

**TENNESSEE DEPARTMENT OF REVENUE
LETTER RULING # 11-41**

WARNING

Letter rulings are binding on the Department only with respect to the individual taxpayer being addressed in the ruling. This presentation of the ruling in a redacted form is informational only. Rulings are made in response to particular facts presented and are not intended necessarily as statements of Department policy.

SUBJECT

The application of the Tennessee sales and use tax to the rental of banquet and meeting rooms.

SCOPE

This letter ruling is an interpretation and application of the tax law as it relates to a specific set of existing facts furnished to the Department by the taxpayer. The rulings herein are binding upon the Department, and are applicable only to the individual taxpayer being addressed.

This letter ruling may be revoked or modified by the Commissioner at any time. Such revocation or modification shall be effective retroactively unless the following conditions are met, in which case the revocation shall be prospective only:

- (A) The taxpayer must not have misstated or omitted material facts involved in the transaction;
- (B) Facts that develop later must not be materially different from the facts upon which the ruling was based;
- (C) The applicable law must not have been changed or amended;
- (D) The ruling must have been issued originally with respect to a prospective or proposed transaction; and
- (E) The taxpayer directly involved must have acted in good faith in relying upon the ruling; and a retroactive revocation of the ruling must inure to the taxpayer's detriment.

FACTS

The [TAXPAYER] is a Tennessee nonprofit corporation and an instrumentality of the [CITY], Tennessee. The Taxpayer operates and manages the [FACILITY], a facility that contains several meeting and banquet rooms available for rent on a daily or hourly basis. The [FACILITY] does not offer accommodations for overnight stay, and neither it nor the Taxpayer are associated with a hotel or motel.

The [FACILITY]'s meeting and banquet rooms are rented for weddings, receptions, and business conferences and meetings. The rental is always for a period of fewer than ninety days. On occasion, the rooms are rented to in-state and out-of-state businesses that use the rooms on a temporary basis for the purpose of selling merchandise to the public.

QUESTIONS

1. When the Taxpayer rents a meeting or banquet room to an in-state business for the purpose of conducting a meeting or seminar, are the rental charges subject to the Tennessee sales and use tax?
2. When the Taxpayer rents a meeting or banquet room to an out-of-state business for the purpose of conducting a meeting or seminar, are the rental charges subject to the Tennessee sales and use tax?
3. When the Taxpayer rents a banquet room to an individual for a wedding reception, birthday party, or other similar event, are the rental charges subject to the Tennessee sales and use tax?
4. When the Taxpayer rents a meeting or banquet room to an in-state business that is selling merchandise to the public, are the rental charges subject to the Tennessee sales and use tax?
5. When the Taxpayer rents a meeting or banquet room to an out-of-state business that is selling merchandise to the public, are the rental charges subject to the Tennessee sales and use tax?

RULINGS

1. No. When the Taxpayer rents a meeting or banquet room to an in-state business for the purpose of conducting a meeting or seminar, the rental charges are not subject to the Tennessee sales and use tax.
2. No. When the Taxpayer rents a meeting or banquet room to an out-of-state business for the purpose of conducting a meeting or seminar, the rental charges are not subject to the Tennessee sales and use tax.
3. No. When the Taxpayer rents a banquet room to an individual for a wedding reception, birthday party, or other similar event, the rental charges are not subject to the Tennessee sales and use tax.
4. When the Taxpayer rents a [FACILITY] meeting or banquet room to an in-state business that sells merchandise to the public on a temporary basis, the rental charges are generally subject to the Tennessee sales and use tax. However, the rental charges will not be subject to the sales and use tax if the business renting the space in order to sell merchandise to the public on a temporary basis presents evidence that it has registered to collect sales tax at the [FACILITY] location.

5. When the Taxpayer rents a [FACILITY] meeting or banquet room to an out-of-state business that sells merchandise to the public on a temporary basis, the rental charges are generally subject to the Tennessee sales and use tax. However, the rental charges will not be subject to the sales and use tax if the business renting the space in order to sell merchandise to the public on a temporary basis presents evidence that it has registered to collect sales tax at the [FACILITY] location.

ANALYSIS

Under the Retailers' Sales Tax Act, TENN. CODE ANN. § 67-6-101 *et seq.*, the retail sale in Tennessee of tangible personal property and specifically enumerated services is subject to the sales and use tax.

1-3. Rentals of meeting or banquet rooms for meetings, seminars, weddings, and similar events

When the Taxpayer rents a meeting or banquet room for a meeting, seminar, wedding reception, birthday party, or other similar event, the rental charges are not subject to the Tennessee sales and use tax.

