

# **Leaflet for the Overnight Guest pursuant to the Accommodation Tax in Berlin**

(Act pursuant to an Accommodation Tax in Berlin- ÜNStG)

## **Object of the Tax**

The City State of Berlin will, from January 1<sup>st</sup> 2014, be levying an Accommodation Tax pursuant to overnight stays in Berlin in return for payment in an enterprise providing accommodation. The acquisition of the possibility of an overnight stay in return for payment shall be deemed an overnight stay, irrespective of whether this is actually taken advantage of or not (e.g. the guest does not actually spend the night in the hotel and only enters the hotel room in order to take a shower or to pack his suitcase).

The cancellation of a contractually agreed accommodation service before advantage is taken thereof shall not trigger any taxation, as the accommodation possibility has not as yet actually been made available.

Any activity that has as its purpose the provision of temporary accommodation in return for payment shall be deemed an enterprise providing accommodation.

Professional expenditure in the context of an overnight stay will be exempt from taxation, as expenditure taxes may siphon off the economic capability expressed in the usage of income for one's own personal living requirements.

In order to prevent those accommodation services that are to be exempted from the tax from being taxed unjustifiably, the persons running the enterprises providing accommodation shall be integrated in the review of the prerequisites relevant to taxation.

The overnight guest shall be required to provide plausible evidence for the professional nature of the expenditure to the enterprise providing the accommodation by the end of his stay at the latest.

In the case of dependent employees plausible evidence shall be deemed given inasmuch as the invoice is issued to the employer, the invoice is settled directly by the employer or the booking is effected directly by the employer.

In other eventualities plausible evidence may be take the form of the presentation of an attestation from the employer from which the name and domicile of the employer and the period of the stay may be gathered, or by way of a self-attestation by the overnight guest himself which contains these details.

In the case of self-employed persons or commercially active persons or the co-owners of business enterprises, comparable proof is to be provided, whereby it such cases does no harm at all should the overnight guest issue the certificate himself, in particular not if he should thereby quote his income tax identification code.

The details provided to the enterprise providing the accommodation as plausible evidence of the professional reason for the overnight stay are voluntary. A pointer to this effect as well as to the authority of the Fiscal Office Marzahn-Hellersdorf is to review these details is to be found on the relevant forms for the employer's attestation and the self-attestation.

The overnight guest, should he not be in agreement with this procedure, shall have the option of applying for the refunding of any retained tax on his overnight stay to the responsible fiscal office, thereby presenting the proofs of the professional reason for the accommodation expenditure.

Should several persons take advantage of the accommodation service, the review is to be undertaken for each person separately.

### **Person Liable for the Tax**

The enterprise providing the accommodation shall be liable for the tax.

### **Tax Rate and Basis of Assessment**

The expenditure upon which the Accommodation Tax is based for the provision and usages of overnight accommodation is the fee for the overnight stay without any auxiliary services, of which a specified percentage of 5% shall be levied as a tax.

When determining the expenditure for the provision and usage of overnight accommodation, catering services and other services in connection with the overnight stay (e.g. meals, consumption from the mini-bar; usage in return for a fee of hotel facilities not included in the price of the overnight stay, such as the sauna) will not be taken into account.

### **Proof of Professional Expenditure subsequent to the Overnight Stay**

Overnight guests, who are either not able or not willing to provide plausible proof or an attestation of the professional reason for the stay until the accommodation service has been ended, shall be afforded the opportunity of applying for the refunding of the tax imposed upon them by the enterprise providing the accommodation.

The application is to be made within four months of the ending of the accommodation service to the responsible fiscal office. An attestation of the company or professional reason for the overnight stay and the invoice or confirmation from the enterprise providing the accommodation, from which the retained accommodation tax may be gathered, are to be attached to the application.

Inasmuch as several persons shall have taken advantage of the accommodation service, the tax imposed is to be refunded only inasmuch as, in the case of each respective overnight guest, the professional or company reason for the overnight stay is proven separately. When determining the amount to be refunded the basis of assessment according to § 4 Clause 1 is to be divided by the number of persons for whom an accommodation fee has been paid.

### **Official Forms**

On the internet the following forms pursuant to Berlin's Accommodation Tax may be found under [www.berlin.de/sen/finanzen/steuern/downloads/](http://www.berlin.de/sen/finanzen/steuern/downloads/):

ÜnSt 1a – Leaflet for the Enterprise providing the Accommodation –

ÜnSt 1b – Leaflet for the Guest –

ÜnSt 2a – Registration in Accordance with § 6 ÜnStG –

ÜnSt 2b – Annex pursuant to the Establishment of the Basis of Assessment for the Accommodation Tax -

ÜnSt 3 – Employer's Attestation -

ÜnSt 4 – Self-Attestation

ÜnSt 5 – Attestation of retained Accommodation Tax –

ÜnSt 8 – Notification according to § 9 ÜnStG –

These are PDF-templates which may be downloaded. It is planned to furnish them (with the exception of ÜnSt 1a and ÜnSt 1b) in the first quarter of 2014 with fields that may be completed and calculation functions.

The official forms are also available in paper form from the responsible fiscal office.

**ÜnSt 1b** – Leaflet for the Guest pursuant to the Berliner ÜnStG - SenFin Berlin - 01.11 - #001/11 (PDF) - TFA11

### **Responsible Fiscal Office**

The accommodation tax will be centrally managed in Berlin.

The responsible office is the Fiscal Office Marzahn-Hellersdorf, Allee der Kosmonauten 29, 12681 Berlin.

Central telephone number for everything connected with accommodation tax: +49 (0)30 9024 26976

### **Act pursuant to Accommodation Tax – ÜStG –**

Subsequent to its coming into force on January 1st 2014, this Act is to be applied to all overnight stays agreed upon in a legally binding manner.