

16-5. May 24, 2016

FINANCE MEMORANDUM

Tax on Hotel Room Occupancy Revised to Exempt Certain Occupancies Conveyed to Room Remarketers

Background:

New York State legislature recently amended both the Sales Tax on hotel rooms and the New York City Hotel Room Occupancy Tax (“Hotel Tax”). The changes, contained in Chapter 60 of the Laws of 2016, will become effective on June 1, 2016. Specifically, any occupancies conveyed or furnished by a hotel operator to a room remarketer for the purpose of re-selling to an occupant after June 1, 2016 will be exempt from Hotel Tax. The room remarketer will still be responsible for collecting and remitting the Hotel Tax on the sale to the occupant.

This Finance Memorandum explains how the Hotel Tax has been modified, and gives guidance to remarketers and hotel operators with regard to their revised obligations for tax periods beginning on and after June 1, 2016.

Modifications to Obligations of Remarketers:

Under the new law, remarketers are entitled to an exemption from the Hotel Tax for occupancies they acquire from hotel operators, but they must provide them with a New York State Room Remarketer’s Exempt Purchase Certificate in order to claim it. Remarketers still collect tax on the full amount charged to the occupant and to remit the tax collected directly to Finance. Remarketers will still be allowed a refund or credit from Finance for any tax paid to a hotel operator for an occupancy conveyed prior to June 1, 2016, or any tax paid to another remarketer for an occupancy. Only remarketers that have registered with Finance to collect Hotel Tax, and have collected and remitted Hotel Tax for a particular quarterly filing period, may apply for this refund or credit.

The new law also specifies that when occupancy of a hotel room or rooms is sold for a single fee with other items or services, unless the rent qualifies for this exemption, the entire amount is considered taxable rent. However, if the operator or room remarketer provides the occupant with a sales slip, invoice, receipt or other statement that separately states a reasonable amount of the total charge as rent for occupancy, only the separately stated amount is subject to Hotel Tax.

Refunds or Credits for Hotel Tax Paid to Another Room Remarketer (or to a Hotel Operator for Occupancies conveyed prior to June 1, 2016)

A room remarketer may take a credit on its quarterly Hotel Tax return for taxes paid to hotel operators or other room remarketers, however taking the credit at that time is deemed to be part of the application for that credit, is subject to audit and may ultimately not be allowed.

In order to apply for a credit or refund, room remarketers must include a schedule attached to their quarterly Hotel Tax filing with the name, address and amount paid to each hotel operator or room remarketer. In the alternative, a room remarketer may attach a summary schedule and make all details available to the Commissioner of Finance upon request.

A credit or refund must be requested in writing within one year of the date the Hotel Tax was paid by the occupant to the room remarketer.

Registration Requirements

Room remarketers offering hotel rooms in New York City must complete and file a Certificate of Registration with Finance within three days of the date they begin offering hotel rooms in New York City.

Finance will then send remarketers a Certificate of Authority to collect Hotel Tax on Finance's behalf. The certificate must be prominently displayed where occupants will see it. In the case of a room remarketer that offers New York City hotel rooms on the internet, the Certificate of Authority should be scanned and displayed on the room remarketer's web site.

Certificates of Registration are available on the Finance website at nyc.gov/finance.