



**FINANCE**  
**NEW • YORK**  
THE CITY OF NEW YORK  
DEPARTMENT OF FINANCE

May 2, 2002

**Re:** Request for Ruling  
Hotel Room Occupancy Tax

FLR#024791-025

Dear \_\_\_\_\_ :

This is in response to your request, dated \_\_\_\_\_, on behalf of \_\_\_\_\_ (the "Organization"), for an exemption from the New York City Hotel Room Occupancy Tax (the "Hotel Tax"). Additional information was received by this office on \_\_\_\_\_ and \_\_\_\_\_, 2002.

**FACTS**

The facts presented are as follows:

The Organization is a corporation organized under Article XI of the Private Housing Finance Law and Section 402 of the Not-For-Profit Corporation Law of the State of New York. According to its Certificate of Incorporation, the Organization is "organized exclusively for the charitable purpose of owning, constructing, rehabilitating, leasing, managing, equipping, maintaining, developing, and operating a housing project for persons of low income, including providing related services to persons of low income." At present, the Organization's application for an exemption from federal income taxation under section 501(c)(3) of the Internal Revenue Code (the "IRC") is pending before the Internal Revenue Service ("IRS").

You have represented that the Organization is an affiliate of other non-profit entities which have very similar purposes, including one that serves as a "parent entity" (the "Parent Entity"). The IRS has determined that the Parent Entity is exempt from federal income taxation under IRC section 501(c)(3). You have further represented that the Organization and the Parent Entity have separate budgets, staff, and boards of trustees, but the members of the boards of trustees of these entities are the same. In addition, you have represented that the Parent Entity will perform payroll and other administrative tasks and services on behalf of the Organization, for which the Parent Entity will receive a management fee.

Recently, the Organization acquired premises that had been operated as a lodging house (the "Premises"). You have represented that the Organization is now in the process of renovating the Premises. You have also represented that at the time the Organization purchased it, the Premises had and still has approximately \_\_\_\_\_ residents ("current residents"), the vast majority of whom have lived there for more than six months. The Organization will not accept any new residents at the Premises during the renovation period. When the

renovations are complete, the Organization will accept referrals of up to about additional men from the New York City Department of Homeless Services for temporary housing (usually two to three weeks). The Organization intends to operate the Premises as a housing facility for homeless men, and not as a lodging house or hotel. However, the Organization will allow current residents to reside at the Premises for as long as they like.

You have indicated that the vast majority of the current residents could be characterized as low income. Approximately 90 percent of the current residents receive some type governmental benefits, in the form of social security, veterans' benefits, supplemental security income (SSI), public assistance or some combination of the foregoing. These benefits appear to be the primary source of their income. You have also stated that, pursuant to a contract with the New York City Department of Mental Health Services, the Organization's personnel will perform a needs assessment to determine the services needed for the current residents, which you expect will be completed in or about April of this year. The Organization will refer residents in need of mental health services to an appropriate provider, which could be a public hospital or clinic or a private practitioner.

#### ISSUE

You have requested a ruling that the Organization is exempt from the Hotel Tax as an operator.

#### DISCUSSION

The Hotel Tax is imposed on every occupancy of each room in a hotel in New York City. Hotel operators are liable for the collection of the tax. Administrative Code of the City of New York (the "Code") § 11-2502(f). Section 11-2502(e) of the Code provides that rents paid by occupants of a hotel will not be subject to the Hotel Tax where such rents are received by a corporation organized and operated exclusively for religious, charitable or educational purposes if the corporation "carries on its activities in furtherance of any of the purposes for which it is organized in premises which, as part of said activities, it operates a hotel...."

#### CONCLUSION

Based on the facts presented and the documents and representations submitted, we have determined that the Organization's operation of the Premises as a residential housing facility is in the furtherance of an exclusively charitable purpose. Accordingly, the organization is exempt from the Hotel Tax under section 11-2502(e) of the Code. In addition, pursuant to section 12-07 of Title 19 of the Rules of the City of New York, the requirement that the Organization file Hotel Tax returns is waived.

You must inform us immediately if the IRS denies the Organization's application for an exemption under section 501(c)(3) of the IRC, or revokes such exemption after having granted it. Moreover, any material change in the Organization's character, purpose, or activities must be reported to this office.

The Department reserves the right to verify the information submitted.

Sincerely,

Devora B. Cohn  
Associate Commissioner  
For Legal Affairs