

This letter discusses the Hotel Operators' Occupation Tax liabilities of hunting establishments that provide overnight stay accommodations as part of hunting packages it sells. See 86 Ill. Adm. Code 480.101(b)(6). (This is a GIL.)

January 27, 2006

Dear Xxxxx:

This letter is in response to your letter dated December 4, 2004, 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:

Our Tourism Committee believes that the Hotel/Motel tax should be applied fairly. If this tax is going to exist then it should apply equally to all overnight stay facilities.

This letter is a formal request for a formal ruling on the application of the Hotel/Motel tax to hunting establishments that provide overnight stay accommodations as part of their hunting packages. Such a ruling should state 1) If the tax should apply 2) If the tax applies to the whole package, a certain percentage of the gross package fee or within the range of overnight stay fees among local hotels & motels, as opposed to a token \$1.00 fee. 3) When the tax will be considered in effect i.e. retroactive to Jan 1, 2004 or upon publication of a formal opinion. I assume that such a ruling would be applied uniformly statewide. Your consideration in this matter is greatly appreciated.

DEPARTMENT'S RESPONSE:

The Hotel Operators' Occupation Tax Act (35 ILCS 145/1 et seq.) imposes a tax upon persons engaged in the business of renting, leasing or letting rooms in a hotel. The tax is imposed at a rate of 5% of 94% of the gross rental receipts from the renting, leasing or letting of such rooms. An additional tax is also imposed at a rate of 1% of 94% of such gross rental receipts. Proceeds from the renting, leasing or letting to permanent residents of a hotel are excluded from the gross receipts upon which

the tax is imposed. A permanent resident is a person who occupies or has the right to occupy a room for at least 30 consecutive days. See 86 Ill. Adm. Code 480.101 and 480.105.

The Hotel Operators' Occupation Tax is imposed on receipts from renting rooms for living quarters or for sleeping or housekeeping accommodations. Therefore, other receipts which are not in any way reasonably connected with or attributable to the renting, leasing or letting of rooms for use as living quarters or for sleeping or housekeeping accommodations are not subject to the Hotel Operators' Occupation Tax. See 86 Ill. Adm. Code 480.101(b)(6) and 480.105. Additionally, the tax does not apply to receipts from the renting of rooms for other purposes, such as meeting rooms or banquet rooms. See Section 480.101(b)(1). Properly kept books and records, however, must support the exemption for such nontaxable receipts. See 86 Ill. Adm. Code 480.115. Every hotel operator must keep separate books or records showing rents and occupancies taxable under the Hotel Operators' Occupation Tax Act separate from his transactions that are not taxable under the Act. If an operator fails to keep separate books or records, the operator will be liable for Hotel Operators' Occupation Tax imposed on the entire proceeds from the hotel. See Section 480.115(a).

If a hunting establishment provides overnight stay accommodations as part of the hunting packages it sells, the gross receipts from the rental of these sleeping accommodations are taxable under the Hotel Operators' Occupation Tax Act. If the hunting establishment fails to separate its taxable transactions under the Act from the non-taxable transactions, then the hunting establishment will be liable for Hotel Operators' Occupation Tax on the entire proceeds from the hunting package.

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. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Sincerely,

Samuel J. Moore
Associate Counsel

SJM:msk