

Georgia Letter Ruling Number: LR SUT-2017-20
Topic: Hotel Motel Fee
Date Issued: December 18, 2017

This letter is in response to your letter ruling request dated December 14, 2016 regarding the application of Georgia's State Hotel-Motel Fee to certain transactions conducted by [Redacted], ("Taxpayer").

Facts as Presented by Taxpayer

Taxpayer is a not-for-profit organization located in [Redacted], Georgia, offering youth camps and adult retreats. Taxpayer is required by the local jurisdiction to collect and remit an excise tax on any rooms furnished to the public.

As part of its camp and retreat program, Taxpayer provides various types of accommodations including: dorms, cabins, and multi-housing units all of which accommodate several people per room. These are not private rooms and guests cannot exclude other guests from these rooms. Taxpayer does not provide linens for these accommodations – guests must bring their own linens. Taxpayer does not provide traditional hotel-type services for these accommodations. There is no daily room service in the manner of a hotel or motel, and guests are expected to perform basic cleaning upon departure.

Taxpayer's accommodation offerings also include The Lodge. The Lodge is a stand-alone building with 21 rooms providing private sleeping quarters including linens. Donations are requested from guests to cover the cost of operating the facility. Donations are not deductible for income tax purposes.

Issues¹

1. Is Taxpayer required to collect the State Hotel-Motel Fee?
2. Are any of the accommodations offered by Taxpayer subject to the State Hotel-Motel Fee?

Analysis

Innkeepers must charge a fee (i.e., the State Hotel-Motel Fee) of \$5.00 per night to hotel customers for each night a hotel room is rented unless the rental is specifically excluded from the fee or until the rental becomes an extended stay rental.²

For purposes of the State Hotel-Motel Fee, an "innkeeper" is any person who is subject to taxation under Title 48, Chapter 13, Article 3 of the Official Code of Georgia for the furnishing for value to the public a hotel room.³ Any entity required by the local jurisdiction to collect an excise tax on its sales of accommodations is an innkeeper required to collect the State Hotel-Motel Fee. Here, Taxpayer is required to collect an excise tax under the Title 48, Chapter 13, Article 3 of the Official Code of Georgia.

For imposition of the State Hotel-Motel Fee, a "hotel" is any building having 5 or more hotel rooms under common ownership, regardless of the name of the facility or of how the facility classifies itself.⁴ A "hotel room" is a room in a hotel providing private sleeping accommodations to paying customers that typically includes linen or housekeeping service. A hotel room is occupied by transients or travelers who 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.⁵

In this case, Taxpayer's dorms, cabins, and multi-unit housing do not provide private sleeping accommodations with linens, and, thus, do not fall within the definition of hotel rooms. On the contrary, the Lodge is a single building under

¹ This letter is limited to discussion of the State Hotel-Motel Fee and does not address Taxpayer's sales and use tax remittance obligations related to providing the described accommodations.

² O.C.G.A. § 48-13-50.3(b); Ga. Comp. R. & Regs. r. 560-13-2-.01(3).

³ O.C.G.A. § 48-13-50.3(a)(2); Ga. Comp. R. & Regs. r. 560-13-2-.01(2)(d).

⁴ Ga. Comp. R. & Regs. r. 560-12-2-.01(2)(b).

⁵ Ga. Comp. R. & Regs. r. 560-13-2-.01(2)(c).

common ownership with 21 separate, private sleeping accommodations that include linens. Accordingly, the Lodge is a hotel, and the rooms within the Lodge are considered "hotel rooms" for the imposition of the State Hotel-Motel Fee.

Rulings

1. As an entity required by the local jurisdiction to collect an excise tax on its furnishing of accommodations, Taxpayer is an innkeeper. As an innkeeper, Taxpayer is required to collect the State Hotel-Motel Fee on its rentals of hotel rooms.
2. Taxpayer's dorms, cabins, and multi-unit housing do not provide private sleeping accommodations with linens, and for this reason, these facilities are not hotel rooms. Because Taxpayer's cabins, and multi-unit housing are not hotel rooms, rentals of these facilities are not subject to the State Hotel-Motel Fee.

Because each of the 21 rooms located in the Lodge provide private sleeping accommodations with linens and because all 21 rooms are located in a single building owned by Taxpayer, these rooms are hotel rooms. Therefore, rentals of these rooms are subject to the State Hotel-Motel Fee.

The opinions expressed in this ruling are based upon the information contained in your request and limited to the specific transactions, facts, circumstances and taxpayer in question. The facts herein are those presented by the taxpayer and the Department accepts them as true for this ruling. If the facts presented herein change, are not true, are different, or material facts have been omitted, the conclusions reached in this ruling may change. In addition, 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.