



STATE OF ARKANSAS  
**Department of Finance  
and Administration**

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August 14, 2017



RE: Transient Occupancy Tax/Exemption of Long Term Rentals  
Opinion No. 20170513

Dear [REDACTED],

This is in response to your letter dated, May 1, 2017, seeking the issuance of a legal opinion from the Arkansas Department of Finance and Administration (DFA). In your letter regarding [REDACTED] you ask for clarification of Example Three (3) provided under Arkansas Rule GR-8(B)(4), and more specifically, what is required for a guest to qualify for a tax exemption if the guest stays beyond a thirty (30) day stay on your property.

**RESPONSE**

The Department administers Ark. Code Ann. § 26-52-301(3)(A) (Repl. 2014) and § 26-63-402(1) (Repl. 2008) which impose sales tax and tourism tax on the service of furnishing rooms to transient guests for periods of less than thirty (30) days. Arkansas Gross Receipts Rule GR-8, which interprets Ark. Code Ann. § 26-52-301(3)(A) and is generally applicable to § 26-63-402(1), states:

**GR-8. SERVICES SUBJECT TO TAX-LODGING:**

A. The service of furnishing rooms, suites, condominiums, townhouses, rental houses or other accommodations to transient guests by hotels, motels, apartment hotels, lodging houses, tourist camps, hunting lodges, tourist courts, bed and breakfast properties, property management companies or any other provider of accommodations to transient guests is subject to gross receipts tax.

- B. 1. "Transient guests" are defined as those who rent accommodations other than their regular place of abode on less than a month-to-month basis.
2. "Month to month" means a rental that satisfies the following criteria:
- Rental payments are due in monthly installments for a monthly rental period; and
  - Thirty day notice of termination is required for either party to terminate the lease; and

c. The obligation of the renter to pay the monthly rental is unaffected by the renter's decision to leave the accommodations before the end of the monthly period (i.e. the entire month's rent is owed regardless of the renter staying at the accommodations the entire month).

3. A rental shall not be considered "month to month" if any of the following criteria are present in the rental arrangement:

a. The renter can terminate the stay without notice and obligation to pay ceases upon termination of the stay; or

b. The rental payment obligations accrue on daily or weekly increments regardless of the billing frequency.

4. **Examples.**

**Example 1:** Renter A rents a room from a hotel for a 6 month period. Renter A owes the monthly rental payment for the entire month at the beginning of each month. Renter A shall give a 30 day notice if A wants to terminate the rental prior to the end of the 6 months. Renter A is not a transient guest and the rental is not taxable.

**Example 2:** Renter B pays daily. Renter B occupies the rented accommodations for a period of 34 days. Renter B does not pay, and is not obligated for the payment of days other than the 34 days of occupation of the accommodations. Renter B is a transient guest, and tax should be collected on the daily charges.

**Example 3:** Renter C is staying at the accommodations indefinitely. Renter "C" pays the bill at the conclusion of each month. Renter C's bill accrues daily charges. Renter C can leave the accommodations at any time. Renter C is a transient guest and tax should be collected on the entire term of the rental even though Renter C occupied the accommodations for longer than 30 days.

**Example 4:** Renter D company has a contract calling for the rental of a certain number of rooms on an annual basis. Different people stay in the rooms each night and different rooms within the hotel are used for this purpose. The company is not a transient guest and tax is not required to be collected on the rental charges.

C. Any complimentary items provided with the accommodations that are used or consumed by the transient guests are subject to tax when purchased by the provider of the accommodations. Examples include, but are not limited to, complimentary food, drinks, soap, shampoo, lotion, etc.

D. The rental of meeting rooms is not subject to the gross receipts tax.

In order for a guest who stays beyond thirty (30) days on your property to qualify for the exemption from the sales and tourism taxes, the guest must enter into a contract with the lodging establishment that meets the criteria for a month to month rental as set out in GR-8(B)(2). In the absence of such a contract, the guest would be considered a transient guest whose room rental is subject to tax regardless of whether the contract itself extends for more than thirty (30) days.

This opinion is based upon my understanding of the facts as set out in your inquiry and as current law and rules apply to those facts. Any changes in the facts or law could result in a different

opinion. You may rely on this opinion for three years pursuant to Arkansas Gross Receipts Tax Rules GR-75(B).

Sincerely,

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Arkansas Department of Finance and Administration  
Office of Revenue Legal Counsel