



STATE OF SOUTH CAROLINA
DEPARTMENT OF REVENUE

300A Outlet Pointe Blvd., Columbia, South Carolina 29210
P.O. Box 12265, Columbia, South Carolina 29211

SC REVENUE RULING #18-7

SUBJECT: Destination Marketing Fees
(Sales Tax on Accommodations)

EFFECTIVE DATE: Applies to all periods open under the statute.

REFERENCES: S.C. Code Ann. Section 12-36-60 (2014)
S.C. Code Ann. Section 12-36-90 (2014; Supp. 2017)
S.C. Code Ann. Section 12-36-920(A) (Supp. 2017)

AUTHORITY: S.C. Code Ann. Section 12-4-320 (2014)
S.C. Code Ann. Section 1-23-10(4) (2005)
SC Revenue Procedure #09-3

SCOPE: The purpose of a Revenue Ruling is to provide guidance to the public. It is an advisory opinion issued to apply principles of tax law to a set of facts or general category of taxpayers. It is the Department's position until superseded or modified by a change in statute, regulation, court decision, or another Department advisory opinion.

Question:

Are charges for destination marketing fees, as described below, subject to the 7% sales tax on accommodations under Code Section 12-36-920(A)?

Conclusion:

Charges for destination marketing fees, as described below, are subject to the 7% sales tax on accommodations under Code Section 12-36-920(A).

Background:

Many hotels and other businesses furnishing accommodations in South Carolina charge "destination marketing fees," "hotel marketing fees," or other similar service charges (hereafter referred to as "marketing fees"). Marketing fees are charged as separate line items on customer bills at the rate of either a set dollar amount per room per night or a percentage of the charge for accommodations.

The proceeds from the marketing fees are typically, but not always, remitted to an outside tourist organization, such as a chamber of commerce or a convention and visitors bureau, which uses the funds for tourism development and advertising to attract more tourists to the area. When the marketing fees are retained by the provider of accommodations, they are similarly used for advertising to draw potential customers to the establishment.

Discussion:

Code Section 12-36-920(A) imposes a 7% sales tax on accommodations. The statute reads, in part:

A sales tax equal to seven percent is imposed on the gross proceeds derived from the rental or charges for any rooms, campground spaces, lodgings, or sleeping accommodations furnished to transients by any hotel, inn, tourist court, tourist camp, motel, campground, residence, or any place in which rooms, lodgings, or sleeping accommodations are furnished to transients for a consideration.

Under Code Section 12-36-90 the term gross proceeds includes the value proceeding or accruing from the furnishing of accommodations.¹ Therefore, the 7% tax rate for accommodations applies to all “value proceeding or accruing from” the furnishing of accommodations, unless there is an applicable exception.

In *Meyers Arnold v. South Carolina Tax Commission*, 285 S.C. 303, 328 S.E.2d 920 (1985), the Court of Appeals, in interpreting the definition of “gross proceeds of sales” with respect to lay-away fees paid in conjunction with lay-away sales, held:

Section 12-35-30 [now Section 12-36-90] defines gross proceeds of sales as “the value proceeding or accruing from the sale of tangible personal property ... without any deduction for service costs.” But for the lay away sales, *Meyers Arnold* would not receive the lay away fees. The fees are obviously charged for the services rendered in making lay away sales. For these reasons, this court holds the lay away fees are part of the gross proceeds of sales and subject to the sales the tax.

Applying the test in *Meyers Arnold* to this issue, but for the furnishing of accommodations, the hotel would not receive the marketing fee. As a result, under the *Meyers Arnold* test, the marketing fees received as a result of furnishing accommodations are a part of gross proceeds.

¹ For the purposes of South Carolina sales and use tax, the definition of “tangible personal property” includes the “furnishing of accommodations.”

Based on the above, destination marketing fees are subject to the 7% sales tax on accommodations under Code Section 12-36-920(A).

Note: See SC Regulation 117-307 for specific questions on various other charges by providers of accommodations.

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s/W. Hartley Powell

W. Hartley Powell, Director

May 14 _____, 2018
Columbia, South Carolina