



Short-term rentals frequently asked questions

FAQs about the new law that imposes state and local room occupancy excise taxes on short-term property rentals.

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Overview

Legislation was recently signed into law which subjects short-term rentals of property to the room occupancy excise, G.L. c. 64G, as of July 1, 2019. You can find the new law on the [General Court Website](https://malegislature.gov/Laws/SessionLaws/Acts/2018/Chapter337) (<https://malegislature.gov/Laws/SessionLaws/Acts/2018/Chapter337>). DOR anticipates issuing detailed guidance to explain the administration of the new law.

In the meantime, the following provides important information about the new law for those currently participating in the short-term rental economy.

The new law imposes state and local excises on short-term rentals of property for more than 14 days in a calendar year, starting July 1, 2019 for which a rental contract was entered into on or after January 1, 2019.

All short-term rental operators will be required to register with DOR. Operators may choose to allow an intermediary or other agent to handle the rental of their property and register with and submit returns and tax due to DOR on their behalf.

What is subject to the excise FAQs

What is a short-term rental?

A short-term rental is an occupied property that is not a hotel, motel, lodging house or bed and breakfast establishment, where at least 1 room or unit is rented out by an operator through the use of advance reservations. A short-term rental includes an apartment, house, cottage, and condominium. It does not include property that is rented out through tenancies at will or month-to-month leases. It also does not include time-share property. A short-term rental is a rental that is not for more than 31 consecutive calendar days.

Who is a short-term rental operator?

A short-term rental operator can be an owner, lessee, sublessee, the holder of a mortgage, licensee, or anyone else operating a short-term rental. An operator does not have to be a resident of Massachusetts or a Massachusetts-based business for the short-term rental rules to apply.

Who is an intermediary or operator's agent?

An intermediary is anyone besides an operator that helps arrange a short-term rental and who also charges rent on behalf of the operator. An intermediary includes a broker, hosting platform, or operator's agent.

An operator's agent is anyone who manages a property for rent or books reservations of a property for rent on behalf of an operator. An operator's agent includes a property manager, property management company, or real estate agent.

What is "rent" that is subject to tax?

The total amount of rent that is subject to tax includes all amounts paid by an occupant to an operator or intermediary, even if not required for occupancy. Rent includes all optional charges, including but not limited to the following: security deposits, insurance, linen fees, cleaning fees, service charges. If the total amount of rent is less than \$15 per day, no tax is required to be collected.

Registration FAQs

How do I register as an operator?

All operators must register with DOR using MassTaxConnect. DOR is currently working on making changes to the registration process due to the new law. Check this page for more information in the near future.

How do I register as an intermediary or operator's agent?

An intermediary or operator's agent must register in the name of the operator with DOR using MassTaxConnect. DOR is currently working on making changes to the registration process due to the new law. Check this page for more information in the near future.

I am an intermediary or operator's agent. Do I have to register under each operator's name?

No, you will only need to register one time, but you may need to provide DOR with information about each operator you are working with. DOR is currently working on making changes to the registration process due to the new law. Check this page for more information in the near future.

What should I do until I can register with DOR?

Operators, intermediaries or operator's agents may continue to enter into rental contracts until the registration process is up and running. Such contracts should contain provisions stating that all state and local taxes are due to the operator, intermediary or operator's agent.

I only rent my property a few days a year. Do I have to register or collect the tax?

No matter how many days you rent out your property each year, you must register with DOR using MassTaxConnect. However, if you rent out your property for 14 days or less in a calendar year, you are not required to collect any tax. If that exception applies to you, you must let us know at the time of registration that you will not be renting out your property for more than 14 days. DOR is currently working on the registration process due to the new law. Check this page for more information in the near future.

Return and payment FAQs

How do I file returns and pay the taxes due?

Room occupancy returns are due monthly, on or before the 20th day of the month reporting tax collected for the previous month. The state excise and any local option excise, including the new Cape Cod and Islands Water Protection Fund excise are to be paid with the return. DOR is currently working on making changes to the forms due to the new law. Check this page for more information in the near future.

When is the first return and payment due for short-term rentals after July 1, 2019?

Starting July 1, 2019, the first return and payment is due on August 20, 2019. After that date, returns are due on the 20th day of each month.

How much tax am I required to collect?

