



Georgia Department of Revenue
Policy Bulletin FET-2021-01
Changes to the State Hotel-Motel Fee – Effective July 1, 2021

Purpose: This Policy Bulletin provides guidance on changes made to the state hotel-motel fee by House Bill 317 (2020-2021 Regular Session).

Publication Date: June 21, 2021

Authority: House Bill 317¹ (2020-2021 Regular Session); O.C.G.A. §§ 48-8-2, 48-13-50.2, 48-13-50.3, 48-13-50.4

Scope: A Policy Bulletin is intended to provide guidance to the public and to Department personnel. It is a written statement issued to apply principles of law to a specific set of facts or a general category of taxpayers, superseding all conflicting documents and oral directives previously issued by the Department. A Policy Bulletin does not have the force or effect of law and is not binding on the public. It is, however, the Department's position and is binding on agency personnel until superseded or modified by a change in statute, regulation, court decision, or subsequent Policy Bulletin.

Issues:

1. **What is the state hotel-motel fee (the “Fee”)?**
2. **How is the Fee changing?**
3. **Who is an innkeeper?**
4. **What is a marketplace innkeeper?**
5. **Beginning July 1, 2021, what type of accommodations are subject to the Fee?**
6. **If a company or person that is not an “innkeeper” under the state hotel-motel fee law rents an accommodation to a guest, is the accommodation subject to the Fee?**
7. **Are marketplace innkeepers required to collect and remit the Fee?**
8. **Is the Fee included in the sales tax base when calculating sales tax on retail sales facilitated by marketplace facilitators?**
9. **Is a marketplace innkeeper liable for state hotel-motel fees that it fails to collect due to incorrect or insufficient information?**
10. **Is a provider of accommodations (i.e., a seller) required to collect and remit state hotel-motel fees imposed on rentals of accommodations facilitated by a marketplace innkeeper?**

¹ House Bill 317 was enacted on April 21, 2021.

11. **How must innkeepers, including marketplace innkeepers, report and remit the Fee to the Department?**
12. **Are the exemptions and exclusions from the Fee that are set forth in Rule 560-13-2-.01 limited to hotel and motel rooms?**
13. **Where can I find more information about the Fee?**

Discussion of Issues:

1. What is the state hotel-motel fee (the “Fee”)?

Through June 30, 2021, the Fee is a \$5.00 per night tax imposed on the rental or lease by an innkeeper of a hotel room,² unless the rental or lease is exempted or excluded under Rule 560-13-2-.01(7) or is an “extended stay rental” under Rule 560-13-2-.01(8).

Beginning July 1, 2021, the Fee is a \$5.00 per night tax imposed on the rental or lease by an innkeeper of any room, lodging, or accommodation³ that provides physical shelter, unless the rental or lease is exempted or excluded under Rule 560-13-2-.01(7) or is an “extended stay rental” under Rule 560-13-2-.01(8).

2. How is the Fee changing?

Effective July 1, 2021, House Bill 317

- expands the definition of “innkeeper” to include “marketplace innkeepers” and
- imposes the Fee on certain accommodations that are not currently subject to the Fee.

3. Who is an innkeeper?

Through June 30, 2021, an innkeeper is

any person that furnishes for value to the public a hotel or motel room in a county or municipality and that is licensed by, or required to pay business or occupation taxes to, such municipality or county for operating a hotel, motel, inn, lodge, tourist camp, tourist cabin, campground, or any other place in which accommodations are regularly furnished for value.

Effective July 1, 2021, an innkeeper is

(A) any person that furnishes for value to the public any accommodation in a county or municipality and that is licensed by, or required to pay business or occupation taxes to, such municipality or county for operating a hotel, motel, inn, lodge, tourist camp, tourist cabin, campground, or any other place in which accommodations are regularly furnished for value; or

(B) a marketplace innkeeper.

² See Question 5 below for the definitions of “Hotel” and “Hotel Room.”

³ A room, lodging, or accommodation is hereinafter referred to in this Bulletin as an “accommodation.”

