

SALES TAX: HOTELS: Rooms occupied by the same guest for thirty days or more, the receipts exempt from the tax.

1935

October 26, 1935.



Honorable W. W. Graves
Prosecuting Attorney
Kansas City, Missouri

Dear Sir:

On September 30, 1935, you wrote this department requesting an opinion regarding the sales tax act as it may apply to permanent guests of hotels. Your letter is as follows:

"The Kansas City Hotel Association has requested me to secure an opinion from you as to whether or not patrons who live permanently at hotels here in Kansas City and who pay their bills by the month or week should be charged the sales tax on such bills."

The section of the act levying the tax at one per cent on rooms in hotels is Section 2, Sub-section I, which is as follows:

"A tax equivalent to one (1) per cent. on the amount of sales or charges for all rooms, meals and drinks furnished at any hotel, tavern, inn, restaurant, eating house, drug store, dining car, tourist cabin, tourist camp or other place in which rooms, meals or drinks are regularly served to public."

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In order to subject rooms furnished by hotels, taverns, inns, etc., it is necessary that such rooms be "regularly served to the public." It must be conceded that if a person is operating a hotel, the very fact that he calls it a hotel would indicate that the rooms are regularly open to the public.

To determine the taxability or non-taxability of a hotel, the method of operation should be the determining factor. Some hotels are operated by catering solely to families and permanent guests for their income. Others rely solely on transient public. In order to subject the individual rooms of the hotel to a tax of one per cent., we are of the opinion that when a room is occupied permanently by a guest, the same constitutes his home, residence, domicile, the same as if he were living in a private residence, and that no tax should be exacted from the receipts of the rental of such room.

As to when a guest of a hotel may be termed a permanent guest, is mainly to be determined by the intention of the guest. We think a fair test as to whether or not a guest is a permanent guest of a hotel, is the length of time for which he contracts for the room or remains in the room, and if said guest remains thirty days or more, we are of the opinion that he is a permanent guest.

This ruling shall apply only to the rooms of a hotel rented in the manner as above outlined. All other rooms of any hotel which are regularly open for occupancy by paying guests shall be subject to the tax.

Respectfully submitted,

OLLIVER W. NOLEN
Assistant Attorney General

APPROVED:

JOHN W. HOFFMAN, Jr.
(Acting) Attorney General

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