

Date Issued: September 16, 2015  
Georgia Letter Ruling: LR SUT-2015-07  
Topic: Hotel-Motel Fee

This letter is in response to your request for guidance on the application of the Georgia hotel-motel fee to a particular rental property.

### **Facts as provided by the Taxpayer**

Taxpayer manages rental properties. One such property consists of multiple buildings with less than five units each, all owned by the same entity (the "Property"). The units are rented to individuals on a weekly or monthly basis. A breezeway runs between each building, and each unit has its own exterior door access off the breezeway. An open stairwell and flat roof addition connect the buildings. Otherwise, the buildings are separate from one another.

### **Issue**

Is Taxpayer required to collect the hotel-motel fee on rentals of units at the Property?

### **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.<sup>1</sup> "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."<sup>2</sup> "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."<sup>3</sup>

Based on the facts provided, the Property is not a hotel because it is not a single building with five or more hotel rooms but is instead separate buildings. Although the buildings are connected by a stairwell and roof addition, this does not make them a single building. In addition, because the separate buildings themselves do not have five or more hotel rooms, each building is not a hotel for purposes of the hotel-motel fee.

### **Ruling**

Taxpayer is not required to collect the hotel-motel fee on its rentals of units at the Property because neither the Property nor the buildings are hotels 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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<sup>1</sup> O.C.G.A. § 48-13-50.3(b).

<sup>2</sup> Ga. Comp. R. & Regs. 560-13-2-.30-.01(2)(c).

<sup>3</sup> Ga. Comp. R. & Regs. 560-13-2-.30-.01(2)(b).