



Hotel and Motel Occupancy

Introduction

This bulletin explains how sales tax is calculated on the charge for a hotel room. It also explains when those charges are not taxable.

The term *hotel* includes:

- hotels
- motels
- inns
- bed and breakfast establishments
- ski lodges
- apartment hotels
- certain bungalows, condos, cottages, and cabins (see *Bungalow rentals* below)

Hotel operators must collect sales tax on the room rate or rental charge for hotel occupancy, unless the charge is \$2.00 or less per day. A room remarketer (such as an Internet travel site) is considered to be a hotel operator and must collect sales tax on the charge to its customers for hotel occupancy. For more information on room remarketers, see [TSB-M-10\(10\)S](#), *Amendments Affecting the Application of Sales Tax to Rent Received for Hotel Occupancy by Room Remarketers*.

Hotel occupancy

Hotel occupancy is the use, or right to use, a room in a hotel. The room rate or rental charge is the amount that guests must pay to stay in the hotel room (or to have the right to use the hotel room). This amount is taxable at the full state and local sales tax rate. See Tax Bulletin [Sales Tax Rates, Additional Taxes, and Fees \(TB-ST-825\)](#).

Hotel unit fee in New York City

Hotels in New York City must charge an additional *hotel unit fee* of \$1.50 per unit per day, in addition to the state and local sales taxes on hotel occupancy. **Note:** The New York City hotel unit fee is not subject to state and local sales taxes and must be separately stated on the invoice given to the customer.

Local occupancy taxes

Certain localities (counties, cities, towns, etc.) charge an additional tax on hotel occupancy commonly known as a *bed tax*. A bed tax must be shown as a separate charge on a customer's bill. This tax is not administered by New York State and any questions regarding this tax should be directed to your local taxing jurisdiction. **Note:** A local bed tax is not subject to state and local sales taxes.

Other charges

Some hotels charge separately for basic telephone and television service. These charges are taxable as part of the charge for occupancy of the hotel room. For information on the taxability of various other common hotel charges, see Tax Bulletin [Hotel Services \(TB-ST-333\)](#).

Cancellation fees and guaranteed no-show fees

Many hotels will charge a fee if a reservation is not canceled a certain amount of time in advance of the scheduled occupancy. A cancellation fee is not taxable because the customer never has the right to occupy the room and the fee is not considered to be rent for occupancy.

Guaranteed no-show fees are charged by some hotels when a customer reserves a room and that customer receives the right to occupy the hotel room on the dates specified, whether the customer arrives to use the room or not. The room will not be released to another guest, whether the customer arrives or not. Guaranteed no-show fees are taxable as charges for hotel occupancy.

Permanent residents

No sales tax is due from hotel guests who are considered to be permanent residents. In order to be a permanent resident, a guest must stay in the hotel for at least 90 consecutive days without interruption. In New York City only, the **local** sales tax applies until a guest has stayed for at least 180 consecutive days.

State and local sales tax must be charged to a guest until 90 consecutive days of occupancy is reached. At that time, the hotel can stop charging the guest tax. The hotel may credit the guests account or refund the tax already paid. If the hotel does not credit or refund the sales tax, the guest can apply directly to New York State for a refund. See Tax Bulletin [How to Apply for a Refund of Sales and Use Tax \(TB-ST-350\)](#).

A business can also qualify as a permanent resident if it meets these conditions:

- The business rents the hotel rooms for use by its employees or clients.
- The business must pay the hotel room rental charge and not be reimbursed by the employee, customer, client, or other person who physically occupies the room.
- The rooms are rented by the business for at least 90 consecutive days (at least 180 consecutive days in New York City for the local sales tax).

The customer does not have to be in the same room within the hotel to meet the 90/180-day requirement.

For additional information on permanent residents, see [TSB-M-03\(1\)S](#), *Sales Tax on Rent for Hotel Occupancy and the Exception for Permanent Residents*.

Complimentary occupancy

When a hotel allows a guest to stay in a room for no charge, and no other consideration is given to the hotel, no sales tax is due.

Example: A guest reserves a suite for a family of five at a hotel. Due to a reservation error, the suite is not available when the family checks in. The family is given a standard room with two double beds and a cot for the night. The hotel chooses to provide the room at no charge because of the inconvenience. This complimentary room is not taxable because it is not provided in exchange for other consideration.

If the room is complimentary but other consideration is received by the hotel, the normal charge for the room is taxable.

