



Sales Tax Exemption for Rent Paid by a Room Remarketer to a Hotel Operator

This memorandum explains recently enacted legislation that provides an exemption from sales tax for rent paid by a room remarketer to a hotel operator.

Part X of Chapter 60 of the Laws of 2016 amended the Tax Law to provide an exemption from state and local sales taxes (sales tax) for rent paid by a room remarketer to a hotel operator for an occupancy that the room remarketer intends to sell to its customers. This new exemption does not apply to rent paid by a room remarketer to another room remarketer. The new exemption also applies to the \$1.50 per unit, per day fee imposed on hotel occupancy in New York City.¹

This new exemption applies to rent paid by a room remarketer for occupancies on or after June 1, 2016.

Prior to the new exemption, a room remarketer needed to claim a refund or credit of any sales tax, including the \$1.50 hotel unit fee in New York City, it had paid when purchasing hotel occupancy from a hotel operator. See:

- [TSB-M-10\(10\)S](#), *Amendments Affecting the Application of Sales Tax to Rent Received for Hotel Occupancy by Room Remarketers*, and
- [TSB-M-12\(8\)S](#), *2012 Budget Legislation Affecting the Sales Tax Obligations of Hotel Room Remarketers*.

A room remarketer may still claim this refund or credit for any tax it paid.

How to claim the new exemption

To claim this exemption, a room remarketer must give the hotel operator a properly completed [Form ST-120.2](#), *Room Remarketer's Exempt Purchase Certificate*, within 90 days of the date it purchases the occupancy from the hotel operator.

Example: *Company A is a room remarketer that has an agreement with XYZ Hotel in New York City under which Company A agrees to pay XYZ Hotel \$200 per night for each room it rents to one of its customers. On July 1, 2016, Mr. K reserves a room for a one night stay at XYZ Hotel through Company A's web site. Mr. K agrees to pay Company A \$250 for the room plus applicable sales tax. Company A provides XYZ Hotel a properly completed [Form ST-120.2](#), Room Remarketer's Exempt Purchase Certificate, and XYZ Hotel is not required to collect sales tax or the \$1.50 hotel unit fee from Company A. As*

¹ While this exemption applies to the Hotel Room Occupancy Tax (HROT) imposed and administered by New York City, it does not apply to occupancy taxes imposed and administered by other local governments (local bed taxes). Any questions regarding the application of this new exemption to the HROT should be directed to the New York City Department of Finance.

a room remarketer, Company A must collect State and local sales tax from Mr. K on the \$250 rent and also collect the \$1.50 hotel unit fee.

Note: A TSB-M is an informational statement of existing department policies or of changes to the law, regulations, or department policies. It is accurate on the date issued. Subsequent changes in the law or regulations, judicial decisions, Tax Appeals Tribunal decisions, or changes in department policies could affect the validity of the information presented in a TSB-M.