Therefore, the tax collected should be kept separately from other business receipts.

Except with respect to certain "Optional Services" (see above), the lodging tax is calculated at the same time as the sales tax, and on the same taxable gross receipts amount.

The lodging tax (including any applicable county lodging tax) and the sales tax (including any applicable local sales tax) are each calculated separately. However, neither calculation includes the other tax when determining the amount due for each tax program. See the examples below which show two hotel rooms at different room rates, and how to calculate the following on each:

- ❖ Occupation tax;
- ❖ Sales tax; and
- ❖ Lodging tax.

**Example 2** is for a hotel room in Omaha at \$100 per night.

**Example 3** is for a different room in the same hotel for \$200 per night.

	Example 2	Example 3
<b>Hotel room rate:</b>	\$100.00	\$200.00
Add Omaha <span style="border: 1px solid red;">Hotel</span> Occupation Tax (5.5%)*	5.50	11.00
<b>Gross Receipts Subject to Sales and Lodging Taxes</b>	<b>\$105.50</b>	<b>\$211.00</b>
 Gross Receipts	\$105.50	\$211.00
Multiply by sales tax rate: State (5.5%) and Omaha (1.5%)	x .07	x .07
<b>Sales Tax Amount</b>	<b>\$ 7.39</b>	<b>\$ 14.77</b>
 Gross Receipts	\$105.50	\$211.00
Multiply by lodging tax rate: State (1.0%) and Douglas Co. (4.0%)	x .05	x .05
<b>Lodging Tax Amount</b>	<b>\$ 5.28</b>	<b>\$ 10.55</b>

\* Note that any applicable occupation tax is included in the gross receipts BEFORE calculating the sales and lodging taxes.

<b>Sample Invoice:</b>	<b>Example 2</b>	<b>Example 3</b>
Room Rate	\$100.00	\$200.00
Omaha <span style="border: 1px solid red; padding: 0 2px;">Hotel</span> Occupation Tax	5.50	11.00
Sales Tax	7.39	14.77
Lodging Tax	5.28	10.55
<b>Total</b>	<b>\$118.17**</b>	<b>\$236.32**</b>

\*\*Some hotels mistakenly combine the sales, lodging, and occupation tax rates into a single “flat rate” (or “factor”) and apply that flat rate to the overall room rate charge. This is not correct. As you can see in the above examples, different room rate charges will result in a different flat rate calculation. Specifically, the \$100 room has a “flat rate” of 18.17% while the \$200 room has a “flat rate” of 18.16%. This is why the use of a single flat rate calculation is prohibited. The correct calculation method is to first apply any city-imposed occupation tax to the room rate charge. This result becomes the gross receipts amount that is then subject to both the sales and lodging taxes.

## Remit the Tax

The state and any county lodging taxes are remitted on the [Nebraska and County Lodging Tax Return, Form 64](#). A Form 64 must be filed for each tax period, or portion of a period, during which the lodging tax permit is active. A Form 64 must be filed even if there is no tax due. Sales and use taxes are remitted on the [Nebraska and Local Sales and Use Tax Return, Form 10](#). A Form 10 must be filed, even if there is no tax due.

Both Forms 10 and 64 are considered to be filed in a timely manner if postmarked by the U.S. Postal Service on or before the 25th day of the month following the tax period covered by the return. The Department will assign a filing frequency for each type of tax based on the amount of estimated taxable sales. The lodging tax return is filed either monthly or annually, while the sales tax return may be filed monthly, quarterly, or annually. A penalty will be assessed on each return in the amount of \$25 or ten percent of the tax due, whichever is greater, if the return is filed after the due date. Interest will be assessed on any unpaid tax from the due date until the tax is paid.

## ESTABLISHING A COUNTY LODGING TAX

Any county may authorize a county lodging tax. There are two separate county funds that may be established: the County Visitors Promotion Fund (Promotion Fund); and the County Visitors Improvement Fund (Improvement Fund). While the Improvement Fund can only be established after the Promotion Fund is created, they can both be established within the same resolution. The county lodging tax is remitted with the [Form 64](#), and administered by the Department. The Department returns the county funds to the adopting county for use in either or both of these funds. Additional information on these funds is available in the lodging tax statutes, [Neb. Rev. Stat. §§ 81-1245 to 81-1262](#).

To impose a county lodging tax, the county governing body must:

- ❖ Hold a public hearing;
- ❖ Adopt a resolution to impose the tax; and
- ❖ Establish both a Promotion Fund and a visitors’ committee.

Copies of the resolution to adopt the tax and establish the fund and committee must be submitted to the Department. The tax will not be effective until the first day of a calendar quarter that is at least 120 days after the Department has received a copy of the adopting resolution. The tax rate can be 0.5%, 1.0%, 1.5%, or 2.0% of the gross receipts charged for hotel occupancies.

A county may also establish an Improvement Fund by imposing an additional county lodging tax of 0.5%, 1.0%, 1.5%, or 2.0%. The county governing body must hold a public hearing and adopt a resolution to impose the tax and establish the Improvement Fund. This additional county lodging tax will not be effective until the first day of a calendar quarter that is at least 120 days after the Department has received a copy of the adopting resolution.

After receipt of the resolution, an acknowledgment letter will be sent to the county governing body to confirm the rate and effective date of the county lodging tax. The Department will also send a letter to all licensed lodging permitholders within the adopting county to notify them of the effective date of the lodging tax or of any change in the lodging tax.

## RESOURCE LIST:

### Nebraska Sales and Use Tax Regulations

- ❖ [1-012, Exemptions](#)
- ❖ [1-072, United States Government and Federal Corporations](#)
- ❖ [1-090, Nonprofit Organizations](#)
- ❖ [1-091, Religious Organizations](#)
- ❖ [1-092, Educational Institutions](#)
- ❖ [1-093, Governmental Units](#)
- ❖ [Nebraska Lodging Tax Regulations](#)

### Information Guides

- ❖ [Nonprofit Organizations](#)
- ❖ [Governmental Entities](#)

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