Example: An organization reserves a block of rooms at a group rate for a function. As part of the arrangement, the hotel agrees to give the organizer a complimentary room. This complimentary room is provided in exchange for other consideration, and sales tax is due on the normal rental charge.

Hotel employee lodging is handled the same way as other complimentary lodging. If the hotel receives no cash or other consideration from the employee, and the value of the lodging is not income for purposes of the employee's federal or state income taxes, no tax is due on the value of the lodging.

Bungalow rentals

A bungalow is a single-family living unit with its own kitchen, bathroom, and sleeping rooms that is rented fully furnished (e.g., cottages, condominiums, beach or lake houses, etc.). The rental of a bungalow is not taxable as long as no housekeeping services, food services, or other common hotel services (including entertainment or planned activities) are provided. If common hotel services are provided, the rental is taxable as hotel occupancy.

The furnishing of linens without the service of changing them does not make a bungalow rental taxable. In addition, the provision of cleaning, laundering, and similar services for an optional and separate charge does not make the rental of a bungalow the taxable rental of a room or rooms in a hotel.

Exempt purchasers

A charge for hotel occupancy is not taxable if the purchaser is exempt from sales tax and gives the hotel operator a properly completed exemption certificate. A purchaser that is exempt from the sales tax on occupancy is also exempt from the hotel unit fee in New York City.

Exempt organizations

Certain exempt organizations, such as religious groups, youth sports groups, and charitable organizations, can purchase hotel occupancy without paying sales tax. In order to qualify for the exemption the group must:

- be identified on the hotel bill or invoice along with the individual who occupied the room;
- be the direct payer of record when payment is made directly from the funds of the organization, such as with a check from the organization, with the organization's credit card, cash or other funds. If the employee or representative pays the hotel bill with a personal check, personal credit card or other personal funds, the exemption does not apply; and
- give the hotel operator a properly completed Form ST-119.1, *Exempt Organization Exempt Purchase Certificate*.

Governmental employees

Employees of the federal government (including military personnel) and state and local governments who occupy hotel rooms while traveling on official business are not subject to sales tax. The government employee or representative must give the hotel operator a properly completed [Form ST-129](#), *Exemption Certificate - Tax on occupancy of hotel rooms*.

Veterans' posts

Authorized representatives of veterans' posts or organizations establish their exemption from sales tax by furnishing the hotel operator with a properly completed Form ST-119.5,

Exempt Organization Certification for Hotel or Motel Occupancy by Representatives of Veterans Organizations.

Places of assembly

A *place of assembly* is a room or suite of rooms:

- to be used for purposes such as education, recreation, amusement, business, or religious meetings, etc., and
- that contains no sleeping accommodations and is not intended to be used as sleeping or living quarters.

The rental of a place of assembly is not subject to sales tax. However, the rental of a place of assembly in conjunction with the sale of food or drink is generally subject to tax under section 1105(d) of the Tax Law. See Tax Bulletin [Caterers and Catering Services \(TB-ST-110\)](#).

Note: A Tax Bulletin is an informational document designed to provide general guidance in simplified language on a topic of interest to taxpayers. It is accurate as of the date issued. However, taxpayers should be aware that subsequent changes in the Tax Law or its interpretation may affect the accuracy of a Tax Bulletin. The information provided in this document does not cover every situation and is not intended to replace the law or change its meaning.

References and other useful information

Tax Law: Sections 1101(a), 1101(c), 1105(e), 1131(1), 1139

Regulations: Section 527.9

Publications:

[Publication 848](#), *A Guide to Sales Tax for Hotel and Motel Operators*

Memoranda:

[TSB-M-03\(1\)S](#), *Sales Tax on Rent for Hotel Occupancy and the Exception for Permanent Residents*
[TSB-M-10\(10\)S](#), *Amendments Affecting the Application of Sales Tax to Rent Received for Hotel Occupancy by Room Remarketers*
[TSB-M-12\(4\)S](#), *Elimination of One-Week Stay Test to Determine if the Rental of a Bungalow or Similar Living Unit is Subject to Sales Tax*

Bulletins:

[Caterers and Catering Services \(TB-ST-110\)](#)
[Hotel Services \(TB-ST-333\)](#)
[How to Apply for a Refund of Sales and Use Tax \(TB-ST-350\)](#)
[Sales Tax Rates, Additional Taxes and Fees \(TB-ST-825\)](#)