4. What is a marketplace innkeeper?

Except for certain franchisors noted below, a marketplace innkeeper is a person

(A) who contracts with a seller,⁴ in exchange for any form of consideration, to make available or facilitate on behalf of the seller the rental or lease of any accommodation defined as a “retail sale” under O.C.G.A. § 48-8-2(31)⁵ by, directly or through any agreement or arrangement with another person,

(i.) collecting, charging, processing, or otherwise similarly facilitating payment of such rental or lease on behalf of the seller; and

(ii.) providing a service that makes available or facilitates such rental or lease in any manner. Such service may include, but is not limited to, promoting, marketing, advertising, taking orders or reservations for such rental or lease; providing the physical or electronic infrastructure that brings purchasers and sellers together for such rental or lease; or otherwise similarly assisting the seller in making such rental or lease; or transmitting or otherwise similarly communicating the offer and acceptance between the seller and the purchaser for such rental or lease, or otherwise similarly assisting the seller for such rental or lease. Such service excludes merely processing the payments for such rental or lease.

and

(B) who facilitates, in the manner described in paragraph (A) above, retail sales (including rentals and leases of accommodations) that are subject to Georgia sales and use tax, if the total value such facilitated sales, combined with the facilitator’s own retail sales that are subject to Georgia sales and use tax, equals or exceeds \$100,000.00 in aggregate in the previous or current calendar year.

Note about franchisors:

A franchisor⁶ that otherwise meets the definition of marketplace innkeeper is not a marketplace innkeeper with respect to any innkeeper defined in Question 3, paragraph (A) above that is its franchisee,⁷ provided that

(A) In the prior calendar year, such franchisor and all of its franchisees combined made annual gross sales in the United States of at least \$500 million in aggregate;

(B) Such franchisee maintains a valid certificate of registration as required by O.C.G.A. § 48-8-59; and

⁴ For purposes of this bulletin only, a seller is any person who provides an accommodation for value to the public.

⁵ The sale or charges for any room, lodging, or accommodation furnished to transients by any hotel, inn, tourist camp, tourist cabin, or any other place in which rooms, lodgings, or accommodations are regularly furnished to transients for a consideration is a “retail sale” under O.C.G.A. § 48-8-2(31).

⁶ “Franchisor” is defined in 16 C.F.R. 436.1.

⁷ “Franchisee” is defined in 16 C.F.R. 436.1.

(C) Such franchisee and franchisor maintain a valid contract providing that the franchisee will collect and remit all applicable taxes and fees that the franchisor would otherwise be required to collect and remit as a market-place innkeeper for such franchisee.

5. Beginning July 1, 2021, what type of accommodations are subject to the Fee?

Beginning July 1, 2021, the Fee applies to the rental or lease of *any* accommodation by an innkeeper that provides physical shelter, unless an exemption or exclusion applies. By contrast, before July 1, 2021, the Fee is imposed only on “hotel rooms”⁸ in “hotels” that are rented or leased by innkeepers. A “hotel” is defined as a building that has five or more hotel rooms under common ownership.⁹ Thus, accommodations that are not currently subject to the Fee may be subject to the fee beginning July 1, 2021.

Please note: The Fee does not apply to a rental or lease of an accommodation that is not a “hotel room” under Rule 560-13-2-.01(2)(b) for which any deposit or payment was tendered for the rental or lease of the accommodation prior to July 1, 2021.

Example 1: On May 1, 2021, Guest pays a deposit to Fun Yurts to stay a week in a yurt beginning July 1, 2021. Each yurt is a fully furnished tent-like structure that Fun Yurts offers as a single accommodation. The county in which the yurts are located requires Fun Yurts to pay occupation taxes for furnishing an accommodation to the public for value; therefore, Fun Yurts is an “innkeeper” under the state hotel-motel fee law.

The yurt rented by Guest is not a “hotel” or “hotel room” under Rule 560-13-2-.01(2).¹⁰ Because Guest paid a deposit before July 1, 2021, Fun Yurts is not required to collect, and Guest is not required to pay, the Fee on Guest’s stay. Fun Yurts is nonetheless required to remit sales and use tax on the sales price of Guest’s stay.¹¹

Example 2: Assume the same facts as in Example 1 above, except Guest does not make a deposit or tender any payment prior to July 1, 2021 but pays in full on July 1, 2021. Fun Yurts is required to collect from Guest, and remit to the Department, the Fee for each night of Guest’s stay. Fun Yurts must also remit sales and use tax on the sales price of Guest’s stay.