The total amount of tax required to be collected will depend on where the short-term rental is located. The following is a breakdown of the various state and local excises that may apply:

- State excise 5.7% (Note that while the statute provides for a 5% rate, an uncodified surtax adds .7% to the rate)
- Local option excise 0-6.5% (the rate varies depending on the city or town) Visit the Division of Local Service's [Municipal Databank](https://dls.gateway.dor.state.ma.us/reports/rdPage.aspx?rdReport=LocalOptions.Local_Options_Tax&rdDataCache=6215566529&rdShowModes=&rdSort=&rdNewPageNr=) (https://dls.gateway.dor.state.ma.us/reports/rdPage.aspx?rdReport=LocalOptions.Local_Options_Tax&rdDataCache=6215566529&rdShowModes=&rdSort=&rdNewPageNr=
- Convention Center Finance fee 2.75% (only for Boston, Worcester, Cambridge, Springfield, West Springfield, and Chicopee)
- Cape Cod and Islands Water Protection Fund excise 2.75% (only for those cities and towns in those localities that are currently a member of the Fund)
- Community Impact fee 0-3% (the rate will vary depending on whether a city or town votes to adopt this fee)

My rental begins in June 2019 but ends after July 1, 2019. Is my rental subject to tax?

No, the new law imposes tax on short-term rentals that begin on or after July 1, 2019. If your rental begins before July 1, 2019, it is not subject to tax.

I only rent my property at certain times of the year. Do I have to file a return even if I have no rental every month?

The new law requires DOR to issue regulations to minimize the administrative burden for certain operators who do not rent their property every month. DOR is currently working on the return filing process. Check this page for more information in the near future.

What is a rental contract?

A rental contract is an agreement by an operator, intermediary or operator's agent to rent a property to an occupant for a certain time period. The rental contract must create a binding obligation between the operator, intermediary or operator's agent and the occupant.

What records do I need to keep as an operator?

An operator is required to keep records relating to charges and receipts for all transfers of occupancy, as well as copies of returns filed. You can find more information on specific records to be kept by clicking on the Record Retention Regulation link at the bottom of this page.

Local Tax FAQs

How do I know if a local option excise applies to my short-term rental?

If a city or town currently has already adopted a local option room occupancy excise, the local option automatically applies to a short-term rental starting July 1, 2019 for which a rental contract was entered into on or after January 1, 2019. No further action is required by these cities or towns to impose the local option on short-term rentals. You can find a listing of municipalities that have a local option by visiting the Division of Local Service's [Municipal Data Bank](#)

https://dls.gateway.dor.state.ma.us/reports/rdPage.aspx?rdReport=LocalOptions.Local_Options_Tax&rdDataCache=6215566529&rdShowModes=&rdSort=&rdNewPageNr=True

Where can I find information about other rules or regulations imposed by cities and towns?

For information about local rules, including whether a city or town is a member of the Cape Cod and Islands Water Protection Fund or has adopted a community impact fee and how to pay that fee directly to the city or town, you should check with local officials in the city or town in which the rental property is located.

Municipal Official FAQs

We currently have a local option room occupancy excise in my city/town. What actions do we need to take to have it apply to short-term rentals?

As indicated in the previous FAQs, if your city or town has already adopted a local option room occupancy excise, your local excise will automatically apply to a short-term rental starting July 1, 2019 for which a rental contract was entered into on or after January 1, 2019. No further action is required for the local excise to apply to short-term rentals. The local excise applies to the same occupancies as the state excise.

As a general rule, a municipality that accepts a statute accepts any amendments the legislature subsequently makes to the statute. Therefore, if a municipality has accepted a local option statute, then it operates under the statute as amended. No further action is necessary unless the legislature provides otherwise. Moreover, in this case, section 15 of the legislation states the following: "A city or town

that accepted section 3A of chapter 64G of the General Laws before July 1, 2019 shall be deemed to have accepted said section 3A of said chapter 64G for the purposes of this act.”

You can find a listing of municipalities that currently have a local option room occupancy excise by visiting the Division of Local Service’s [Municipal Databank](#)

(https://dls.gateway.dor.state.ma.us/reports/rdPage.aspx?rdReport=LocalOptions.Local_Options_Tax&rdDataCache=6215566529&rdShowModes=&rdSort=&rdNewPageNr=True)

My city/town does not have a local option excise – how do we adopt it?

If a city/town has not yet adopted a local room occupancy, it may do so at any time by voting to accept G.L. c. 64G, § 3A and establishing the rate for its local room occupancy. The maximum local rate is 6% (6.5% in Boston). The local acceptance procedure is as follows:

- In cities, by majority vote of city council and if city has elected mayor, with mayor’s approval
- In towns that have town meeting form of government, by majority vote of the annual or special town meeting
- Where there is a town council form of government, by majority vote of the council.

When will a city/town’s acceptance of the local excise become effective?

First, the city/town must report its acceptance to DLS within 48 hours of the vote. The [form \(/media/1588561/download\)](#) is found on this [DLS webpage \(/service-details/notification-of-acceptance-of-local-option-statutes\)](#). The effective date of local excise is the first day of the calendar quarter following 30 days after acceptance or the first day of a later calendar quarter if the later date is specified in the acceptance vote. See the below timetable:

Acceptance Vote	Excise Effective
May 31, 2019	July 1, 2019
June 1, 2019	October 1, 2019

Please refer to the DLS website for a [more detailed acceptance timetable \(/media/1923496/download\)](#).

