S T A T E O F N E W Y O R K

2670

2009-2010 Regular Sessions

I N A S S E M B L Y

January 21, 2009

Introduced by M. of A. GLICK -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law and chapter 161 of the laws of 1970 relating to enabling any city having a population of one million or more to impose and collect taxes on the occupancy of hotel rooms in such city, in relation to certain exemptions from hotel occupancy taxes

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Paragraphs 1 and 7 of subdivision (c) of section 1101 of the tax law, as added by chapter 93 of the laws of 1965, are amended and two new paragraphs 8 and 9 are added to read as follows:

(1) Hotel. A building or portion of it which is regularly used and kept open as such for the lodging of guests. The term "hotel" includes an apartment hotel, a motel, boarding house or club, whether or not meals are served; PROVIDED THAT THE TERM HOTEL DOES NOT INCLUDE A CLASS B MULTIPLE DWELLING OR A SINGLE ROOM OCCUPANCY LOCATED IN ANY CITY HAVING A POPULATION OF ONE MILLION OR MORE INHABITANTS.

(7) Room. Any room or rooms of any kind in any part or portion of a hotel, which is available for or let out for any purpose other than a place of assembly; PROVIDED THAT THE TERM ROOM DOES NOT INCLUDE A CLASS B MULTIPLE DWELLING OR A SINGLE ROOM OCCUPANCY LOCATED IN ANY CITY HAVING A POPULATION OF ONE MILLION OR MORE INHABITANTS. THE TERM "ROOM" SHALL BE DEEMED TO MEAN AND INCLUDE THE TERM "UNIT" AS USED IN SECTION ELEVEN HUNDRED FOUR OF THIS PART FOR THE PURPOSES OF SAID SECTION ELEVEN HUNDRED FOUR.

(8) CLASS B MULTIPLE DWELLING. A "CLASS B" MULTIPLE DWELLING IS A MULTIPLE DWELLING WHICH IS OCCUPIED, AS A RULE TRANSIENTLY, AS THE MORE OR LESS TEMPORARY ABODE OF INDIVIDUALS OR FAMILIES WHO ARE LODGED WITH OR WITHOUT MEALS. THIS CLASS SHALL INCLUDE HOTELS, LODGING HOUSES, ROOMING HOUSES, BOARDING HOUSES, LODGINGS, AND DWELLINGS DESIGNED AS

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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PRIVATE DWELLINGS BUT OCCUPIED BY ONE OR TWO FAMILIES WITH FIVE OR MORE TRANSIENT BOARDERS, ROOMERS, OR LODGERS IN ONE HOUSEHOLD.

(9) SINGLE ROOM OCCUPANCY. "SINGLE ROOM OCCUPANCY" IS THE OCCUPANCY BY ONE OR TWO PERSONS OF A SINGLE ROOM, OR OF TWO OR MORE ROOMS WHICH ARE JOINED TOGETHER, SEPARATED FROM ALL OTHER ROOMS WITHIN AN APARTMENT IN A MULTIPLE DWELLING, SO THAT THE OCCUPANT OR OCCUPANTS THEREOF RESIDE SEPARATELY AND INDEPENDENTLY OF THE OTHER OCCUPANT OR OCCUPANTS OF THE SAME APARTMENT.

S 2. Subdivisions (a) and (b) of section 1104 of the tax law, as added by chapter 3 of the laws of 2004, are amended to read as follows:

(a) Imposition. In addition to any other fee or tax imposed by this article or any other law, on and after April first, two thousand five, there is hereby imposed within the territorial limits of a city with a population of a million or more and there shall be paid a unit fee on every occupancy of a unit in a hotel in such city at the rate of one dollar and fifty cents per unit per day, except that such unit fee shall not be imposed upon (1) occupancy by a permanent resident [or], (2) where the rent per unit is not more than at the rate of two dollars per day, (3) A CLASS B MULTIPLE DWELLING, OR (4) A SINGLE ROOM OCCUPANCY.