Example 3: On May 1, 2021, Guest puts down a deposit to stay a week in a room in Roadside Motel beginning July 1, 2021. Roadside Motel is a single building containing 20 hotel rooms under common ownership. The county in

⁸ “Hotel room” means a room (or suite of conjoined rooms offered as a single accommodation) (i) in a ‘hotel’ (ii) that is used to provide private sleeping accommodations to paying customers and (iii) that typically includes linen or housekeeping service. A hotel room is usually occupied by transients or travelers who do not enjoy an exclusive right or privilege with respect to the room, but instead merely have an agreement for the private use or possession of the room. A room is a hotel room only if the customer has the right to exclude other customers from the room.” Ga. Comp. R. & Regs. r. 560-13-2-.01(2)(c).

⁹ Ga. Comp. R. & Regs. r. 560-13-2-.01(2)(b).

¹⁰ The yurt is not a “hotel” or a “hotel room” under Rule 560-13-2-.01 because it does not contain, or exist within a building containing, five or more hotel rooms.

¹¹ For more information about what is included in the “sales price” of accommodations, please see [Bulletin SUT-2018-02 - Charges for Rooms, Lodgings, or Accommodations Furnished to Transients](#).

which Roadside Motel is located requires Roadside Motel to pay occupation taxes for furnishing an accommodation to the public for value; therefore, Roadside Motel is an “innkeeper” under the state hotel-motel fee law.

Although Guest made a deposit before July 1, 2021, Roadside Motel must collect from Guest, and remit to the Department, the Fee for each night of Guest’s stay because Roadside Motel’s guest rooms are “hotel rooms” under Rule 560-13-2-.01(2)(c). Roadside Motel must also remit sales and use tax on the sales price of Guest’s stay.

6. If a company or person that is not an “innkeeper” under the state hotel-motel fee law rents an accommodation to a guest, is the accommodation subject to the Fee?

No. The rental of an accommodation is only subject to the Fee if it is provided by an “innkeeper” as defined in Question 3. Note, however, that a marketplace innkeeper is an “innkeeper” and must remit the Fee, even if the owner on whose behalf the marketplace innkeeper facilitates the sale is not an innkeeper. (See Question 7 below for more information about marketplace innkeepers.)

Example 4: Owner advertises her house as a guest rental accommodation on a website operated by the local newspaper. Neither the county nor the city in which Owner’s house is located requires Owner to be licensed or pay business or occupation taxes for furnishing an accommodation to the public for value; therefore, Owner is not an “innkeeper” under the state hotel-motel fee law. Owner rents out her house to a guest to stay a week in July of 2021 and collects the rental charge from the guest in July of 2021.

Because she is not an innkeeper, the Fee does not apply to the rental of her house.¹² However, Owner is required to remit sales and use tax on the sales price of the guest’s stay.

Example 5: Assume the same facts as in Example 4, except, instead of advertising her house on the local newspaper’s website, Owner lists her house on MPI.com’s website. MPI.com facilitates, on behalf of property owners, the rental of the owners’ houses as guest accommodations by advertising the owners’ houses on its website and collecting the rental charges from guests on behalf of the owners. MPI.com receives a fee for each sale that it facilitates on behalf of the owners. The total value of the facilitated rentals of accommodations that are subject to Georgia sales and use tax, combined with the facilitator’s own retail sales that are subject to Georgia sales and use tax, equals or exceeds \$100,000.00 in aggregate in the previous or current calendar year.

