

**ECONOMIC IMPACT STATEMENT
FOR APA RULE
(Section 41-22-23(f))**

Control No. 810 Department or Agency REVENUE

Rule No: **810-6-5-.13**

Rule Title: **Persons, Firms, and Corporations Subject to Lodgings Tax**

New Amend Repeal Adopt by Reference

This rule has no economic impact.

This rule has an economic impact, as explained below:

1. **NEED/EXPECTED BENEFIT OF RULE:** The benefit of this rule would be to those furnishing rooms, in that the calculation of the lodgings tax would be simplified.

2. **COSTS/BENEFITS OF RULE AND WHY RULE IS THE MOST EFFECTIVE, EFFICIENT, AND FEASIBLE MEANS FOR ALLOCATING RESOURCES AND ACHIEVING THE STATED PURPOSE:** N/A

3. **EFFECT OF THIS RULE ON COMPETITION:**

This amendment will allow all persons, firms and corporations renting rooms to be on a level playing field, which will promote fair competition.

4. **EFFECT OF THIS RULE ON COST OF LIVING AND DOING BUSINESS IN THE GEOGRAPHICAL AREA WHERE THE RULE IS TO BE IMPLEMENTED:** N/A

5. **EFFECT OF THIS RULE ON EMPLOYMENT IN THE GEOGRAPHICAL AREA WHERE THE RULE IS TO BE IMPLEMENTED:** N/A

6. **SOURCE OF REVENUE TO BE USED FOR IMPLEMENTING AND ENFORCING THIS RULE:** N/A

7. **THE SHORT-TERM/LONG-TERM ECONOMIC IMPACT OF THIS RULE ON AFFECTED PERSONS, INCLUDING ANALYSIS OF PERSONS WHO WILL BEAR THE COSTS AND THOSE WHO WILL BENEFIT FROM THE RULE:**

Intermediaries will pay tax on the portion of income that they currently retain which will place hotels on a level playing field in terms of paying taxes.

8. **UNCERTAINTIES ASSOCIATED WITH THE ESTIMATED BENEFITS AND BURDENS OF THE RULE, INCLUDING QUALITATIVE/QUANTITATIVE BENEFITS AND BURDEN COMPARISON:** N/A

9. THE EFFECT OF THIS RULE ON THE ENVIRONMENT AND PUBLIC HEALTH:
N/A
10. DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE
RULE IS NOT IMPLEMENTED: N/A
11. OTHER COMMENTS:

APA-2
11/96

ALABAMA DEPARTMENT OF REVENUE
Sales, Use & Business Tax Division

NOTICE OF INTENDED ACTION

RULE NO. & TITLE:

810-6-5-.13

Persons, Firms, and Corporations Subject to Lodgings Tax

INTENDED ACTION:

Amend the above rule

SUBSTANCE OF PROPOSED ACTION: The department proposes to amend the above rule to require that all persons who engage in the business of renting and/or providing rooms or other accommodations to collect and remit lodgings tax to the State of Alabama.

TIME, PLACE, MANNER OF PRESENTING VIEWS: A public hearing will be held at 2:00 p.m. on **Wednesday, September 7, 2011, in the Office of the Legal Division, Room 3114**, Gordon Persons Building, located at 50 N Ripley Street, Montgomery, Alabama. Copies of the rule(s) can be obtained at www.revenue.alabama.gov/rulehear.html.

All interested parties may present their views in writing to the **Deputy Commissioner of the Alabama Department of Revenue, Room 4112, Gordon Persons Building, 50 N Ripley Street, Montgomery, Alabama 36132** at any time during the thirty-five (35) day period following publication of the notice or by appearing at the hearing.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:

Wednesday, September 7, 2011

CONTACT PERSON AT AGENCY:

Patricia Toles
Alabama Department of Revenue
4131 Gordon Persons Building
Montgomery, Alabama 36132
(334) 242-1380



Michael E. Mason, Deputy Commissioner
Alabama Department of Revenue

810-6-5-.13 Persons, Firms, and Corporations Subject to Lodgings Tax.

(1) The term "lodgings tax" as used in this rule shall mean the state tax levied in Section 40-26-1(a), Code of Alabama 1975, and county and municipal taxes which parallel the state tax levy.

