

## SR-22 - HOTELS AND MOTELS

Such supplies as toilet tissue, soap, shoeshine cloths, clothes bags, matches, facial tissue, coffee and other items available for guests use are not subject to sales or use tax at the time of purchase by the hotel or motel. These items are deemed supplied to the guest as part of the taxable sale of accommodations. This exemption is based on resale of these consumables in a taxable transaction, and does not apply to rooms rented continuously for over thirty days that are not subject to sales tax under §39-26-704(3), C.R.S.

Linens, furniture, pool equipment and supplies, and similar items are subject to sales or use tax at the time of purchase by the hotel or motel. [(See Colorado Springs v. Inv. Hotel Properties, 806 P2d375 (Colo. 1991)]

If a hotel or motel operates a restaurant or lounge, see special regulation SR-13 for "Eating and Drinking Establishments".

[The following added 2002.]

### BANQUET AND MEETING ROOMS:

A room used exclusively for a banquet, meeting or sales/display room is not subject to Colorado sales tax on charges for these uses. A room or suite with beds cannot qualify as exclusively used for any of the above exempt purposes.

### UTILITIES:

Electricity, any gas and firewood are subject to Colorado sales tax as purchases at retail when acquired by hotel or motel operators for heating or lighting rooms, hallways, service areas and parking areas. Consumption of these services or goods is commercial consumption, not residential. No portion of the usage is exempt, regardless of whether use is inside or outside of rooms for accommodations, and regardless of whether use is inside or outside of rooms for accommodations, and regardless of whether the room charge is subject to sales tax or exempt under §39-26-704(3), C.R.S. Any charge on a billing for rooms purporting to be a separate charge for heat, lights or firewood is fully taxable as a necessary component of the services taxed under §39-26-102 (11), C.R.S. as a charge for the hire of a room or accommodation. The taxability of any separate charge shall not relieve the hotel or motel from the liability for sales or use tax on purchases of electricity, gas or firewood, as they are not resold in an unused condition. [(See Colorado Springs v. Inv. Hotel Properties, 806 P2d375 (Colo. 1991)]

### SERVICE CHARGES:

For a taxable hotel or motel customer, no separate charge may avoid application of the Colorado Sales Tax unless such charge is accurately and reasonable related to a tax exempt service, and is completely disclosed to every customer as an optional service which the customer is not required to use because of the room rental. Thus maid service will always be taxable. Charges for use of pools, spas or health clubs must be fully disclosed and be truly optional, separately stated and reasonably related to the service in order to be exempt. In many cases, this means such services will need to be open to the public and not restricted to guests in order to qualify as non-taxable services not related to the room rental.

### NON-TAXABLE CUSTOMERS:

Units of government and non-profit schools are exempt from Colorado sales tax, and these entities may rent rooms for employees or representatives without paying Colorado and Colorado collected sales tax, as long as payment is from governmental or school funds. Some of these entities have a Colorado exempt number, but it is not required. Native American tribal governments are governmental units and exempt from Colorado sales tax, where payments are made from tribal funds. Vendors must maintain proof that charges were made under government or school purchase or travel orders, and paid for directly to the seller by warrant or check drawn on government or school funds. Credit cards may be accepted where a credit card is in the name of the exempt entity and the entity is liable. See FYI Sales #68, "Sales

Tax Exemptions for Governmental Purchases" for information about credit cards that display appropriate proof for the exemption to apply.

Charitable entities exempt from Colorado sales tax under §39-26-718(1)(a), C.R.S. (most IRC 501(c)(3) and (c)(19) qualified entities), may rent rooms for accommodations on behalf of persons employed by or performing charitable functions on behalf of the organizations. Any innkeeper may accept a copy of the exemption form issued by the Colorado Department of Revenue or the number of that exempt account (L98-nnnnn), and payment from the funds of the exempt organization as proof of the right to the exemption. If a charity based outside of Colorado requests exemption, but has no Department "98" number, the vendor should obtain the charities statement that they are qualified under IRC 501(c)(3), or that they are Veterans Organizations under IRC 501(c)(19) and proof of payment from organization funds.

#### CONVENTIONS FOR NON-TAXABLE ORGANIZATIONS:

Exempt entities or their associations may provide, and innkeepers may accept as proof of exempt status, a master list of exempt attendees. The master list must identify all individuals of a delegation from the exempt entity(ies) to an event employing an inn, hotel or motel for accommodations. Innkeepers may rely upon such master list as proof of exemption without requiring that the entity be the source of payment to the hotel. Organizations shall provide such master lists in good faith attempts to identify only individuals using accommodations officially on behalf of the exempt organization, within the organizations exempt purpose and with exempt entity funds. Any abuse of this right shall be cause for revocation, and upon notice of revocation of an organization's privilege, innkeepers will return to the individual transaction method of exemption verification stated in the immediately preceding paragraphs.

Innkeepers shall notify organizations using a master list of the requirements of Colorado law and require organizations to acknowledge that schools, charities and other entities may not extend their organizations exemption:

- a) To any individual for personal use or benefit.
- b) To any individual or group which reimburses the exempt organization for the cost of rooms used, whether directly, through pooling of individual funds or through donations made as a reimbursement for the cost of rooms.

#### DEPOSIT FORFEITS AND CANCELLATION CHARGES:

Charges made by a hotel or entity listed under §39-26-102(11), C.R.S. shall be classified for taxation as follows:

- a) When the charge is greater than 50% of the daily reservation room rate, as a payment for the room and therefore fully taxable under §39-26-102(11), C.R.S. unless the room would be fully exempt for charitable, government or school use.
- b) When the charge is 50% or less of the daily reservation room rate, it shall be classified as a cancellation charge not subject to sales tax.