Is the city/town required to collect the local room occupancy excise?

No. The local excise is paid by the operator (proprietor) directly to DOR and DOR distributes the local share to the city or town.

Can our city/town vote that our local option excise not apply to short-term rentals?

No – The local excise applies to the same occupancies and rentals as the state room occupancy excise.

My city/town currently has a local option excise. May we vote to revoke it or amend the rate?

Yes. If a city/town has already accepted the local room occupancy excise, it may amend the excise rate or revoke its acceptance; however, it may not do so more than once in a 12-month period. The amendment and revocation procedure and effective dates are the same as with an original acceptance.

Are there any other options for cities and towns under the new law?

Yes, if a city/town has adopted the local room occupancy excise, it may adopt a local option community impact fee of up to 3% of rent regarding transfers of occupancies of two categories of short term rentals described below. G.L. c. 64G, § 3D. If a community has not adopted a local room occupancy excise, it cannot adopt a local option community impact fee. A separate acceptance vote is required to adopt each local option community impact fee. The acceptance procedure is the same as described above for accepting the local option room occupancy excise.

The first local option impact fee is adopted under G.L. c. 64G, § 3D(a) and applies to each transfer of occupancy of a “professionally managed unit,” defined as one of two or more short-term rental units in same city/town not located within a single- or two- or three-family dwelling that includes the operator’s primary residence. The fee applies to transfers of occupancies on or after July 1, 2019 for which a rental contract was entered into on or after January 1, 2019.

If the city/town has adopted the local community option impact fee under G.L. c. 64G, § 3D(a), it may also, by separate additional vote under G.L. c. 64G, § 3D(b), impose the impact fee on short-term rental units located within a two- or three-family dwelling that includes operator’s primary residence.

Who collects the local option community impact fee?

Unlike the local room occupancy excise which is paid by the operator to DOR, the local option community impact fee is paid monthly by the operator directly to the city/town.

Are there any restrictions on how a municipality spends these funds?

The revenue from the local room occupancy excise is general fund revenue and may be appropriated by the city/town’s legislative body for any municipal purpose. The revenue from the local option community impact fee, however, is partially restricted. Thirty-five percent (35%) of the impact fee must be dedicated to affordable housing or local infrastructure projects. G.L. c. 64G, § 3D(c). As a result, thirty-five percent (35%) of the local option community impact fee revenue must be accounted for as a “receipts reserved for appropriation” account. The balance of the local option impact fee, the remaining 65%, will be general fund revenue of the city/town and may be appropriated for any municipal purpose.

May a city/town adopt a local by-law or ordinance regarding short-term rentals?

Yes, under the new G.L. c. 64G, § 14, a city/town may adopt an ordinance or by-law to regulate operators registered with DOR. Operators are defined under G.L. c. 64G, § 1 as “a person operating a bed and breakfast establishment, hotel, lodging house, short-term rental or motel in the commonwealth” We suggest that cities and towns work with their local counsel if they wish to adopt a local by-law or ordinance.

How do I find out if my city/town is a member of the Cape Cod and Islands Water Protection Fund (Fund)?

The new G.L. c. 29C, § 19 provides: “Each municipality within Barnstable or Nantucket counties or within the county of Dukes County shall be a member of the fund if it is subject to: (i) an area wide wastewater management plan under section 208 of the federal Clean Water Act, 33 U.S.C. 1288; or (ii) a suitable equivalent plan determined by the department of environmental protection.”

According to the Mass. Dept. of Environmental Protection (DEP) and the Cape Cod Commission, all Barnstable County towns are currently subject to an area wide wastewater management plan under section 208 of the federal Clean Water Act (the “208 Plan Update”) and so all are members of the Fund. (The plan can be found at: <http://www.capecodcommission.org/index.php?id=506>.) Island towns (Nantucket and Dukes County) are not currently members of the Fund. They

will need to work with the DEP to obtain its determination of a “suitable equivalent plan” to join the Fund. More information will be provided on this issue as it becomes available.

If my city/town is a member of the Fund, may it withdraw from the Fund?

A city/town may withdraw from Fund by a two-thirds vote of its legislative body; however it may not withdraw during the term of a financial assistance award from the Fund. Furthermore, a city/town may not withdraw from the Fund until March 28, 2020, one year after the effective date of St. 2018, c. 337. We interpret this to mean that although the city/town may vote to withdraw before March 28, 2020, the effective date of the vote of withdrawal cannot be before March 28, 2020.

If a city/town withdraws from the Fund and wishes to return to the Fund, it may, by majority legislative body vote, return to the Fund after withdrawal. However, it cannot receive funding from the Fund for two years after its vote to return to the Fund.

Contact

DOR Contact

Phone

Tax Department (617) 887-6367 (tel:+16178876367)

Toll-free in Massachusetts (800) 392-6089 (tel:+18003926089)

8:30 a.m.-4:00 p.m., Monday through Friday

Online

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