

The Hotel Operators' Occupation Tax Act is imposed upon hotel operators engaged in the business. Hotel operators are permitted to reimburse themselves for this tax liability by stating such amount as an additional charge to persons renting rooms. 86 Ill. Adm. Code 480.101. (This is a GIL.)

April 2, 2012

Dear Xxxxx:

This letter is in response to your letter that we received on January 30, 2012, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.tax.illinois.gov to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

We represent a client who resells hotel rooms in CITY to its members. They have engaged us to determine if they are obligated to collect and remit sales and hotel taxes on the rent that they receive from their members.

Members pay a membership fee to join our client's club. Once they are a member, they have access to hotel rooms around the world at discounted rates. Our client purchases rooms from hotels at a discounted rate.

Is our client obligated to collect and remit sales and lodging taxes on the full amount of rent received from the renter, or just on the discounted price that they remit to the hotel?

Below is an example of a typical transaction:

- A member rents a hotel room via our client for \$100 plus tax
- Our client collects the \$100 plus tax from the renter/member
- Our client remits \$60 plus tax for the room to the hotel

Should our client charge sales and lodging taxes on the \$100 or the \$60?

The hotel will remit tax on the \$60, so should our client remit tax on the \$40, or is the \$40 considered a commission and not taxable?

Please feel free to call me with any questions.

DEPARTMENT'S RESPONSE:

The Hotel Operators' Occupation Tax Act ("HOOT") imposes a tax upon persons engaged in the business of renting, leasing or letting rooms in a hotel, as defined in the Act. HOOT defines "hotel" to include any building or buildings in which the public may, for consideration, obtain living quarters, sleeping or housekeeping accommodations. See 35 ILCS 145/2(1). See also 86 Ill. Adm. Code 480.101, which explains the nature, rate and scope of HOOT. This tax may be in addition to any local hotel taxes that may be applicable.

HOOT defines "rent" as "the consideration received for occupancy, valued in money, whether received in money or otherwise, including all receipts, cash, credits and property or services of any kind or nature." See 35 ILCS 145/2(6). The definition of "rent" must be read in conjunction with the term "occupancy." HOOT defines "occupancy" as "the use or possession, or the right to the use or possession, of any room or rooms in a hotel for any purpose, or the right to the use or possession of the furnishings or to the services and accommodations accompanying the use and possession of the room or rooms." See 35 ILCS 145/2(3).

As noted above, HOOT is a tax upon persons engaged in the business of renting, leasing or letting rooms in a hotel (i.e., a hotel operator). There is no corresponding tax imposed upon hotel room occupants. Rather, a hotel operator may reimburse himself for his HOOT liability by collecting a corresponding reimbursement charge from a room occupant. Although a hotel operator may state the reimbursement charge as "hotel tax" on his bill, it is nothing more than a reimbursement charge. Given the structure of the tax, the hotel operator will incur HOOT liability on the rental receipts even when he is not reimbursed by the room occupant.

I hope this information is helpful. If you require additional information, please visit our website at www.tax.illinois.gov or contact the Department's Taxpayer Information Division at (217) 782-3336.

Very truly yours,

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