

Gross receipts from the rentals of rooms to "permanent residents" are not subject to Hotel Operators' Occupation Tax liability. A "permanent resident" is any person who has occupied or has the right to occupy any room or rooms in a hotel for at least 30 consecutive days. See 86 Ill. Adm. Code 480.101. (This is a GIL.)

September 8, 2010

Dear Xxxxx:

This letter is in response to your letter dated January 5, 2010, 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](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:

Statutory Reference is made to (35 ILCS 145/) Hotel Operators' Occupation Tax Act.  
(Attached for your reference)

**Facts**

The taxpayer is a hotel who has entered into an agreement with an airline to provide hotel rooms for all crewmembers for a period longer than 30 days. The number of rooms occupied by the airline varies from night to night depending on the number of personnel laying over. Typically the airline occupies 14 rooms on a daily basis per night each month.

**The question is:**

- (a) When an organization such as an airline enters into a binding written contract for a block of rooms for 30 days or more, are there specific conditions, requirements or wording requested in the contract so that the organization qualifies for tax exemption due to continuous use of rooms?
- (b) May the rooms be sold as tax exempt from the first day? If not, is there any credit issued after 30 days?

- (c) Must the occupancy be in the same room for the entire period?
- (d) Must the same individual occupy the room for the entire period?

We are requesting a ruling for the above.

#### **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. The gross proceeds from rental receipts for rentals to "permanent residents" are excluded from Hotel Operator's Occupation Tax liability.

A permanent resident is any person who occupies or has the right to occupy any room or rooms, regardless of whether it is the same room or rooms, in a hotel for at least 30 consecutive days. See 86 Ill. Adm. Code 480.101 and 480.105. Regardless of whether the customer contracted with the hotel operator to stay 30 consecutive days at check-in, if a person qualifies as a permanent resident (stays at least 30 consecutive days at the hotel), the gross receipts received by the hotel operator would not be subject to tax for that period.

If a business and a hotel operator enter into an agreement that requires a business to rent a specific number of rooms for at least 30 consecutive days and the business is unconditionally obligated to pay for such rooms, whether or not they are occupied during that period, then the business is a permanent resident for those specific number of rentals, the hotel operator is not subject to the Hotel Operator's Tax with respect to the rental receipt for those specific number of rentals, and it does not have to charge and collect the tax. The rooms may be occupied by different employees of that business during that 30 consecutive day period.

If a business and a hotel operator enter into an agreement that does not unconditionally obligate the business to pay for a specific number of rooms for at least 30 consecutive days, the hotel operator is required to charge and collect the tax. If the hotel operator charges the business the hotel tax for a room (whether or not it is the same room) for a 30 consecutive day period, the business shall have a legal right to claim a refund of the amount of tax collected for such room from the hotel operator.

Any taxes collected by the hotel operator that are not refunded to the customer for any reason must be remitted to the Department. 35 ILCS 145.3(f). Upon an unconditional refund of the tax to the permanent resident, the hotel operator may file a claim for credit for any hotel tax paid by the operator. 86 Ill. Adm. Code 480.125.

I hope this information is helpful. You may wish to review some of the letters on the Department's website under the heading "Hotel Operators' Tax". 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,

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