June 2025

Erie County Hotel Monitoring Program
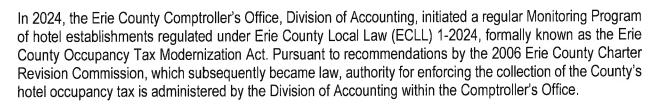# Asa Ransom House
December 2022-November 2024

HON. KEVIN R. HARDWICK
ERIE COUNTY COMPTROLLER

HON. KEVIN R. HARDWICK
ERIE COUNTY COMPTROLLER'S OFFICE
95 FRANKLIN STREET
BUFFALO, NEW YORK 14202

June 12, 2025

Erie County Legislature
92 Franklin Street, Fourth Floor
Buffalo, New York 14202

Dear Honorable Members:

In 2024, the Erie County Comptroller's Office, Division of Accounting, initiated a regular Monitoring Program of hotel establishments regulated under Erie County Local Law (ECLL) 1-2024, formally known as the Erie County Occupancy Tax Modernization Act. Pursuant to recommendations by the 2006 Erie County Charter Revision Commission, which subsequently became law, authority for enforcing the collection of the County's hotel occupancy tax is administered by the Division of Accounting within the Comptroller's Office.

The 2024 local law represents an updated version of a series of local laws first passed in 1974, the year after New York State formally authorized the County to implement such a tax. Since its inception, the law has authorized the imposition of a tax on guests staying at hotel establishments located in Erie County. The amount of the tax ranges from 3% to 5%, depending on the number of rooms available for rent. During the normal course of business, hotels are required to collect the tax from guests and remit totals to the Comptroller's Office each quarter. Erie County reinvests occupancy tax revenues, which are typically ranging from $10,000,000 to $15,000,000 annually, in the tourism economy of Erie County.

The relationship between the County and hotels is a trust based relationship. The law imposes no tax or other costs on the hotels. Because the County would never be able to personally collect tax from each hotel guest at point of sale, the law requires the hotels to collect the tax on the County's behalf and to remit the tax to the County with a tax return form on a quarterly basis. Hotels are well equipped to satisfy this obligation because the process and the infrastructure to carry it out is virtually identical to that of New York State sales tax collection. Because the tax dollars collected by hotels are fiduciary amounts and are at no point considered property of the hotel, occupancy tax should be held in a separate account and should not be comingled with any hotel funds.

Objective
The objective of the Hotel Monitoring Program is to verify that the revenue reported by hotels on their quarterly tax returns and the revenue therefore transmitted to the County are accurate, that recipients are eligible for exemptions received, and to promote general compliance with the provisions of the local law.

Scope and Methodology
There are approximately 180 hotels and many more short-term rental operators in Erie County. While the order in which hotels will be reviewed is generated at random, each entity subject to the local law will be reviewed. Reviews will be conducted by Comptroller's Office staff. Because hotels are private entities operating in a competitive marketplace, and in order to comply with the confidentiality provisions of the law, this report does not include certain information relating to the conclusions contained herein. For the same

reason, any specific recommendations and financial information may be contained in a separate document that will be shared and discussed with the entity reviewed. Furthermore, the public release of any information contained in this report is in full compliance with applicable local, state, and federal privacy and disclosure laws.

Local Law

The Erie County Occupancy Tax Modernization Act became effective in January 2024. The primary purpose of updating the local law – which had not been substantively updated since the 1970s – was to ensure that all short-term rentals providing hospitality and accommodations, such as premises booked through platforms such as AirBnb and VRBO, were treated the same as traditional hotels and motels that provide the same type of service. Other purposes included a modernization of the administration and enforcement tools available to the Comptroller, introducing provisions designed to fill gaps in previous versions of the legislation, and updating language for clarity.

For the purposes of the Hotel Monitoring Program, it is important to understand that the local law contains two major exemptions from taxation: one which depends exclusively on the status of the guest, and another depending on the duration of the stay. The burden of demonstrating eligibility for the status and duration exemptions is firmly placed upon the operator and requires an affirmative showing pursuant to specific administrative criteria for validity.

The status exemption applies to individuals present on official business of governments, public corporations and certain non-profit entities. The duration exemption applies to individuals who rent a room for a period of 30 consecutive days or longer.

That process as applied to the status exemption requires the hotel guest to provide a copy of a properly executed exemption certificate. There are two official forms, one for public employees and another for non-profit employees demonstrating that the occupant is an agent of the exempt entity. If the guest does not present those documents to the operator, no exemption can be granted. Hotels are required to retain any certificates accepted for a period of five years.

Similarly, an operator claiming a duration exemption would need to provide occupancy records conclusively demonstrating that the guest stayed for at least 30 days without interruption. In other words, if the operator cannot provide appropriate documentation proving the exemption, the stay is taxable and the operator is liable for that amount, even if it was never collected from the guest.

BEST PRACTICES

Over the course of the Monitoring Program, the Division of Accounting has identified several problematic practices. In order to address issues pertaining to hotel entities, certain generally applicable best practices and recommendations are included here where relevant.

ASA RANSOM HOUSE

BACKGROUND

The Asa Ransom House opened in November 1975. The motel's current ownership assumed control of the property in August 2021. They filed a certificate of registration with the Comptroller's Office in May 2022 after being contacted by the Comptroller's Office.

Available records show that the motel has never been audited before.

OBSERVATIONS

The Asa Ransom House was selected for examination due to hotel occupancy tax exemption rates over a prolonged period that approximately doubled the standard rate. Given the nature and location of the establishment, it seemed unlikely that the amount of tax-exempt revenue would match the reported exemption totals. Shortly after an announcement letter was sent to the Asa Ransom House informing them of this review, the operator was contacted by the Comptroller's Office to discuss the logistics of the review.

During that conversation, the operator readily acknowledged that the revenue amounts claimed on the property's quarterly tax returns were not actually tax-exempt. Rather, the exempted totals reflected revenue that the entity received from hotel intermediary Expedia. The operator mistakenly believed that Expedia collected both sales and occupancy tax from guests at the point of sale. Therefore, the operator was under the impression that the Comptroller's Office had already received occupancy tax amounts directly from the intermediary. The operator acknowledged the error and agreed to pay the full amount of arrears, which amounted to $2,547.57. That payment was received by the Comptroller's Office.

CONCLUSIONS

The Comptroller's Office determined that the Asa Ransom House has substantially complied with the Hotel Occupancy Tax Law during the review period. While the Comptroller's Office discovered some reporting errors concerning the above-mentioned exemption claims, the Comptroller's Office concluded that these discrepancies stemmed from a procedural misunderstanding of the present allocation of responsibility between the hotel and third-party room remarketers, and did not result from intentional wrongdoing.

This report is one in a series of reviews examining the County's hotel properties and their compliance with the Hotel Occupancy Tax Modernization Act. In the months and years to come, the Comptroller's Office intends to review other hotel establishments in the County and will issue reports accordingly.

The ownership of the Asa Ransom House cooperated fully with the Comptroller's Office during this review, and we thank them for their assistance.