

HTX – 2008-03
3-14-2008

STATEMENT OF AUDIT PROCEDURE

HOTEL ROOM OCCUPANCY TAX BED AND BREAKFAST

I. INTRODUCTION

The Hotel Room Occupancy Tax (“HROT”) defines, in pertinent part, a “hotel” in section 11-2501 of the Administrative Code as “[a] building or portion of it which is regularly used and kept open as such for the lodging of guests. The term “hotel” includes... boarding house...” Section 12-01 of the HROT Rules adds, however, that “a room in a dwelling place ordinarily occupied by a person as his own dwelling which is rented by him to another” is not included in the term “hotel.”

A “Bed and Breakfast” (“B&B”) accommodation is a lodging alternative to a traditional hotel. Typically, the owner of a private residence or condominium or a lessee of an apartment will rent spare rooms to guests for a fee. The cost of breakfast is usually included in the fee. For an additional charge, some B & Bs offer additional services, such as additional meals or airport pickups and drop offs. Advanced reservations are usually required. Rates are based on single or double occupancy of a room with a additional fee for extra persons in the room.

II. SCOPE

B & Bs that are regularly used and kept open for guests come within the definition of a “hotel.” Some B & Bs, however, would come within the exception for a room in a dwelling place rented to another. This Statement of Audit Procedure is intended to give guidance to auditors in applying the Code And Rules to B & Bs.

III. PROCEDURE

1. The occupancy for consideration of multiple rooms in a residential apartment, condominium or house, that are regularly used and kept open for the lodging of guests is subject to tax.
2. In determining whether rooms are “regularly used and kept open for the lodging of guests” the auditor may consider the following:

- a. The advertising of the availability of these rooms;
- b. The listing of the rooms with B & B services in tourist guides or by lodging industry associates;
- c. The availability of common hotel services, such as, for example, linen service or food service;
- d. The frequency and regularity with which the rooms are rented;
- e. The reporting of the income earned from these rentals for Federal income tax purposes;
- f. The amount and the nature of the expenses deducted in connection with the rental of these rooms.

3. The occupancy by a guest or consideration of one room in a dwelling ordinarily occupied by an individual as his or her own dwelling will not be subjected to the HROT by the Department of Finance even if the room is regularly used and kept open for the lodging of guests. The renting of just one room in a person's own dwelling place comes within the exception to the definition of a "hotel" of section 12-01 of the Rules. This exception is limited to a single room rented in an individual's residence. A single room rented in a dwelling that the individual owner or tenant operating the B & B does not regularly occupy as his or her or her own residence comes within the definition of a hotel. The occupancy of such a room for consideration is subject to the HROT.