Title 35 Mississippi State Tax Commission

Part IV Sales & Use

Sub Part 05 Services

Chapter 01 – Hotels, Motels, Mobile Home and Trailer Parks

100 Levy

101 Miss. Code Ann. Section 27-65-23 levies a tax on the gross income of hotels, motels, tourist courts or camps and trailer parks. Tax is due at the regular retail rate.

102 (Reserved)

200 Definitions

201 Hotel or motel is defined as any establishment which is engaged in the business of furnishing one or more rooms, cottages or cabins designed for dwelling, lodging or sleeping purposes to transient persons. The terms "hotel" or "motel" also include all buildings or other structures kept, used, maintained or advertised as, or held out to the public to be, a place where sleeping accommodations are supplied for pay or other consideration regardless of the number of rooms, units, suites or cabins available. It is immaterial that cooking facilities may or may not be furnished. Hotel or motel also includes any establishment furnishing bed and breakfast accommodations to transient persons.

202 Condominium or Hotel Condominium is defined as a multi-unit facility where each unit is individually owned. Condo owners may rent out the units when not in use by the owner. The units may be rented out by the owner or placed with a management company for rental. Rentals of condominiums or hotel condominiums are taxable when such rentals are to transient persons.

203 Trailer park is defined as a park established for the purpose of accommodating travel trailers pulled either by automobiles or other type vehicles or self-propelled, which are in a travel or transient status and where utilities are connected in a temporary manner. For tax purposes, a trailer park is any one location where trailers, campers or other mobile units may be parked for a fee, either permanently or temporarily and irrespective of whether utility facilities are available.

204 Mobile home park is defined as a park established for the primary purpose of accommodating mobile homes which are permanently located, registered with the County Tax Assessor as provided by Miss. Code Ann. Section 27-53-5, hooked up to water, sewer, gas or electric utilities with permanent meter connections which are not easily disconnected, and tied down according to regulations and other requirements. Such facilities are considered a home and place of permanent residence. Since the statute

specifically denotes 'hotels, motels, tourist courts or camps and trailer parks" this tax is applicable specifically to travel or transient accommodations and not to residents of mobile homes. Sales to mobile home residents of potable water, electricity, gas or other fuel for residential use are exempt from sales tax.

205 (Reserved)

300 Gross Income

301 Taxable Gross Income Includes (but is not limited to) Receipts From:

1. Admissions, minimum and cover charges for entertainment
2. Attrition fees
3. Auto storage – parking lots
4. Banquet meeting room revenue with or without meals
5. Cancellation fees
6. Coin lockers
7. Early departure or late departure fees
8. Guaranteed no show revenue
9. Laundry and valet service
10. Local telephone charges, including per call charges
11. Long distance telephone mark-up or up-charge, or any excess charge over and above the carrier charge
12. Marina service
13. Packages (example: golf, honeymoon, casino)
14. Pet charges
15. Radios, televisions, movies including pay per view services
16. Refrigerator or safe charges
17. Roll away bed charges
18. Sales and rental of tangible personal property
19. Service charges
20. Transient room revenue
21. Vending machine sales (except full service vending machines)
22. Video game rental

302 Non Taxable Gross Income Includes Receipts From:

1. Child care charges (does not include admissions to areas of amusements where children are kept)
2. Coin operated amusement and music machines;
3. Commissions included in gross income of other taxpayers;
4. Re-billed carrier long distance telephone charges that have been taxed by the service provider
5. Rental of stores, offices or other commercial property to non-transients

303 Any hotel, motel, condominium, or trailer park may exclude the gross income from charges for non-transient guests.

304 The hotel must have a building(s) set separate and apart from the other buildings that is held exclusively for long-term rental. The building must contain rooms with kitchen facilities and may not be used to provide lodging for transient persons.

305 For the purposes of defining non-transient guest, the guest must enter into a written contract or lease at the beginning of the stay, for a period of at least three consecutive complete months or for a minimum of ninety consecutive days. Guests who do not enter into a written contract or other written agreement at the beginning of the stay but whose stay ends up exceeding ninety consecutive days are still considered transient guests because there is no agreement concerning the length of stay.

306 Any guest who begins to rent a hotel, motel, condominium or trailer park space on a daily or weekly basis after the expiration of a written contract or other written agreement as defined above and which has not been extended will become a transient guest and the gross income received from the daily or weekly rental will be taxable.

307 (Reserved)

400 Exempt Sales

401 As a prerequisite to claiming the governmental exemption, the sales of property or service must be sold to, billed directly to and payment therefore made directly by the political entity and not to or through some contractor or quasi-governmental agency, and the title to the property or benefit from the service must pass to the government rather than to some beneficiary. Sales to government employees are taxable regardless of the fact that the employees may be reimbursed by the Government for the expenses incurred.

402 (Reserved)

500 Purchases

501 Hotels, motels, condominiums or condominium hotels must pay tax on purchases that are provided in a guest room as a part of the service of providing lodging. These purchases include items such as shampoo, soap, toilet paper, laundry bags, coffee, food, candy or other amenities. Tax is also due on purchases of linens, towels, and in room appliances. Purchases of food or beverage sold by the facility may be made exempt from tax as a wholesale sale. This also includes food or beverage provided to guests in common areas of the hotel that are provided to guests at no additional charge.

502 Purchases or rentals of supplies and equipment used in the operation of the facility, such as furniture, televisions, radios, signs, janitor's supplies, office supplies, etc., are subject to the regular retail rate of sales or use tax.

503 Wholesale tax paid on purchases of alcoholic beverages and beer for resale may be taken as a credit against the retail sales due on the retail sales of such merchandise.

504 (Reserved)

600 Reporting Requirements

601 Adequate records must be maintained to substantiate tax classifications of sales and purchases.

602 (Reserved)

700 Local and Private Levies

701 Additional local levies may be applicable to hotels and motels depending upon where they are located in this state. The local tax shall be invoiced and collected as a separate levy and shall be reported on a separate return.

702 The local levy may be due on the same basis as the sales tax, or the basis may exclude specific items that are subject to the regular sales tax such as food, beverage, telephone, laundry and room rentals for day meetings. The basis for each local levy can be found in the appendix.

703 (Reserved)

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facilities are considered a home and place of permanent residence. Since the statute specifically denotes 'hotels, motels, tourist courts or camps and trailer parks" this tax is applicable specifically to travel or transient accommodations and not to residents of mobile homes. Sales to mobile home residents of potable water, electricity, gas or other fuel for residential use are exempt from sales tax.

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304 The hotel must have a building(s) set separate and apart from the other buildings that is held exclusively for long-term rental. The building must contain rooms with kitchen facilities and may not be used to provide lodging for transient persons.

304 ~~For the purposes of defining non-transient guest, the guest must enter into a contract at the beginning of the stay, for a period of at least three consecutive complete months or for a minimum of ninety consecutive days.~~

305 ~~For the purposes of this rule, a person who is renting a condominium and who has entered into a contract at the beginning of the stay for a period of at least three consecutive, complete months or for a minimum of ninety consecutive days is not considered to be a transient person and no sales tax is due.~~

305 For the purposes of defining non-transient guest, the guest must enter into a written contract or lease at the beginning of the stay, for a period of at least three consecutive complete months or for a minimum of ninety consecutive days. Guests who do not enter into a written contract or other written agreement at the beginning of the stay but whose stay ends up exceeding ninety consecutive days are still considered transient guests because there is no agreement concerning the length of stay.

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common areas of the hotel that are provided to guests at no additional charge ~~as a part of a continental breakfast~~.

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