MPI.com rents Owner’s house to a guest for a week in July of 2021 and collects all the charges from the guest in July of 2021. MPI.com collects no money from the guest prior to July of 2021. Although Owner is not an innkeeper under the state hotel-motel fee law, MPI.com must collect the Fee on each night of the guest’s stay because MPI.com is marketplace innkeeper

¹² Because Owner’s house qualifies as an “accommodation” that is subject to the Fee after July 1, 2021, the rental or lease of Owner’s house would be subject to the Fee if it were furnished by an innkeeper.

beginning July 1, 2021¹³ and because Owner's house is subject to the Fee beginning July 1, 2021 as an "accommodation" rented by an innkeeper (i.e., MPI.com). MPI.com must also remit sales and use tax on the sales price of the guest's stay because it facilitated the rental of Owner's house as a "marketplace facilitator" under Georgia sales and use tax law.¹⁴

Example 6: Assume the same facts as in Example 4, except the county in which Owner's house is located requires Owner to pay occupation taxes for furnishing an accommodation to the public for value. Owner must remit Fees for each night of the guest's stay because she is an innkeeper under the state hotel-motel fee law and because her house is subject to the Fee beginning July 1, 2021 as an "accommodation" rented by an innkeeper. Owner must also remit sales and use tax on the sales price of the guest's stay.

Example 7: Assume the same facts as in Example 6 above, except Owner collects a deposit from the guest before July 1, 2021 and collects the rental fee in July 2021.

Although Owner is an innkeeper under the state hotel-motel fee law effective July 1, 2021, her house is not a "hotel room" under Rule 560-13-2-.01(2)(c). Because the guest paid a deposit before July 1, 2021, Owner is not required to collect, and the guest is not required to pay, the Fee on the guest's stay. Owner is nonetheless required to remit sales and use tax on the sales price of the guest's stay.

Example 8: VPCR is a vacation property rental company located in Georgia that owns several houses and condominiums that it rents out to guests. In addition, VPCR advertises other property owners' properties in magazines and on its website and takes guest reservations and processes guest payments on behalf of the owners. The total value of rentals of accommodations facilitated on behalf of other owners, combined with the value of the rental of the accommodations owned by VPCR, is less than \$100,000.00 in aggregate in the previous or current calendar year.

VPCR advertises Owner's house in a magazine and on its website. Guest sees the advertisement in the magazine, calls VPCR on the phone, and books Owner's house for a week in July of 2021. VPCR collects the entire rental charges from Guest in July of 2021. The county in which Owner's house is located requires VPCR to pay occupation taxes for furnishing accommodations to the public for value. VPCR must remit Fees for each night of Guest's stay because VPCR is an innkeeper under the state hotel-motel fee law, Owner's house is subject to the Fee beginning July 1, 2021 as an "accommodation" provided by an innkeeper, and VPCR collected all the rental charges in July of 2021. VPCR must also remit Georgia sales and use tax on the sales price of Guest's stay because VPCR is a "seller" under Georgia sales and use tax laws.

¹³ Marketplace innkeepers must collect and remit the Fee beginning July 1, 2021 for rentals of accommodations that it facilitates on behalf any person who provides an accommodation for value to the public.

¹⁴ Please see <https://dor.georgia.gov/marketplace-facilitators> for more information about marketplace facilitators.

7. Are marketplace innkeepers required to collect and remit the Fee?

Yes. The Fee is imposed on rental charges collected by a marketplace innkeeper on or after July 1, 2021 for rentals or leases of any accommodation defined as a “retail sale” under O.C.G.A. § 48-8-2(31) that is facilitated by a marketplace innkeeper on behalf of a seller.¹⁵

The marketplace innkeeper is liable for the *greater* of

- the full amount of applicable Fees imposed on all rentals or leases of accommodations that it facilitates within or outside Georgia on behalf of a seller; or
- the amount of Fees collected by such marketplace innkeeper from all purchasers on all such rentals or leases.

Example 9: MPI.com facilitates, on behalf of treehouse owners, the rental of the owners’ treehouses as guest accommodations by advertising the owners’ treehouses on its website and collecting the rental charges from guests on behalf of the owners.¹⁶

Owner contracts with MPI.com to advertise and rent his treehouse to guests. The treehouse is offered as a single accommodation. MPI.com rents Owner’s treehouse to a guest for a week in July of 2021 and collects no money from the guest prior to July of 2021. MPI.com must collect the Fee on each night of the guest’s stay because MPI.com is marketplace innkeeper beginning July 1, 2021. MPI.com must also remit sales and use tax on the sales price of Guest’s stay because it facilitated the rental of Owner’s house as a marketplace facilitator under Georgia sales and use tax law.

