

**HTX – 2008-01**  
**3-21-2008**

## STATEMENT OF AUDIT PROCEDURE

### HOTEL TAX NO SHOWS

#### **BACKGROUND**

The law imposes a tax on the occupancy of hotel rooms in New York City. An “occupancy” is defined by the law, in pertinent part, as the “use or possession, or the right to the use or possession of any room or rooms in a hotel.” Article 5 of the Hotel Tax Rules provides, in part, that “there is an ‘occupancy’ of a room whether or not the person entitled to the use or possession of the room actually uses or possesses it.”

In a March 21, 1980 letter ruling, the Finance Department ruled that hotels that charged for rooms rented with a guaranteed reservation were required to collect the Hotel Tax for such a rental. Under such a policy, the hotel would open a reserved room for the entire night for the party who had made such a reservation. If the party did not appear on the reserved date, the hotel would send him a “NO SHOW” bill for the room. The Department ruled that since the person had the right to use the room, even if he did not actually use it, the Hotel tax applied.

This policy was republished by the Finance Department in an October 1980 Finance Bulletin. The Bulletin stated

Where a hotel, under its guaranteed reservations policy, holds a room for the person who made the reservation, and bills him for it even though he fails to appear, it must charge and collect the hotel room occupancy tax on the “no show” billing, since the term “occupancy” as used in the law, includes the right to use or occupy a hotel room.

#### **SCOPE**

This Statement of Audit Procedure will give guidance to auditors in connection with audits of hotel operators under the Hotel Room Occupancy Tax where such hotel operators bill guests for “no show.”

## **PROCEDURE**

When auditing the books of a hotel for Occupancy tax, an auditor must review the account listed for guaranteed reservations. This account may be found within the hotel's Occupancy accounts, deposit accounts or reservation services accounts. The auditor must verify that the operator charged and collected the proper Occupancy tax on these revenues.