

Georgia Letter Ruling Number: LR SUT-2018-02
Topic: State Hotel-Motel Fee
Dated: March 12, 2018

This letter is in response to your letter ruling request regarding State Hotel-Motel Fee on purchases of accommodations in Georgia.

Facts as Presented by Taxpayer

[Redacted], (“Taxpayer”) is a federal instrumentality of the United States.¹ Taxpayer’s purchases of tangible personal property and services are not subject to Georgia sales and use tax.² Taxpayer rents hotel rooms from innkeepers that are required to charge the State Hotel-Motel Fee. Taxpayer now asks whether it is exempt from the State Hotel-Motel Fee.

Issue

Are Taxpayer’s purchases of accommodations exempt from the State Hotel-Motel Fee?

Analysis

Innkeepers must charge a fee (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.³ The State Hotel-Motel Fee does not apply to hotel rooms rented by the federal government by a check drawn on a federal government account, by a credit card centrally billed to the federal government, or by a federal government purchase order.⁴

The Supremacy Clause of the U.S. Constitution precludes states from taxing the federal government without its consent.⁵ Taxpayer is an instrumentality of the United States, for purposes of immunity from state taxation levied on its operations, and such immunity has not been waived by congressional enactment.⁶

Ruling

As an instrumentality of the United States, Taxpayer is exempt from taxation to the same extent as the federal government. For this reason, purchases of accommodations made by Taxpayer are not subject to Georgia’s State Hotel-Motel Fee when payment for such accommodations is made by a check or wire drawn on Taxpayer’s account, or by a credit card billed to and paid by Taxpayer.

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.

¹ [Redacted], *et seq.*

² Ga. Comp. R. & Regs. r. 560-12-2-.05.

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

⁴ Ga. Comp. R. & Regs. r. 560-13-2(7)(b).

⁵ U.S. Const. art. VI, cl. 2; *McCulloch v. Maryland*, 17 U.S. 316 (1819).

⁶ [Redacted]