



Municipal Revenue and Taxation Advisory Committee

Recommendation 2021 – 1

April 9, 2021

The Municipal Revenue and Taxation Advisory Committee has examined the impact of Cape May Code Chapter 457 ARTICLE I Hotel and Motel Room Occupancy Tax [Adopted 10-21-2003 by Ord. No. 1305-2003]

1.

Since 2003 Cape May has exercised its authority to levy a “Municipality Occupancy Tax” on the cost for the rent of a room or rooms in an accommodation subject to the State sales tax. By law these are fees paid by the users of a service. These accommodations collect State Sales Tax and State Occupancy Tax from the users of their facilities.

The statute permits a municipal tax of up to 3%, ostensibly for the municipal services impact due to this transient occupancy. Cape May however has chosen to levy a tax of only 2% since 2003.

186 municipalities have chosen to levy a Municipal Occupancy Tax under this statute. 181 have set the rate at 3%.

In Addition to Cape May 4 municipalities impose the tax at the rate of 2%.

- Lakewood (Ocean County),
- Plumsted (Ocean County),
- West Long Branch Borough (Monmouth County) and
- Berkeley Township (Ocean County)

Cape May therefore has chosen to forgo access the full revenue available under the existing statute for the last 18 years. That revenue would have, and should have, entered as General Revenue in support of the City’s annual operating budget, as it has in the other 181 municipalities.

The impact of that decision on Cape May’s Budget is, in just the last six years, a loss of \$ 3,730,896 in actual revenue. (Chart Attached).

In the eighteen years since the City adopted this Ordinance this lost revenue totals over \$11 million. The City has declined this revenue during a period in which municipal services and much need capital projects remained unfunded or underfunded.

It is important to note that this revenue did not go to the State. It remained within Cape May but was not available to the Municipal Budget. Simply put, potential City revenues have, in effect, subsidized private interests since 2003.

The committee concluded that the paramount fiduciary duty of the City is to maximize revenue acquisition in support of its Municipal Budget.

At this point in time, whatever the original motivation for not pursuing this revenue is moot.

It is now time, after 18 years, to move that full revenue to the City's Bottom Line.

The MTRAC therefore recommends that the Council immediately amend Municipal Code Sec 457-2 to increase the uniform percentage rate to 3% on charges of rent for every occupancy of a hotel or motel room in the City of Cape May that is subject to taxation pursuant to Subsection (d) of Section 3 of P.L. 1966, c. 30, N.J.S.A. 54:32B-3 (sales tax)

2.

In 2018 the Legislature amended *N.J.S.A. 40:48F-1* (Occupancy Tax on All Hotel and Motel Accommodations) to include "transient accommodations". These rental properties are leased through a transient space marketplace such as Airbnb, VRBO, et al and are now subject to same levies as has been the case for hotels and motels since 2003. Rentals through a licensed real estate broker are not subject to this statute.

These Transient accommodations collect State Sales Tax and State Occupancy Tax from the users of their facilities, but none of this money stays in Cape May. Like the earlier law, municipalities may impose the 3% Municipal Occupancy Tax.

Since 2018, Cape May has not exercised the authority it has under this Law, thus rejecting any revenue to which it is entitled.

The Committee finds that there is no fiduciary justification for Cape May to refuse to pursue this revenue.

The MTRAC therefore further recommends that the Council immediately amend Municipal Code Sec 457-2 to apply the uniform percentage rate to 3% on charges of rent for "transient accommodations" through a transient space marketplace as defined in *N.J.S.A. 40:48F-1* in the City of Cape May that are subject to taxation pursuant to Subsection (d) of Section 3 of P.L. 1966, c. 30, N.J.S.A. 54:32B-3 (sales tax).

	2015	2016	2017	2018	2019	2020	Total 2015-20
Current Occupancy Tax - City 2%	1,190,675	1,214,488	1,238,779	1,263,554	1,379,896	1,174,400	7,461,793
<i>Occupancy Tax - City 3%</i>	<i>1,786,013</i>	<i>1,821,733</i>	<i>1,858,168</i>	<i>1,895,331</i>	<i>2,069,844</i>	<i>1,761,600</i>	<i>11,192,689</i>
Lost Municipal Revenue	595,338	607,244	619,389	631,777	689,948	587,200	3,730,896