

Date Issued: March 4, 2016
Georgia Letter Ruling: LR SUT-2016-07
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 Presented by Taxpayer

[Redacted] (“Taxpayer”) owns rental properties. One such property (the “Property”) contains three condominiums. Each condominium is a separate building, and each is rented as a single accommodation on a weekly or monthly basis. The bedrooms in the condominiums are not individually rented as single accommodations (i.e., the guest renting the condominium unit has access to all of the rooms within the unit). Taxpayer pays property tax and homeowner association fees for each condominium unit individually.

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.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

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 three separate buildings. Furthermore, the bedrooms in the condominiums are not separate hotel rooms because the rooms together make up one single accommodation, and the guest renting the condominium unit has access to all of the rooms within the unit. Thus, because the bedrooms in the condominium units are not separate hotel rooms, the condominium 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 rentals of units at the Property because neither the Property, nor the condominium 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.

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).