

This letter discusses the Hotel Operators' Tax Act. See 86 Ill. Adm. Code 480.101. (This is a GIL.)

October 2, 2020

Dear Xxxx:

This letter is in response to your letter received in our office March 1, 2019, in which you requested 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:

I am requesting confirmation that COMPANY or myself would not be held responsible if COMPANY1 defaulted of Hotel/Motel tax collected and submitted to the State by COMPANY1.

DEPARTMENT'S RESPONSE:

The Hotel Operators' Occupation Tax Act imposes a tax upon persons engaged in the business of renting, leasing or letting rooms in a hotel, as defined in the Act. The Hotel Operators' Occupation Tax Act 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). The Hotel Operators' Occupation Tax Act 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." The Hotel Operators' Occupation Tax Act 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).

Therefore, in the context of the provision of short-term accommodations that are rented through the use of a third-party platform, like the platform you mentioned in your letter, the third-party

platform is not liable for The Hotel Operators' Occupation Tax. Rather, the tax obligation is on the owner/host of the accommodations which are being rented. However, there are situations where a third-party platform agrees to remit the Hotel Operators' Occupation Tax on behalf of the owner/host. In those situations, the third-party platform would enter into an agreement with the Department wherein the third-party platform agrees to remit taxes imposed on the rentals on its platform. Based on the agreement with the third-party platform, the Department would look to the third-party platform for any Hotel Operators' Occupation Tax liability. Those renting on a third-party platform should contact that platform to determine if that platform has entered into such an agreement with the Department.

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,

Debra M. Boggess
Associate Counsel

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