Example 10: Assume the same facts as in Example 9 above, except MPI.com collects the guest’s deposit in June of 2021. MPI.com collects the balance of the rental fees in July of 2021. Because MPI.com collected the guest’s deposit before July 1, 2021 and the treehouse is not a “hotel room” as defined in Rule 560-13-2-.01(2)(c), the Fee does not apply to the guest’s rental. However, MPI.com must remit sales and use tax on the sales price of Guest’s stay because it facilitated the rental of Owner’s house as a marketplace facilitator under Georgia sales and use tax law.

Example 11: Facilitator.com facilitates, on behalf of sellers, the rental of accommodations by advertising the accommodations on its website and collecting the rental charges from guests on behalf of the sellers.¹⁷ Facilitator.com has no physical presence in Georgia.

¹⁵ However, the Fee does not apply to a rental or lease of an accommodation that is not a “hotel room” under Rule 560-13-2-.01(2)(c) for which any deposit or payment was tendered for the rental or lease of the accommodation prior to July 1, 2021.

¹⁶ MPI.com receives a fee for each rental that it facilitates on behalf of the owners. The total value of facilitated rentals of accommodations that are subject to Georgia sales and use tax, combined with MPI.com’s own retail sales that are subject to Georgia sales and use tax, equals or exceeds \$100,000.00 in aggregate in the previous or current calendar year.

¹⁷ Facilitator.com receives a fee for each rental that it facilitates on behalf of sellers. The total value of facilitated rentals of accommodations that are subject to Georgia sales and use tax, combined with Facilitator.com’s own retail sales that are subject to Georgia sales and use tax, equals or exceeds \$100,000.00 in aggregate in the previous or current calendar year.

Roadside Motel owns a single building containing 20 hotel rooms. Roadside Motel contracts with Facilitator.com to advertise and rent its rooms to guests. Facilitator.com rents a Roadside Motel room to a guest for a week in July of 2021. In June of 2021, Facilitator.com collects the guest's deposit. Facilitator.com collects the balance of the rental fees in July of 2021.

Although Facilitator.com collected the guest's deposit before July 1, 2021, Facilitator.com must remit the Fee to the Department for each night of the guest's stay because the room rented to the guest is a "hotel room" under Rule 560-13-2-.01(2)(c) and because Facilitator.com collected the rental charges as a marketplace innkeeper after July 1, 2021. In addition, Facilitator.com must remit sales and use tax on the sales price of the guest's stay because it facilitated the rental of the room as a marketplace facilitator under Georgia sales and use tax law.

Example 12: Assume the same facts as in Example 11, except Facilitator.com collects the total amount of the guest's rental charges in June of 2021. Because Facilitator.com has no physical presence in Georgia and is not a "marketplace innkeeper" until July 1, 2021 when the new law takes effect, Facilitator.com is not required to collect the Fee. Rather, Roadside Motel must collect the Fee. Facilitator.com, however, must remit sales and use tax on the sales price of the guest's stay because it facilitated the rental of the room as a marketplace facilitator under Georgia sales and use tax law.

8. Is the Fee included in the sales tax base when calculating sales tax on retail sales facilitated by marketplace facilitators?

The Fee is not included in the sales tax base if it is separately stated on the invoice, bill of sale, or similar document given to the purchaser.

Example 13: Company D facilitates sales of lodgings and accommodations (such as hotel rooms and homes for rent) by operating a booking website. Customers visit the website to research, reserve, and pay for lodgings and accommodations. Company D processes customer payments. Company D itself does not operate any lodgings or accommodations. In the previous calendar year, the total value of the sales price of Company D's facilitated accommodations subject to Georgia sales and use tax exceeded \$100,000.00 in aggregate. Company D is a marketplace facilitator and a dealer under O.C.G.A. § 48-8-2(8)(M.3) and a marketplace innkeeper. Company D must collect and remit the Fee on each facilitated accommodation unless an exemption or exclusion applies. Company D must also remit sales tax on the total sales price of each taxable facilitated retail sale unless an exemption or exclusion applies.