(2) The definition of the term "person" as used in this rule shall be the same as the definition contained in Section 40-2A-3(13), Code of Alabama 1975.

(3) The term "transient" as used in this rule means any person to whom rooms, lodgings, or other accommodations are provided for a period of less than 180 continuous days.

(4) Except as noted, lodgings tax applies to all charges made for the use of rooms, lodgings, or other accommodations, including charges for personal property used or services furnished in the rooms, lodgings, or other accommodations, by every person who is engaged in the business of renting rooms or lodgings or furnishing accommodations to transients. The tax applies regardless of whether the person occupying such rooms or lodgings or receiving such accommodations is a resident or nonresident of the area in which such rooms or lodgings are located or in which such accommodations are furnished.

(5) The lodgings tax shall be collected by all persons ~~who operate~~ **engaged in the business of renting and/or providing rooms or other accommodations in** any hotel, motel, rooming house, apartment house, lodge, inn, tourist cabin, tourist court, tourist home, camp, trailer court, marina, convention center, or any other place where rooms, apartments, cabins, sleeping accommodations, mobile home accommodations, recreational trailer parking accommodations, boat docking accommodations, or other accommodations are made available to travelers, tourists, or other transients.

(6) Where a separate charge is made for personal property furnished in rooms or other lodgings in addition to the charge for the use of the rooms or other lodgings, such separate and additional charge is subject to the lodgings tax.

(7) Where a separate charge is made for maid, porter or janitorial services furnished in rooms or other lodgings in addition to the charge for the use of the rooms or lodgings, such separate and additional charge is subject to the lodgings tax. Charges for laundry, dry cleaning, and telephone services are not subject to the tax.

(8) Charges made for the use of ball rooms, dining rooms, club rooms, sample rooms, conference rooms, wedding chapels, or other space located on the premises of any place where rooms or other accommodations are offered for the use of travelers, tourists or other transients, are subject to the lodgings tax. The use by civic clubs or other similar organizations of banquet halls, ball rooms, or club rooms, regularly for weekly or monthly meetings will be deemed continuous occupancy of such rooms or

halls by such clubs or organizations, and the taxability of the charges therefor will be determined in accordance with paragraph (11)(a) below.

(9) The state of Alabama, counties and incorporated municipalities of the state, and educational institutions and agencies of the state and the counties or incorporated municipalities of the state are not exempt from lodgings tax. Accordingly, charges for rooms, lodgings, or other accommodations furnished to these entities are taxable whether billed directly to, and paid for directly by, the entity or paid by employees of these entities with their own funds. (AGO, Graddick, June 4, 1981) (Section 40-26-1)

(10) Other states, counties and incorporated municipalities of other states, and educational institutions and agencies of other states and counties and incorporated municipalities of other states are not exempt from lodgings tax. Accordingly, charges for rooms, lodgings, or other accommodations furnished to these entities are taxable whether billed directly to, and paid for directly by, the entity or paid by employees of these entities with their own funds. (Section 40-26-1)

(11) Exemptions from the lodgings tax are as follows:

(a) Charges for rooms, lodgings, or accommodations supplied for a period of 180 continuous days or more in any one place are exempt from state, county, and municipal lodgings tax. Prior to December 1, 2001, the tax did not apply to charges for rooms, lodgings, or accommodations supplied for a period of 30 continuous days or more in any one place.

~~(b) Charges for rooms, lodgings or accommodations in connection with the production of an approved project authorized by the Alabama Film Office and which meets the criteria established by the Alabama Film Office are exempt from state, county, and municipal lodgings tax. See Lodgings Tax Rule 810-6-3-.37.02 entitled Exemption from Lodgings Tax for Film Production Companies Approved by the Alabama Film Office. This exemption shall expire at the end of the fiscal year ending September 30, 2006, unless otherwise continued by an act of the Alabama Legislature.~~

(b) Effective January 1, 2009, charges for rooms, lodgings or accommodations made in connection with a state-certified production which meets the requirements of Section 41-7A-45, Code of Alabama 1975, as amended, shall be exempt from the state lodgings tax. When the qualified production company makes application for and receives written certification of the incentive award from the Alabama Film Office, the Department will issue the appropriate certificate of exemption. The lodgings tax exemption provided in Section 41-7A-45 applies only to state lodgings tax. The qualified production company must pay applicable local lodgings taxes. See Lodgings Tax Rule 810-6-3-.37.02

entitled Exemption from Lodgings Tax for Film Production Companies Approved by the Alabama Film Office.

