

After the issuance of CA-2016-15 regarding persons or entities renting living quarters or sleeping accommodations to the public, several questions have arisen regarding the liability of retreat centers. Please see the following questions and answers:

1. Q. I operate a retreat center that is organized to offer different programs over three-day periods. Persons who want to participate register and pay a fee that includes the program and sleeping accommodations. Only persons who register to participate in a program can stay at the center. Would the Department consider the center open to the public and subject to Hotel Operators' Occupation Tax (HOOT)?

A. No. If the center's rooms can only be used by persons participating in one of the programs, the Department does not consider the center open to the public.
2. Q. I operate a center where I offer different programs (as described in Q. 1). I also rented sleeping accommodations to persons for purposes other than the programs described in Q.1. Would the Department consider the center open to the public and subject to HOOT?

A. Yes. Because the center rented to the public, the Department would consider the center to be engaged in the business of renting sleeping accommodations to the public and, thus, all its rentals would be subject to HOOT, including the rentals to persons participating in its programs.
3. Q. I operate a center that is open to the public. I charge a lump-sum fee that includes a program, sleeping accommodations, and two meals a day. Would that lump-sum charge be subject to HOOT?

A. The charge for the program, the sleeping accommodations, and the food would all be subject to HOOT if you do not separate these charges in your books and records.
4. Q. I operate a center that provides a complimentary breakfast in conjunction with the rental of sleeping accommodations. The price of the room rental is the same regardless of whether the guest avails himself or herself of the complimentary breakfast. Am I considered a donor of those meals for sales and use tax purposes?

A. Yes. You incur a Use Tax liability on your cost price of the complimentary breakfast that you provide. If you also sell food in a restaurant or coffee shop, you must register for and remit Retailers' Occupation Tax.