

PKF PERSPECTIVES

NEW "UNIT" FEE for NEW YORK CITY HOTELS

\$1.50 per Unit, Per Day - Effective April 1, 2005

Beginning on April 1, 2005, New York State is imposing a fee of \$1.50 per unit per occupancy day for hotels in all five boroughs. The new fee is in addition to state and local sales tax on rent from hotel occupancy. The hotel unit fee will be imposed on occupancies beginning on or after April 1, 2005 regardless of whether the occupancy is pursuant to prior contract, lease or other arrangement or is paid on a weekly, monthly or other basis. There is no proration of the unit fee for less than a full day of occupancy.

Definition of "Unit"



A "unit in a hotel" is defined by the Office of Tax Policy Analysis Technical Services Division as "any room(s) of any kind in any part or portion of the hotel that is available to be let out for any purpose other than a place of assembly." A suite is generally considered to be one unit, as are two or

more contiguous rooms that would normally be rentable by the hotel as separate rooms if: (1) they provide access to each other through doorways within the rooms; (2) they are rented to the same occupant(s) at the same time and are billed as a single unit; and (3) they are intended to be used by the occupant(s) as a single unit.

Exclusions

Like the state and local sales tax imposed on rent from hotel occupancy, the hotel unit fee will **not** be imposed upon occupancy under the following circumstances:

- 1 If the occupant is a permanent resident of the hotel (which means an occupant of any unit in the hotel for at least 90 consecutive days)
- 2 Where the rent per unit is \$2 per day or less, or
- 3 Where the rent from occupancy is otherwise exempt or excluded from sales tax, e.g. in the case of occupancy by an exempt organization.

When an occupant reaches 90 consecutive days of occupancy in a unit, the hotel unit fee paid with respect to the 90 days is refundable to the occupant. The hotel may refund to the occupant the total amount of the hotel unit fee previously paid by the occupant and then take a credit on its sales tax return in an equal amount. If the hotel fails to refund the unit fee to the occupant, the occupant may file a claim directly with the Tax Department using form AU-11, *Application for Credit or Refund of Sales or Use Tax*.

Administration

Hotel operators in the City are required to collect the unit fee from occupants and pay the collected fee in the same manner as they now remit the state and local tax on rent received from hotel occupancy. A line will be added to sales tax returns to allow New York City hoteliers to report the number of occupancies subject to the hotel unit fee and remit the amount of unit fee collected.

Termination

The imposition of the hotel unit fee - which will help pay for the expansion of the Jacob K. Javits Convention Center - will be lifted after all bonds secured in whole or in part by the fee have been fully paid, discharged, or have been deemed to be paid, together with interest thereon and interest on unpaid installments of interest.

Items in this publication should not be considered official statements of position, nor advice for individuals or organizations without consulting a tax advisor. For more information, please contact Howard Pell or Leo Parmegiani at:

PKF

**Certified Public Accountants
A Professional Corporation**

29 Broadway • New York, NY 10006
Telephone: (212) 867-8000 • Telefax: (212) 687-4346
www.pkfnewyork.com
E-mail: info@pkfnyc.com

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