TENN. CODE ANN. § 67-6-205(c)(1) (Supp. 2010) imposes the sales tax on the “sale, rental or charges for any rooms, lodgings, or accommodations furnished to persons by any hotel, inn, tourist court, tourist camp, tourist cabin, motel, or any place in which rooms, lodgings or accommodations are furnished to persons for a consideration.”¹ Note that TENN. CODE ANN. § 67-6-205(c)(1) makes no distinction between in-state and out-of-state customers; accordingly, the customer’s domicile has no bearing on the taxability of the transaction.

Thus, in order for the transaction to be subject to the sales tax under TENN. CODE ANN. § 67-6-205(c)(1), the [FACILITY] must be a hotel, inn, tourist court, tourist camp, tourist cabin, motel, or a place in which rooms, lodgings or accommodations are furnished. For the reasons discussed below, the [FACILITY] is not properly characterized as any such enterprise.

The Taxpayer has stated that the [FACILITY] does not offer accommodations for overnight stay and is not associated with a hotel or motel. Thus, the [FACILITY] cannot be characterized as a hotel, inn, tourist court, tourist camp, tourist cabin, or motel. Likewise, the [FACILITY] cannot be characterized as a place in which lodgings or accommodations are furnished. The taxability of the transaction therefore depends on whether the [FACILITY] comes within the scope of TENN. CODE ANN. § 67-6-205(c)(1) as a place in which rooms are furnished to persons for a consideration.

¹ However, the sales tax does not apply “to rooms, lodgings, or accommodations supplied to the same person for a period of ninety (90) continuous days or more; charges for or the value of the use of any time-share estate or perpetual interest in a trust, partnership, nonprofit corporation or limited liability company that has as its substantial purpose the ownership and control of real property; or charges for or amounts paid as a standard fee for the service of facilitating the exchange of one (1) time-share interval for another or the service of making a reservation for a time-share interval via a reservation system.” TENN. CODE ANN. § 67-6-205(c)(1). None of these exceptions applies in the Taxpayer’s case.

The essential issue is therefore whether the term “room” must be interpreted in the broadest manner possible (*i.e.*, as any interior space of a building) or more narrowly (*i.e.*, as any space used for lodging or accommodation).

In ascertaining the meaning of a statute, the Tennessee Supreme Court has stated that one must examine “the natural and ordinary meaning of the statutory language **within the context of the entire statute** without any forced or subtle construction that would extend or limit the statute’s meaning.” *Home Builders Ass’n of Middle Tennessee v. Williamson County*, 304 S.W.3d 812, 817 (Tenn. 2010) (emphasis added). Additionally, a long-standing rule of statutory construction provides that “[s]tatutes of taxation are to be strictly construed against the taxing authority and, therefore, liberally construed in favor of the taxpayer.... **Where there is doubt as to the meaning of a taxing statute, the doubt must be resolved in favor of the taxpayer.**” *Id.* (citing *Memphis Peabody Corp. v. MacFarland*, 365 S.W.2d 40, 42-43 (1963) (citing *Commercial Standard Ins. Co. v. Hixson*, 133 S.W.2d 493 (1939)) (emphasis added).

In the case of TENN. CODE ANN. § 67-6-205(c)(1), the context in which the term “room” appears strongly indicates that the legislature intended to limit the application of the statute to a space used for accommodation or lodging. First, the word “room” appears in TENN. CODE ANN. § 67-6-205(c)(1) twice, both times as part of the phrase “rooms, lodgings, or accommodations.” The use of this phrase, along with the listing of several types of enterprises that provide lodging and accommodations, underscores that the legislature intended to refer to a space used for lodging.

Furthermore, the common meaning of the term “room” supports this interpretation. For example, MERRIAM-WEBSTER’S COLLEGIATE DICTIONARY 1082 (11th ed. 2007) defines the term “room” in pertinent part as “a partitioned part of the inside of a building, *esp.* such a part used as a lodging.” This definition, while indicating that a room may be any partitioned portion of a building, also illustrates that a common meaning of the term “room” is a place of accommodation.²

Thus, if one considers the phrase “place in which rooms are furnished” in isolation, it might appear that the statute has a very broad scope and that any location that rents out a room for any purpose would be subject to taxation. However, when the term “room” is read within the context of TENN. CODE ANN. § 67-6-205(c)(1), it is apparent that the intent of the legislature was to limit the imposition of the sales tax to certain types of enterprises, namely hotels, inns, tourist courts, tourist camps, tourist cabins, motels, and similar places that provide lodging and accommodations.

