

## Georgia Department of Revenue Policy Bulletin FET-2017-01 Fees and Excise Tax Bulletin Duty to Charge the State Hotel-Motel Fee

**Purpose:** This Policy Bulletin provides guidance on the duty of state or local government-owned hotels to charge the state hotel-motel fee.

**Date:** October 30, 2017

**Authority:** O.C.G.A. § 48-13-50.3; Ga. Comp. R. & Regs. r. 560-13-2-.01; *City of Atlanta v. City of College Park*, 292 Ga. 741 (2013).

**Scope:** A Policy Bulletin is intended to provide guidance to the public and to Department personnel. It is a written statement issued to apply principles of law to a specific set of facts or a general category of taxpayers, superseding all conflicting documents and oral directives previously issued by the Department. A Policy Bulletin does not have the force or effect of law and is not binding on the public. It is, however, the Department's position and is binding on agency personnel until superseded or modified by a change in statute, regulation, court decision, or subsequent Policy Bulletin.

State or local government-owned enterprises that meet the definition of "hotel" in Department of Revenue Rule 560-13-2-.01 must charge the state hotel-motel fee<sup>1</sup> to hotel customers. O.C.G.A. § 48-13-50.3 and Revenue Rule 560-13-2-.01 impose the duty to charge the state hotel-motel fee on "innkeepers." "Innkeeper" means any person who is subject to taxation, under Title 48, Chapter 13, Article 3 of the Official Code of Georgia, for the furnishing of a hotel room for value to the public.<sup>2</sup>

Government-owned enterprises furnishing hotel rooms to the public for value are "innkeepers" within the meaning of O.C.G.A. § 48-13-50.3 and Revenue Rule 560-13-2-.01. Such government enterprises are engaged in a proprietary business activity. Accordingly, they are subject to taxation under O.C.G.A. § 48-13-50.3 in the same manner as private entities engaged in the same activity.<sup>3</sup>

<sup>&</sup>lt;sup>1</sup> The state hotel-motel fee is a \$5.00 fee imposed pursuant to O.C.G.A. § 48-13-50.3 and Revenue Rule 560-13-2-.01 for each calendar night a hotel room is rented or leased, subject to certain exceptions. <sup>2</sup> O.C.G.A. § 48-13-50.3(a)(2); Ga. Comp. R. & Regs. r. 560-13-2-.01(1)(d).

<sup>&</sup>lt;sup>3</sup> See generally, City of Atlanta v. City of College Park, 292 Ga. 741, 742 (2013) (discussing the taxation of government entities engaged in proprietary business activities).

Just like their privately-owned counterparts, state or local government-owned hotels must charge the state hotel-motel fee to customers in accordance with the requirements of Revenue Rule 560-13-2-.01. The duty to charge the state hotel-motel fee also applies to government-owned hotels operated by a private company and to privately-owned hotels located on government-owned land. For more information about the state hotel-motel fee, please see Revenue Rule 560-13-2-.01 and <u>FAQs</u> located on the Department's website.

For more information, please contact the Department at 1-877-423-6711 from 8:00 a.m. to 4:30 p.m. ET, Monday through Friday, excluding holidays. For forms and other information, visit the Department's website at <u>dor.georgia.gov</u>.