

FINANCE MEMORANDUM

Note that after June 1, 2016, this Finance Memorandum is only partially in effect. Remarketers will only be allowed a refund or credit for tax they paid to a hotel operator for occupancies that did not qualify as exempt, or for tax paid to another remarketer for occupancy. For further information, see Finance Memorandum 16-5.

Tax on Hotel Room Occupancy Revised for 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 57 of the Laws of 2010, will become effective on September 1, 2010. The bill has modified the law with respect to the obligations of room remarketers and will affect the records that must be kept starting on September 1, 2010 for the purposes of quarterly Hotel Tax filing due in December 2010.

This Finance Memorandum explains how the Hotel Tax has been modified, and gives preliminary guidance to remarketers with regard to their revised obligations for tax periods beginning on and after September 1, 2010. Additional, more detailed guidance will be provided in the near future.

Modifications to Obligations of Remarketers:

Under the new law, the remarketers are required to collect Hotel Tax on the full amount charged to the occupant and to remit the tax collected directly to Finance. Remarketers will then be allowed a refund or credit from Finance for any tax paid to the hotel operator or another remarketer for that 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, 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.

Compliance:

Forms to File

The specialized tax return for room remarketers, Form HTX-RR, will no longer be used after the period ending August 31, 2010.

Room remarketers must begin filing Form HTX, the Hotel Tax returns currently used by hotel operators, beginning with the tax quarter that starts on September 1, 2010.

Refunds or Credits for Hotel Tax Paid to a Hotel Operator or Other Room Remarketer

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 the new 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.

A room remarketer may take credit on their 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.

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.