



March 16, 2018
Pennsylvania Sales and Use Tax
No. SUT-18-002
Hotel Occupancy Tax

ISSUE:

Is the Pennsylvania state, the Philadelphia City and Allegheny County local, or any other local municipalities' hotel occupancy tax imposed on hotel room rentals made by taxpayer's employees when such purchases are either paid by taxpayer directly, or when taxpayer, a Commonwealth entity, reimburses the employee for the cost?

CONCLUSION:

Regardless of who pays for the cost, Pennsylvania State and Philadelphia City and Allegheny County local hotel occupancy taxes are imposed on hotel room rentals made by taxpayer's employees. However, taxpayer's employees are exempt from payment of any other local municipalities' local hotel occupancy taxes.

FACTS:

Taxpayer is a Commonwealth entity. Its employees rent hotel rooms while on official business. The rental cost is either paid by taxpayer directly, or taxpayer reimburses the employee for the cost if the employee pays himself.

DISCUSSION:

Pursuant to the Pennsylvania Tax Reform Code of 1971, a hotel occupancy tax of six percent of the rental fee is imposed on the rent of every occupancy of a room or rooms in a hotel in this Commonwealth. 72 P.S. § 7210. Pursuant to Department regulation, employees or representatives of the Commonwealth, its instrumentalities or political subdivisions are not exempt from the state hotel occupancy tax. 61 Pa. Code § 38.2(f).

In addition, Philadelphia City and Allegheny County have a corresponding one percent local hotel occupancy tax. 53 P.S. §§ 12720.501 - 12720.509, 16 P.S. §§ 6150-B - 6157-B. The only exemptions for those taxes are those that also are available to the state hotel occupancy tax. However, the liability for the imposition of local hotel occupancy taxes imposed by any other taxing authority are not enumerated exceptions to the Commonwealth's sovereign immunity. 42 Pa. C.S.A. § 8522.

Therefore, pursuant to the above-referenced laws, regardless of how payment is made, taxpayer's employees are subject to the state, and Philadelphia City and Allegheny County local hotel occupancy taxes, but are exempt from any other local municipalities' local hotel occupancy taxes.