

ST-23-0028-GIL 08/30/2023 HOTEL OPERATORS' TAX

In computing the Hotel Operators' Occupation Tax, the amounts collected by the hotel operator under each of the Hotel Operators' Occupation Tax, the Municipal Hotel Operators' Occupation Tax, and the Illinois Sports Facilities Tax must be included in the taxable gross rental receipts for each of the other taxes. See 35 ILCS 145/3, 65 ILCS 5/8-3-13, 70 ILCS 210/13(c), and 70 ILCS 3205/19. (This is a GIL.)

August 30, 2023

NAME

Director of Tax

COMPANY

[ADDRESS1](#)

Dear NAME:

This letter is in response to your e-mail received December 27, 2022, 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](http://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:

My company manages several hotel properties in IL. We are running into issues with one of the online travel booking agencies regarding the proper tax rate to be charged. They are disputing the rate that we are charging. I have confirmed with the IL Department of Revenue that the rate charged for IL HOOT should be 11.9% in the City of Chicago. There is no written guidance that I or the representative with IL DOR could locate that spells out the 11.9% rate. Would you be able to confirm in writing that the property should be charging 11.9% at our location at ADDRESS2?

**Hotel Operators' Occupation Tax**

State Rate	6 percent of 94 percent of gross receipts
Illinois Sports Facilities Authority Hotel Operator's Tax	2 percent of 98 percent tax on gross receipts in the city of Chicago
Metropolitan Pier and Exposition Authority (MPEA) Hotel Tax	2.5 percent of gross charges from hotel operators in the city of Chicago
Municipal Hotel Tax	1 percent of 99 percent tax on gross receipts from hotel operators in the city of Chicago

Thank you for your consideration of this request. Any assistance would be appreciated.

**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 at the rate of 5% of 94% of the gross rental receipts, plus an additional 1% of 94% of gross rental receipts from such guests, for a combined total rate of 6% of 94%. The statute excludes from gross rental receipts taxes imposed by the Metropolitan Pier and Exposition Authority ("MPEA"). 35 ILCS 145/3 and 86 Ill. Adm. Code 480.101. The Act defines "rent" or "rental" to mean 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. 35 ILCS 145/2 and 86 Ill. Adm. 480.105.

State statute also permits Chicago to levy a tax of up to 1% of gross rental receipts of hotel operators, excluding from gross rental receipts taxes imposed by the MPEA. (Chicago Municipal Hotel Operators' Occupation Tax, 65 ILCS 5/8-3-13). The Illinois Sports Facilities Authority ("ISFA") imposes a tax of 2% of gross rental receipts of hotel operators in Chicago, excluding from gross rental receipts taxes imposed by the MPEA. (70 ILCS 3205/19). The MPEA imposes a tax of 2.5% of gross receipts of hotel operators in Chicago, excluding from gross rental receipts taxes that are added on account of any tax imposed by the State or any governmental agency. (70 ILCS

210/13(c)). The Illinois Department of Revenue collects all three taxes and distributes the funds accordingly.

Additionally, the City of Chicago administers its own 4.5% home rule hotel tax (Chicago, Ill., Municipal Code, §3-24-30) and Cook County administers its own 1% hotel tax (Cook County, Ill., Code of Ordinances, §74-802), both of which exclude from gross rental receipts taxes that are added on account of State or local hotel taxes. The total effective hotel tax rate on hotels in Chicago is 17.4%. That is because, due to the differing definitions of “gross rental receipts” as discussed above, the gross rental receipts of the State tax, Chicago Municipal Tax (administered by the Illinois Department of Revenue), and ISFA tax each includes the other two of those taxes, while the gross rental receipts of the MPEA tax, the Cook County-administered county hotel tax, and the Chicago-administered city hotel tax each do not include any State or local hotel taxes. As such, Chicago hotels are advised to collect a total tax rate of 17.4%, of which the Department collects and administers 11.9%, Chicago collects and administers 4.5%, and Cook County collects and administers 1%. While the nominal total tax rate for taxes administered by the Department is 11.5% (State 6% + ISFA 2% + Chicago Municipal 1% + MPEA 2.5% = 11.5%), the State tax, ISFA Tax, and Chicago Municipal Tax each includes the taxes imposed by the other as part of gross rental receipts subject to tax, so the effective tax rate rounds to 11.9%.

In computing the Hotel Operators’ Occupation Tax (i.e., the State tax), the amounts collected by the hotel operator as reimbursement for the Hotel Operators’ Occupation Tax, as well as the sums for the Chicago Municipal Hotel Operators’ Occupation Tax and the Illinois Sports Facilities Tax, must be included in the gross rental receipts. With respect to the State tax, the tax is reduced by the amount of the reimbursement of the tax inasmuch as the rate is 6% of 94% of gross receipts. 35 ILCS 145/3 and 86 Ill. 480.101. Thus, the State tax is not imposed on the amount collected by the hotel operator as reimbursement for the State Hotel Operators’ Occupation Tax.

The amounts collected by the hotel operator as reimbursement for the Chicago Municipal Hotel Operators’ Tax and the Illinois Sports Facilities Tax are included in the tax base for the other tax. Thus, the tax base for the State tax would include collections of the Chicago Municipal Tax and the Illinois Sports Facilities Tax; the tax base for the Chicago Municipal Tax would include collections of the State Tax and the Illinois Sports Facilities Tax; and the tax base for the Illinois Sports Facilities Tax would include the collections of the State tax and the Chicago Municipal Tax. While each of the taxes properly includes the collection of the other taxes in their respective tax bases, none of the taxes are imposed upon the collection of that tax itself.

This procedure was the subject of litigation in the case of *Sullivan v. Commonwealth Edison Company*, 115 Ill. App.3d 560 (1983). That case dealt with the various taxes imposed on utility service in Illinois and held that municipal tax collections passed on to customers as additional charges were includable in the tax base for the computation of the State utility tax.

The Illinois Sports Facilities Tax specifically provides that “persons subject to any tax imposed pursuant to authority granted by this Section may reimburse themselves for their tax liability for such tax by separately stating such tax as an additional charge, which charge may be stated in combination, in a single amount, with State tax imposed under [other hotel taxes].” 70 ILCS 3205/19(c). The Chicago Municipal Hotel Operator’s Tax includes virtually the same provision. (65 ILCS 5/8-3-13). These provisions authorize the hotel operator to charge customers the amount necessary to reimburse the hotel operator for the tax liabilities. Inasmuch as the tax base may exceed the room rental charge, hotel operators would be authorized to make an additional charge which would be in excess of the room rental fee, as long as that charge did not exceed the hotel operator’s liability for tax. See the chart below explaining the effective tax rate for hotel taxes in Chicago that are administered by the Illinois Department of Revenue.

Effective tax rate for Illinois Department of Revenue-administered Hotel Operators’ Occupation Tax – Chicago Example

State	6% State	+	(6% of 94%) x (1% Chicago + 2% ISFA) [0.0564 x 3 = 0.17]	=	6.17 %
Chicago (Municipal )	1% Chicago	+	(1% of 99%) x (6% State + 2% ISFA) [0.0099 x 8 = 0.08]	=	1.08 %
ISFA	2% ISFA	+	(2% of 98%) x (6% State + 1% Chicago) [0.00196 x 7 = 0.14]	=	2.14 %
MPEA	2.5% MPEA				2.5%
<b>TOTAL</b>					<b>11.9</b>

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

Very truly yours,

Samuel J. Moore  
Associate Counsel

SJM:rkn