ST 04-0113-GIL 08/02/2004 HOTEL OPERATORS' TAX

The exemption from the Hotel Operators' Occupation Tax for "permanent residents" applies if an organization occupies or has the right to occupy any room or rooms in a hotel for at least 30 consecutive days, regardless of whether the individual who occupies the room during that period changes. See 35 ILCS 145/2. (This is a GIL.)

August 2, 2004

Dear Xxxxx:

This letter is in response to your letter dated November 10, 2003, 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.ILTAX.com 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:

> Thank you for your recent letter regarding ABC and the Hotel Operators' Occupation Tax. I appreciate your response. However, one question still remains. We would like to seek clarification from the Illinois Department of Revenue regarding the issue of who must rent the room for thirty consecutive days in order for the hotel to qualify for an exemption. Frequently, ABC will retain a room or rooms for 30 or more days but this room or block of rooms may be occupied by several different volunteers. Although, two or more people have resided within the rooms but with the purpose of supporting ABC operations, would the hotel be eligible for an exemption for the rooms rented by ABC during that 30 period? If this is the case, we would like to have a letter from the Department of Revenue stating this fact that we may present to hotel owners and managers for their clarification.
>
> Along the same lines, occasionally ABC volunteers will pay for their own room and then seek reimbursement at a later date. Since, ABC is indirectly paying the bill, would this also be cause for an exemption?
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> Your assistance with these remaining questions would be very helpful and greatly appreciated!

Department's Response:

If ABC meets the "permanent resident" definition by renting a room for 30 or more consecutive days, the hotel operator will not incur Hotel Operators' Occupation Tax on that rental. See 35 ILCS 145/2. This is the case even if the room is occupied by different volunteers during that 30 or more consecutive day period. In this instance, ABC is the "person who occupied or has the right to occupy" the room or rooms and the exemption would apply on that basis.

If, on the other hand, an individual volunteer who stays for a period of less than 30 days pays for the room himself or herself and then seeks reimbursement from ABC, no exemption from the Hotel Operators' Occupation Tax would apply. This is true even if the room is rented by another volunteer immediately upon the departure of the first volunteer. In this instance the "person" who "occupied or has the right to occupy" the room is the volunteer. If that volunteer does not rent the room for a period of 30 consecutive days or more, the exemption for permanent residents would not apply. If the volunteer does rent the room for a period of 30 or more consecutive days, then the permanent resident exemption applies regardless of whether the volunteer is reimbursed by ABC.

I hope this information is helpful. If you require additional information, please visit our website at www.ILTAX.com 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