

The renting or leasing of all or part of a condominium unit to the public would fall under the jurisdiction of the Hotel Operators' Occupation Tax Act, however, the gross receipts from the rentals or leases to persons who have the right to occupy the condominium unit for a period of at least 30 consecutive days would not be subject to tax. See 86 Ill. Adm. Code 480.101 and 480.105. (This is a GIL.)

December 9, 2008

Dear Xxxxx:

This letter is in response to your letter dated June 19, 2008, in which you request a Private Letter Ruling. 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.

Whether to issue a Private Letter Ruling in response to a request for such a ruling is within the discretion of the Department. See subpart (a)(4) of 2 Ill. Adm. Code 1200.110. The Private Letter Ruling Committee has decided that it will not issue a Private Letter Ruling in regards to your request. 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 operate a practice in IL. A few years ago I purchased a condominium on the north side of the City of Chicago. My condo is located in a building consisting solely of condominiums and does not contain any retail establishments or other type of businesses. The building originally consisted of apartments, which then were converted to condominiums. My family and I used our condo for weekend visits to the city and often times for holidays such as Thanksgiving and Christmas. As my children got older they complained that the condo we owned was too small and they encouraged me to acquire a larger unit. A larger condo became available in the same building as my first unit and I purchased it.

My children have now gotten older with one currently entering college in the fall. They are no longer interested in accompanying my wife and I downtown. I now have the dilemma of owning both of these condos in a weak-housing market. When I acquired my second unit I was able to rent out my smaller unit for periods of one year or longer. During that time my family and I continued to use our second unit frequently.

The income and expenses from the rental income generated by my original condo were reported on my Federal and State Income Tax Returns. However, currently with the market the way it is and with the continued increase of monthly maintenance fees and real estate taxes the cost associated with owning both of these condos is becoming rather prohibitive. My solution will be achieved when I sell the units but until that time comes I will be looking for renters to assist me in covering my expenses.

My intention regarding renter(s) is to have someone long term so that I have a guaranteed income to pay the monthly expenses. However, until I have a tenant or two for each unit there might be a possibility that I can and would rent out my unit(s) for lesser periods of time ie.: six months, one month or even possibly weekends.

My objective is to comply with all tax laws and the purpose of my letter to insure that I do so. I have telephoned the City of Chicago and the person that I spoke to in their Revenue Department told me that I do not need to do anything different than I am doing now to be in compliance with Chicago. I just want to confirm that I am in compliance with the State of IL and the IL Dept. of Revenue. I am really not sure if any taxes besides IL Income Tax would be applicable.

I am currently not under audit or any type of investigation nor have I been contacted by anyone from the IL Dept. of Revenue. I have spent considerable time reviewing your web page and have reviewed numerous letter rulings but I cannot find a letter detailing a circumstance similar to mine. I would therefore request a Private Letter Ruling for my specific situation.

I have reviewed the Hotel Operator's [sic] Occupation Tax Act but I feel that this Act doesn't apply to me because I am not engaged in the business renting, leasing or letting rooms in a hotel.

I would therefore greatly appreciate a response to my request so that I am confident I am in compliance with any and all IL Laws. If you need any additional information please contact me and I will gladly respond. Thank you for your consideration in this matter.

#### **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. A "hotel" is defined as any building or buildings in which the public may, for a consideration, obtain living quarters, sleeping or housekeeping accommodations. The term hotel includes inns, motels, tourist homes or courts, lodging houses, rooming houses and apartment houses. See 35 ILCS 145/2 and 86 Ill. Adm. Code 480.105.

The tax applies to gross receipts received from a person who occupies a room or becomes irrevocably liable to pay rent for the right to occupy a specific room or rooms. However, the 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 35 ILCS 145/2 and 86 Ill. Adm. Code 480.101 and 480.105.

As provided in the definition of a hotel described above, the Hotel Operators' Occupation Tax Act applies to the renting or leasing of living quarters or sleeping accommodations to the public. The renting or leasing of all or part of a condominium unit to the public would fall under the jurisdiction of the Hotel Operators' Occupation Tax Act. Please note that the gross receipts from rentals or leases to persons who have the right to occupy the condominium unit for a period of at least 30 consecutive days would not be subject to tax. See 86 Ill. Adm. Code 480.101 and 480.105.

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. 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).

Very truly yours,

Terry D. Charlton  
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