As shown on the sample invoice below, Customer books a condominium at Famous Resort on Company D's website for seven nights, and Company D processes the payment. Company D must collect from Customer and remit to the Department \$278.40 in sales tax, calculated by multiplying the 8% state and local sales tax rate in Holiday County¹⁸ where Famous Resort is

¹⁸ The Holiday County state and local sales tax rate is calculated by adding the 4% state sales tax rate and the 4% Holiday County sales tax rate.

located by the sales price of \$3,480.00. Company D must also collect from Customer and remit to the Department \$35.00 in state hotel-motel fees, calculated by multiplying seven nights by \$5.00. Famous Resort is not liable for the sales tax or the state hotel-motel fee collected by Company D from Customer.

Rental charge.....	\$3,000.00
Cleaning fee.....	\$80.00
Company D service charge.....	\$300.00
Famous Resort processing fee.....	\$100.00
Subtotal	\$3,480.00
8% sales tax	\$278.40
State hotel-motel fee	\$35.00
Total.....	\$3,793.40

For a discussion of charges included in the sales price of accommodations, please refer to [Policy Bulletin SUT-2018-02 Charges for Rooms, Lodgings, or Accommodations Furnished to Transients](#).¹⁹

9. Is a marketplace innkeeper liable for state hotel-motel fees that it fails to collect due to incorrect or insufficient information?

A marketplace innkeeper is not liable for state hotel-motel fees that it fails to collect and remit to the extent that

- the marketplace innkeeper demonstrates to the satisfaction of the Department that the error was due to insufficient or incorrect information given to the marketplace innkeeper by the seller on whose behalf the rental of the accommodation was facilitated;
- the marketplace innkeeper made a reasonable effort to obtain correct and sufficient information from such seller; and
- the seller and the marketplace innkeeper are not related members as defined in O.C.G.A. §48-7-28.3.

When a marketplace innkeeper is relieved of liability as described above, the seller on whose behalf the rental of the accommodation was facilitated is solely liable for the amount of the uncollected Fee.

10. Is a provider of accommodations (i.e., a seller) required to collect and remit state hotel-motel fees imposed on rentals of accommodations facilitated by a marketplace innkeeper?

No. A provider of accommodations is not required to collect or remit, and is not liable for, state hotel-motel fees imposed on sales of accommodations for which

¹⁹ Many counties and cities in Georgia charge a local accommodations excise tax. Local accommodations excise taxes are excluded from the sales tax base. Please contact the applicable county or city to determine what is included and excluded from the local accommodations excise tax base.

a marketplace innkeeper is required to collect and remit state hotel-motel fees on behalf of the provider.

11. How must innkeepers, including marketplace innkeepers, report and remit the Fee to the Department?

Marketplace innkeepers must report and remit the Fee in the same manner that innkeepers currently report and remit the Fee. Innkeepers must remit the Fee electronically and report the Fee electronically on the state hotel-motel fee return. Only one return and one state hotel-motel fee account number are required, even if the innkeeper has multiple locations.

To file a return, an innkeeper must first register on the [Georgia Tax Center](#) website for a sales tax number (if it has not already done so) and a state hotel-motel fee number. Please refer to [state hotel-motel fee account registration instructions](#) for guidance.

12. Are the exemptions and exclusions from the Fee that are set forth in Rule 560-13-2-.01 limited to hotel and motel rooms?

No. The exemptions and exclusions from the Fee apply to all accommodations.

13. Where can I find more information about the Fee?

For more information about the Fee, please refer to Rule 560-13-2-.01. Rule 560-13-2-.01 covers important topics such as the calculation of the sales tax base, exemptions and exclusions from the Fee, extended stay rentals, guaranteed no-show revenue, Fee reporting requirements, penalties and interest, vendors' compensation, periods of limitation for assessments, and refunds. Please note, however, that this bulletin and HB 317 supersede provisions of Rule 560-13-2-.01 to the extent that the Rule conflicts with this bulletin or HB 317. The Department will publish a revised Rule 560-13-2-.01 in the coming months.

For more information, please contact the Department at 1-877-423-6711 from 8:00 a.m. to 5:00 p.m. ET, Monday through Friday, excluding holidays. For forms and other information, visit the Department's website at dor.georgia.gov.