(c) Charges for rooms, lodgings, or other accommodations furnished to the United States government, its departments, or its agencies are exempt from state, county, and municipal lodgings tax provided the charges are billed directly to the United States government and paid for by the United States government with government funds. The charges are exempt from lodgings tax when paid by credit card provided charges to the card are billed directly to, and paid directly by, the U.S. Government and are not billed to and paid by an employee who is reimbursed by the U.S. government. Charges for rooms, lodgings, or other accommodations furnished to federal employees in conjunction with their official duties are taxable when the federal employee pays the charges with his or her own funds or with a credit card and receives reimbursement from the United States government.

(d) Federal credit unions are exempt from state, county, and municipal lodgings tax. (12 U.S.C.A. '1768) This exemption applies to charges for rooms, lodgings, or other accommodations furnished to federal credit unions provided the charges are billed directly to the federal credit union and paid for by the federal credit union with the credit unions funds. The charges are exempt from lodgings tax when paid by credit card provided charges to the card are billed directly to, and paid directly by, the federal credit union and are not billed to and paid by an employee who is reimbursed by the federal credit union. Charges for rooms, lodgings, or other accommodations furnished to federal credit union employees in conjunction with their official duties are taxable when the credit union employee pays the charges with his or her own funds or with a credit card and receives reimbursement from the federal credit union.

(e) Certain foreign diplomats and consular officials are exempt from state, county, and municipal lodgings taxes pursuant to treaties and other diplomatic agreements with the United States. (U.S. Constitution, Article VI) See Sales, Use, and Lodgings Tax Rule 810-6-3-.24.01 entitled Foreign Diplomatic and Consular Officials.

(f) The proceeds from the sale or resale of any vacation time-sharing lease plan are exempt from lodgings tax. (Section 34-27-65, Code of Alabama 1975)

(g) Charges for rooms, lodgings, or other accommodations furnished to entities that are exempted from the payment of any and all state, county, and municipal taxes by special act of the Legislature including, but not limited to, those entities enumerated in Section 40-9-12 are exempt from lodgings tax provided the charges are billed directly to the exempt entity and paid for by the exempt entity with the exempt entity's funds. The charges are exempt from lodgings tax when paid by credit card provided charges to the card are billed directly to, and paid directly by, the exempt entity and are not billed to and paid by an employee who is reimbursed by the exempt entity. Charges for rooms, lodgings, or other accommodations furnished to employees of the exempt entity in conjunction with their official duties are taxable when the employee

pays the charges with his or her own funds or with a credit card and receives reimbursement from the exempt entity.

(h) Charges for certain rooms, lodgings, or accommodations supplied by camps, conference centers, or similar facilities are exempt from lodgings tax. See Lodgings Tax Rule 810-6-5-.21 entitled Lodgings and Programs Provided for Children, Students, or Members or Guests of Nonprofit Organizations by Camps, Conference Centers, and Similar Facilities.

(12) The lodgings tax does not apply to sales of tangible personal property which are subject to the Alabama sales tax. All of the supplies, furniture and fixtures used or consumed in operating such establishments as referenced in paragraph (4) are subject to the sales or use tax, whichever may apply, at the time of purchase for such use or consumption, including beds, bedding, carpets, shades, curtains, linens, uniforms, bathroom supplies, janitor supplies, fuel for heating and cooking, air conditioning equipment, etc.

(13) The lodgings tax shall be due and payable in monthly installments on or before the twentieth day of the month next succeeding the month in which the tax accrues. Every person, firm, or corporation on whom the lodgings tax is levied shall prepare and forward to the Department, within the time fixed and prescribed by law, a lodgings tax return for each calendar month using the Alabama Paperless Filing and Payment System as mandated by the Department and shall pay to the Department the amount of tax shown to be due. See Lodgings Tax Rule 810-6-5-.22 entitled Lodgings Tax Returns

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Authority: Sections 40-2A-7(a)(5), 40-26-1(b), 40-26-3, 40-26-19, Code of Alabama 1975 and Act No. 2001-975
History: Adopted September 8, 1955.
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