Date Issued: August 5, 2015
Georgia Letter Ruling: LR SUT-2015-05
Topic: Hotel-Motel Fee

This letter is in response to your request for guidance on the application of the Georgia hotel-motel fee to vacation Unit rentals.

Facts as provided by the Taxpayer

Taxpayer is a development of multiple single-family free-standing residential vacation Units located in Georgia. This letter will refer to the development as "Resort". The Units range in size from one to eight bedrooms and have two bathrooms, a kitchen, common areas, and a deck. Taxpayer owns a number of the Units; the remaining Units are owned by individuals.

Taxpayer provides a property management service to individual Unit owners. For a fee, Taxpayer will rent out the Unit to guests on behalf of the owner. Taxpayer collects the rental payments and performs other related services, including advertising, scheduling, maintenance, housekeeping, and laundry.

Issue

Is Taxpayer required to collect the hotel-motel fee on the Unit rentals?

Analysis

Georgia law imposes a $5.00 per night fee for each calendar night that a hotel room is rented, until the rental becomes an extended stay rental.[1] "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."[2] "Hotel" means "a building that has 5 or more hotel rooms under common ownership, regardless of the name of the facility and regardless of how the facility classifies itself."[3] The following example provided in the Regulation further explains the definition of "hotel":

> "A guest rents a cabin at a facility that has 10 free-standing cabins on a single property. Each cabin is offered as a single accommodation, and the guest renting the cabin has access to all rooms in the cabin. The cabin is not a 'hotel' because it does not have 5 or more hotel rooms."[4]

Based on the facts provided, the Resort is not a hotel because it is not a single building with five or more hotel rooms but is instead comprised of multiple free-standing buildings (the Units). Although the Units are used to provide sleeping accommodations, they are not in a hotel and thus are not hotel rooms. Furthermore, the bedrooms in the Units are not separate hotel rooms because the rooms together make up one single accommodation, and the guest renting the entire Unit presumably has access to all of the rooms within the Unit. Because the bedrooms in the Units are not separate hotel rooms, the Units are not themselves hotels because they do not have five or more hotel rooms.

Ruling

Taxpayer is not required to collect the hotel-motel fee on its Unit rentals because neither the Units nor the bedrooms in the Units are hotel rooms for purposes of O.C.G.A. § 48-13-50.3.

The opinions expressed in this ruling are based upon the information contained in your request and are limited to the specific transactions, facts, circumstances, and taxpayer in question. Should the circumstances regarding the transactions change or differ materially from those represented, this ruling may become invalid. Subsequent statutory or administrative rule changes or judicial interpretations of the statutes or rules upon which this advice is based may subject similar future transactions to a different tax treatment than that expressed in this ruling.

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[1] O.C.G.A. § 48-13-50.3(b).
[2] Ga. Comp. R. & Regs. 560-13-2-.30-.01(2)(c).
[3] Ga. Comp. R. & Regs. 560-13-2-.30-.01(2)(b).
[4] Ga. Comp. R. & Regs. 560-13-2-.30-.01(2)(b)1.