**Private Letter Ruling**

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| **Ruling Number:** | **P-2000-050** |

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| **Tax Type:** | **Kansas Retailers' Sales Tax; Transient Guest Tax** |
| **Brief Description:** | **Hotel rooms rented for long term periods by a single corporation.** |
| **Keywords:** |  |
| **Approval Date:** | **10/02/2000** |

**Body:**

Office of Policy & Research

October 2, 2000

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RE: Your letter of July 26, 2000

Dear XXXX:

Thank you for your letter that we received in July. In it, you ask how hotel rooms rented for long term periods by a single corporation are taxed under the sales tax and the transient guest tax acts.

Transient guest tax statutes provide an exemption for rooms that are rented for more than twenty-eight consecutive days. *See K.S.A. 1999 Supp. 12-1692, K.S.A. 1999 Supp. 12-1696, and K.S.A. 79-5301 et seq.*These statutes state: “‘Transient guest’ means any person who occupies a room in a hotel, motel or tourist court for not more than 28 consecutive days.” Thus, by definition, a person who rents a hotel or motel room for more than twenty-eight consecutive days is not a transient guest and rentals of rooms to such a person are not subject to the transient guest tax.

Hotel room rentals for more than twenty-eight days are not exempt from Kansas sales tax. While there had been a sales tax exemption for such long term rentals, the exemption was repealed in 1992. The strike-throughs in the 1992 session laws show the repeal:

(g) the gross receipts from the service of renting room by hotels, as defined by K.S.A. 36-501 and amendments thereto, except such tax shall not apply where a room is rented by an individual, firm, association or corporation for a period of more than 28 consecutive days; *1992 Kan. Session Laws. Ch. 280, Sec. 59.*

This means that companies have not been exempt from paying sales tax on their long term hotel room rentals since 1992. Accordingly, hotels and motels should charge state and local sales tax on hotel sleeping room rentals regardless of the length of the stay.

Your questions concern multiple room rentals that are made to and paid by a single corporation. You state that the number of rooms being rented to the corporation range from twenty to forty at any one time during the year. You indicate that employees and representatives stay in different rooms within the hotel, rather than in one block of rooms. You ask how these should be taxed.

For state and local sales tax, the answer is that all the room rentals should be taxed all of the time. For transient guest tax, the answer is more complicated. As department Notice 92-19 shows, the department’s policy has been to apply the twenty-eight day room rule not just to individuals but to firms, associations and corporation as well. Similarly, there has been no requirement that a single room must be occupied continuously. A guest that stays for more than twenty-eight consecutive days in a hotel may stay in several different rooms and still be entitled to the transient guest tax exemption.

To determine the exemptions for the corporation, you must keep a daily total of the rooms rented to the corporation. During the first twenty-eight days that rooms are rented, you should charge tax on all the room rentals, or you may honor an exemption certificate for the rooms. If you charge transient guest tax, on the twenty-ninth day, you would review your daily totals and select the lowest number of room rentals that had been occupied (28 day baseline). The transient guest tax charged on this lowest number of room would be refunded to the corporation and your hotel would take a credit for a like amount on your transient guest tax return. For each following day, you would review the daily totals against the 28 day baseline. If the number of room rentals drops, the lower number would become the new 28 day baseline. If the number of room rentals increases, you would review the previous twenty-eight days. If as many rooms had been rented during the previous twenty-eight day period as on the twenty-ninth day, this would become your new 28 day baseline.

This means that for each day, the corporation will be taxed on the difference between the 28 day baseline (as adjusted) and the total number of rooms being rented. If no rooms were rented the previous day, such as on Thanksgiving, Christmas or New Years, you would start the procedure all over again. The corporation would be charged transient guest tax on all room rentals until the twenty-ninth day, when transient guest tax credit would be figured according to the lowest number of rooms rented the during the previous twenty-eight day period. These payments would be refunded and the procedure would begin anew.

Please note that this approach should be based on the total daily charge billed to the corporation for all the rooms and on the percentage established by the 28 day baseline number of rooms to the total number of rooms that are rented. This way, any difference in room rates will be averaged out. Please note too that you may follow the procedure discussed above or any other procedure that yields the same results. For example, when dealing with a corporate customer that provides you a great deal of business, you may want to honor the exemption claim up front and then determine the tax due on the room on the twenty-ninth day.

I hope this letter answers your questions and adequately explains the law. If not, please call me to discuss this matter further. This is a private letter ruling and is based solely on the facts provided in your request. If it is determined that undisclosed facts were material or necessary to make an accurate determination by the department, this ruling is null and void. This private letter ruling will be revoked in the future by operation of law without further department action if there is a change in the statutes, administrative regulations, or case law, or a published revenue ruling, that materially affects this private letter ruling.

Sincerely,

Thomas E. Hatten
Attorney/Policy & Research

**Date Composed: 10/03/2000 Date Modified: 10/11/2001**