



# HOTEL ASSOCIATION OF NEW YORK CITY, INC.

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**TO:** General Manager – Member Hotels

**DATE:** December 4, 2013

**SUBJECT: IMPORTANT NOTICE FROM THE GENERAL COUNSEL OF THE HOTEL ASSOCIATION OF NEW YORK CITY REGARDING OCCUPANCY TAX**

The following is a very important email which has been prepared by our General Council, Banks Brown, Esq., of McDermott Will & Emery LLP for distribution to all Hotel Association of New York City Member Hotels:

## IMPORTANT NOTICE FROM THE HOTEL ASSOCIATION OF NEW YORK CITY REGARDING OCCUPANCY TAX

As you know, you are required to pay New York City occupancy tax. Until December 1, 2013, the amount of that tax was:

If the rent for the room was...	The tax was...
\$10 or more, but less than \$20	50 cents per day per room + <b>5.875%</b> of the rent
\$20 or more, but less than \$30	\$1.00 per day per room + <b>5.875%</b> of the rent
\$30 or more, but less than \$40	\$1.50 per day per room + <b>5.875%</b> of the rent
\$40 or more	\$2.00 per day per room* + <b>5.875%</b> of the rent

On December 1, 2013, the percentage add on (as shown in the chart above) dropped from 5.875% to 5%. As a result the amount of tax due from December 1, 2013 to date and for the foreseeable future is:

If the rent for the room was...	The tax is...
\$10 or more, but less than \$20	50 cents per day per room + <b>5%</b> of the rent
\$20 or more, but less than \$30	\$1.00 per day per room + <b>5%</b> of the rent

\$30 or more, but less than \$40	\$1.50 per day per room + 5% of the rent
\$40 or more	\$2.00 per day per room* + 5% of the rent

This decrease was automatic because the law that governed the tax had a sunset provision, which the Association had lobbied for, that “sunsetting” the .875% as of December 1, 2013.

Prior to the sunsetting, the Mayor's office put forward a bill to prevent the sunsetting. That bill is still pending in the City Council.

**If that bill is enacted as currently written, it will reinstate the .875% to the tax *retroactively*.**

**We are unable to predict whether that bill will pass and, if so, whether the resulting law will survive a constitutional challenge due to its retroactivity, should such a challenge occur.**

**In any event, as matters now stand, the lower rate applies. Consequently, we suggest that you examine your billing and accounting practices as soon as possible to determine if they need to be changed as a result of this change in the law. With respect to the threat of reinstatement of the tax on a *retroactive* basis, we suggest that you consult your accountants and legal counsel with respect to the advisability of taking steps to plan for that contingency, including, for example, creating an ongoing reserve.**

Rgrds,  
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