Finally, as noted above, the Tennessee Supreme Court has stated that where there is doubt as to the meaning of a taxing statute, the doubt must be resolved in favor of the taxpayer.³ Thus, any

² This meaning is also illustrated by the definitions of the following terms: “rooming house” (a house where lodgings are provided for rent); “room and board” (lodgings and food, usually furnished for a set price); “room service” (service provided to hotel guests in their lodgings); and “roommate” (one of two or more persons sharing the same living quarters). See MERRIAM-WEBSTER’S COLLEGIATE DICTIONARY 1082 (11th ed. 2007).

³ Note, however, that the burden is on the taxpayer to establish entitlement to an *exemption* from taxation. See *Am. Airlines, Inc. v. Johnson*, 56 S.W.3d 502, 506 (Tenn. Ct. App. 2000) (quoting *Rogers Group, Inc. v. Huddleston*, 900 S.W.2d 34, 36 (Tenn. Ct. App. 1995)); *Tibbals Flooring Co. v. Huddleston*, 891 S.W.2d 196, 198 (Tenn. 1994); *United Cannery, Inc. v. King*, 696 S.W.2d 525, 527 (Tenn. 1985)).

doubt as to the intended meaning of the term “room” within the context of TENN. CODE ANN. § 67-6-205(c)(1) must be resolved in favor of the taxpayer. Here, such resolution requires the narrower interpretation of the term.

Accordingly, when the Taxpayer rents a meeting or banquet room for a meeting, seminar, wedding reception, birthday party, or other similar event, the rental charges are not subject to the Tennessee sales and use tax.

4-5. Rental of meeting or banquet rooms to dealers or vendors

When the Taxpayer rents a [FACILITY] meeting or banquet room to an in-state or out-of-state business that sells merchandise to the public on a temporary basis, the rental charges are generally subject to the Tennessee sales and use tax. However, certain exceptions may apply.

TENN. CODE ANN. § 67-6-205(c)(8) imposes the Tennessee sales tax on the “renting or providing of space to a dealer or vendor without a permanent location in this state or to persons who are registered for sales tax at other locations in this state but who are making sales at this location on a less than permanent basis.” In other words, the rental charges will not be subject to the sales and use tax if the business renting the space in order to sell merchandise to the public on a temporary basis presents evidence that it has registered to collect sales tax at the [FACILITY] location. Additionally, TENN. CODE ANN. § 67-6-205(c)(8) does not apply to the renting or providing of space “at conventions, trade shows, or expositions, if the conventions, trade shows, or expositions do not allow the general public to enter the exhibit area for the purpose of making sales or taking orders for sales.” TENN. CODE ANN. § 67-6-205(c)(8) also does not apply to the renting or providing of space to a “craft fair, antique mall, or book fair or gun show, if the book fair or gun show is sponsored by a not-for-profit corporation” or to the renting or providing of space at a flea market.

Accordingly, when the Taxpayer rents a [FACILITY] meeting or banquet room to an in-state or out-of-state business that sells merchandise to the public on a temporary basis, the rental charges are generally subject to the Tennessee sales and use tax. However, the rental charges will not be subject to the sales and use tax if the business renting the space presents evidence that it has registered to collect sales tax at the [FACILITY] location. Similarly, the rental charges will not be subject to the sales and use tax if any of the other exceptions to TENN. CODE ANN. § 67-6-205(c)(8) that are noted above apply.

Regardless of whether the charges for the rental of the meeting or banquet room are subject to the sales tax under TENN. CODE ANN. § 67-6-205(c)(8), the party renting the space must collect and remit Tennessee sales and use tax with respect to any taxable retail sales that it makes from that location.⁴

⁴ Note that some exceptions may apply. For example, under TENN. COMP. R. & REG. 1320-5-1-.63(4) (2000), dealers having average monthly gross sales of \$400 or less and taxable services of \$100 or less may, in the discretion of the Commissioner, be required to pay tax to their suppliers on purchases in lieu of registering for sales and use tax purposes. Additionally, certain sales might qualify as nontaxable “occasional and isolated” sales under TENN. CODE ANN. § 67-6-102(9)(B), which exempts sales of tangible personal property sold directly to consumers, provided that “the tangible personal property is not regularly sold by the person or is regularly sold by the person only during a temporary sales period that occurs on a semiannual, or less frequent, basis.” TENN. COMP. R. & REGS. 1320-5-1-

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.09(4) (1990) explains this provision, stating that a “temporary sales period occurring on a semiannual or less frequent basis” is one that occurs no more than two times per calendar year. A sales period “shall be presumed to be temporary if it is of 30 consecutive days duration or less.” *Id.*