

**New York State Department of Taxation and Finance**  
**Taxpayer Services Division**  
**Technical Services Bureau**

TSB-A-91 (44)S  
Sales Tax  
May 23, 1991

STATE OF NEW YORK

COMMISSIONER OF TAXATION AND FINANCE

ADVISORY OPINION

PETITION NO. S910329A

On March 29, 1991 a Petition for Advisory Opinion was received from the Juliana Motel, P.O. Box 63, Diamond Point, New York 12824.

The issue raised by Petitioner, Juliana Motel, is whether its charges for the rental of housekeeping and efficiency units at its facility is subject to the imposition of sales tax.

Petitioner's facility contains approximately 50% housekeeping and efficiency units each containing its own kitchen, bathroom and sleeping rooms. No services are provided for these units. Petitioner rents these facilities on a weekly basis through the summer.

Section 527.9(e)(5) of the Sales and Use Tax Regulations provides that:

A lessor of bungalows, who rents bungalows which are furnished living units limited to a single-family occupancy, is not the operator of a hotel. Therefore, the rents for the occupancy of such bungalows are not taxable, provided:

- (i) no maid, food or other common hotel services, such as entertainment or planned activities, are provided by the lessor; and
- (ii) the rental is for at least one week.

The furnishing of linen by the lessor with the rental of a bungalow, without the service of changing the linen, does not alter the nontaxable status of the rental charges.

The Appellate Division has held that the charges for the use of cabanas was not a charge for dues but was for the rental of real property and that each cabana constituted a bungalow or an apartment; (Breezy Point Surf Club, Inc. v. State Tax Commission 67 A.D. 2d 760).

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Therefore in accordance with Section 527.9(e)(5) of the Sales and Use Tax Regulations, Petitioner's rental of housekeeping and efficiency units for a term of at least one week will not be subject to the imposition of sales tax provided that it provides no maid, food or other common hotel services or planned activities.

DATED: May 23, 1991

s/PAUL B. COBURN  
Deputy Director  
Taxpayer Services Division

NOTE: The opinions expressed in Advisory Opinions  
are limited to the facts set forth therein.