

Taxability of Transient Stays

Ohio Sales Tax and Transient Hotel Stays

Typically, most states that tax short-term or transient hotel accommodations also provide for an exemption when the stay exceeds a statutorily defined period ultimately creating the rental of real estate, i.e. a non-taxable transaction. In addition, local jurisdictions imposing similar taxes may also offer similar exemptions, but the length of stay may not always follow state statutes.

Available definitions for 'hotel', 'accommodations' and 'transient' are virtually across the board in such states. The length of stay requirement determines the point at which a short-term or transient accommodation is considered a long-term stay, often referred to as a "permanent guest". Furthermore, in a handful of states, depending on the "purchaser" of the accommodations, the same guest or even the same room are not required in order to meet the long-term permanent guest exemption.

At several times during a calendar year, a Japanese-based manufacturing company may host traveling executives in Ohio near any one of their manufacturing plants. More often than not, the executives only require hotel accommodations for one to two weeks at a time, returning to the company headquarters in Japan once their visit is complete, resulting in a taxable transient stay.

Unlike the majority of necessary company executive trips to Columbus, the company hosted a significant number of executives for almost a full two-year period starting in 2018. While it may be the hotel's responsibility to know the various state and local definitions related to transient and non-transient guests, if the proper policies and procedures are not in place to track the continuous stays of contracted purchases of these rooms, the buyer may ultimately overpay state and local hotel/sales tax in the hundreds of thousands.

Fortunately, the Ohio statute of limitations allowed the company to successfully request a refund for overpaid state and local sales taxes on permanent guest accommodations. Unfortunately, for this particular tax, the local portion of the hotel sales tax is reported at the county level in Ohio. While the state unexpectedly moved forward with certifying the request quicker than usual, the conversation with the county was more difficult.

CASE STUDY