

## Are Accommodations Taxes Due on Your Summer Rental?

May 2009

To our Clients and Friends of the Firm:

With summer vacation season just around the corner, we wanted to remind our clients that sales tax and accommodation/occupancy tax may be due on the rental of vacation homes and other short-term rental of rooms or homes. As a general rule, if you are renting a residence for periods less than 90 days you are required to collect sales tax and possibly accommodations tax from your customers. It is important that these taxes are charged correctly and remitted to the correct taxing authority. The taxing authorities will look to the landlord for payment whether the tax was collected from tenants or not.

### **GEORGIA**

In Georgia, state and local sales tax (up to 7%) applies to rentals of less than 90 days. In addition to the rental income, the tax also applies to most other related charges with the exception of long distance service. If a rental lasts for 90 days or more and the customer has paid sales tax, the sales tax should be refunded to the customer (and returned from the state if already remitted).

A local city or county occupancy tax (up to 8%) also applies to rentals for the first 30 days. This tax is due even if the tenants' stay exceeds 30 days. The tax is administered by the local jurisdictions, so tax returns must be filed with those governments.

### **NORTH CAROLINA**

As with Georgia, North Carolina state and local sales tax (up to 7.25%) applies to rentals of less than 90 days. If a tenant was charged sales tax initially but the rental period reached 90 days, the sales tax

Can be refunded to the tenant (and refunded from the state, if already paid). The sales tax applies to the rental charge as well as most other fees with some exceptions such as internet access, laundry, telephone service and cancellation fees. Additional fees should be evaluated on a case by case basis to determine if sales tax applies.

Many localities in North Carolina also charge occupancy taxes (up to 8%), if the rental period does not reach 90 days. If the occupancy tax is charged initially, but the rental period reaches 90 days, the occupancy tax should be (and refunded from the locality if already remitted). Local occupancy taxes are administered by the local governments so returns must be filed with those jurisdictions.

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### **SOUTH CAROLINA**

Sales tax applies to rentals of less than 90 days in South Carolina also. If the rental period is ultimately 90 days or greater and the tenant has paid sales tax, the sales tax should be refunded (and refunded from the state if already remitted). The state tax rate charged on lodging is 5% as opposed to the general 6% state rate. In addition to the 5%, the state also asserts a 2% occupancy tax rate for a combined state tax rate of 7%. On top of the state tax rate, local sales tax of up to 2% could also apply for a maximum combined local rate of 9%. The state accommodation and sales taxes and local sales taxes are administered by the state.

Charges other than rent are taxed at the general sales tax rate (including the local component) and the state occupancy tax does not apply.

Local occupancy taxes (generally 3% or less) apply to rentals under 90 days. This tax is administered by the local governments and returns must be filed with the local governments. Therefore, the total rate assessed may reach 12%.

### **VIRGINIA**

As is the case with the other states mentioned, state and local sales tax (5%) is due on rental periods of less than 90 days. If the rental period extends to 90 days, any tax paid by the tenant should be refunded (and refunded from the state if already remitted). All charges related to the rental are subject to sales tax with the exception of long distance charges.

Many local jurisdictions in Virginia levy local occupancy taxes (up to 5%) on rentals of less than 30 days. If tax was initially collected on a rental reaching 30 days, the tax can be refunded (and refunded from the locality if already remitted). These taxes are administered by the local jurisdictions so returns must be filed with the local governments.

### **CONCLUDING THOUGHTS**

As was mentioned above, the brief nature of this letter does not allow us to elaborate in detail on these taxes. Please be aware that certain exceptions apply with respect to when sales tax or occupancy taxes must be collected. For example, many states do not require collection if the rental activity only takes place one or two weeks per year.

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### **CONCLUDING THOUGHTS** (continued)

The combined rates of the various state and local taxes related to furnishing lodging can be very high. If you are currently renting property on a short-term basis or are considering such activity, it is important that these taxes be collected appropriately from your customers and remitted on a timely basis to the taxing authorities. Failing to do so may result in high tax and penalty assessments upon audit, all for taxes that could have been passed on to others.

We are able to assist in determining the correct rates, which governments you need to file with, and what charges are subject to the various taxes. If you have been renting property for some time and were unaware of these taxes or are charging them incorrectly, we can assist you in determining how to best address this situation. Please feel free to contact us with any questions or if you would like assistance with complying in putting use tax reporting processes in place.

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