(b) Administration and enforcement. The unit fee imposed by this section shall be administered and collected in a like manner as the tax imposed by subdivision (e) of section eleven hundred five of this article. All the provisions of this article (except sections eleven hundred seven, eleven hundred eight and eleven hundred nine), including the definition and exemption provisions, relating to or applicable to the IMPOSITION, administration, collection and disposition of the tax imposed by subdivision (e) of such section eleven hundred five of this article shall apply to the unit fee imposed by this section so far as such provisions can be made applicable to such unit fee with such limitations as are set forth in this article, and such modifications as are set forth in this section and as may be necessary in order to adopt such language to the unit fee so imposed. Such provisions shall apply with the same force and effect as if the language of those provisions had been incorporated in full in this section and had expressly referred to the unit fee imposed by this section, except to the extent that any provision is either inconsistent with a provision of this section or is not relevant to the unit fee imposed by this section. For purposes of this section, unless a different meaning is clearly required: (1) any reference in this article to the tax or taxes imposed by this article shall be deemed to refer also to the unit fee imposed by this section; and (2) any reference to tax, taxes or sales tax in section eighteen hundred seventeen of this chapter shall be deemed to refer also to the unit fee imposed by this section.

S 3. Section 1 of chapter 161 of the laws of 1970 relating to enabling any city having a population of one million or more to impose and collect taxes on the occupancy of hotel rooms in such city is amended by adding a new subdivision 1-b to read as follows:

(1-B) NOTWITHSTANDING ANY INCONSISTENT PROVISION OF THIS CHAPTER OR ANY OTHER GENERAL, SPECIAL, OR LOCAL LAW TO THE CONTRARY, NO TAX IMPOSED PURSUANT TO THE AUTHORITY OF THIS ACT SHALL APPLY TO THE OCCUPANCY OF A ROOM OR ROOMS IN A HOTEL IF SUCH ROOM OR HOTEL IS A CLASS B MULTIPLE DWELLING OR A SINGLE ROOM OCCUPANCY. FOR THE PURPOSE OF THIS ACT: (A) A "CLASS B" MULTIPLE DWELLING IS A MULTIPLE DWELLING WHICH IS OCCUPIED, AS A RULE TRANSIENTLY, AS THE MORE OR LESS TEMPORARY ABODE OF INDIVIDUALS OR FAMILIES WHO ARE LODGED WITH OR WITHOUT MEALS. THIS CLASS SHALL INCLUDE HOTELS, LODGING HOUSES, ROOMING HOUSES, BOARDING HOUSES, LODG-

INGS, AND DWELLINGS DESIGNED AS PRIVATE DWELLINGS BUT OCCUPIED BY ONE OR TWO FAMILIES WITH FIVE OR MORE TRANSIENT BOARDERS, ROOMERS, OR LODGERS IN ONE HOUSEHOLD; AND (B) "SINGLE ROOM OCCUPANCY" IS THE OCCUPANCY BY ONE OR TWO PERSONS OF A SINGLE ROOM, OR OF TWO OR MORE ROOMS WHICH ARE JOINED TOGETHER, SEPARATED FROM ALL OTHER ROOMS WITHIN AN APARTMENT IN A MULTIPLE DWELLING, SO THAT THE OCCUPANT OR OCCUPANTS THEREOF RESIDE SEPARATELY AND INDEPENDENTLY OF THE OTHER OCCUPANT OR OCCUPANTS OF THE SAME APARTMENT.

S 4. This act shall take effect on the first day of a sales tax quarterly period, as such period is described in subdivision (b) of section 1136 of the tax law, beginning at least 60 days after the date this act shall have become a law and shall apply to sales made on or after that date although rendered or made under a prior contract; provided that the commissioner of taxation and finance and the commissioner of finance (or other officer of appropriate jurisdiction) of any city subject to the provisions of this act are authorized to promulgate any and all rules and regulations and take any other measures necessary to implement this act on its effective date on or before such date; and provided further that such promulgations and the taking of other measures are authorized to be done on an emergency basis if any such commissioner or other officer shall deem it necessary to do so to implement the provisions of this act on a timely basis.