



Department of Revenue

[Mass. Gov. Home](#)
[State Agencies](#)
[State Online Services](#)

DOR
Home

For
Individuals and Families

For
Businesses

For
Local Officials

For
Tax Professionals

[Home](#) > [Businesses](#) > [Help & Resources](#) > [Legal Library](#) > [Letter Rulings](#) > [Letter Rulings - By Year\(s\)](#) > [\(1985-1989\) Rulings](#) >

Letter Ruling 86-2: Allocation of Charges for Room, Meals and Recreational Facilities

January 22, 1986

Thank you for your letter requesting clarification of the Department's position concerning a hotel operator's allocation of a single fee charged to its guests, among the charge for rent subject to the room occupancy excise the charge for meals subject to the sales tax on meals, and the charge for the use of recreational facilities not subject to tax. You ask these questions on behalf of a client which operates a resort hotel and is an operator within the meaning of G.L. c. 64G.

I conclude that a hotel operator may allocate the single fee between the charge for rent subject to the room occupancy excise and the charge for meals subject to the sales tax on meals, provided that the allocation is reasonable and fully documented in the operator's books and records. I conclude that the operator may not allocate a portion of the single fee to a non-taxable charge for the use of recreational facilities, unless this charge is entirely optional. I understand that the charges which makes for the use of recreational facilities are not optional.

Allocation between rent charge and meals charge

Under G.L. C. 64H, §§ 2, and 6(h), there is a five percent sales tax on sales of meals served by restaurants. Under G. L. c. 64G, § 3 there is a 5.7 percent excise upon the transfer of occupancy of any room or rooms in a hotel. In addition, under G.L. c. 64G, § 3A, added by St. 1985, c. 145, § 6, a city or town which accepts the provisions of c. 64G, 5 3A, may impose an additional excise of up to four percent on the transfer of occupancy of any room or rooms in a hotel within the city or town. See also 830 CMR 64G.01, Local Option Room Occupancy Excise."

The Department allows hotel operators whose charges to guests include meals, to allocate the charges between charges for the room and charges for meals. See Letter Ruling 84-90, copy attached. Your client may make the allocation between room charges and meal charges, provided that the allocation is reasonable and supported by the books and records of the hotel.

Charges for use of recreational facilities

The allocation of part of the single fee to a charge for use of recreational facilities is different. This is because by statute the room occupancy excise is imposed on the transfer of occupancy, which is defined to include "the right to the use or possession of the the services and accommodations accompanying the use and possession" of a room or rooms. G.L. c. 64G, § 1(e). The right to use the hotel's recreational facilities is the right to use "services and accommodations accompanying the use of the hotel room. The charge for this right to use recreational facilities accompanying the use of the hotel room is subject to the room occupancy excise.

If the hotel's guests were able to choose whether or not to purchase the right to use the recreational facilities, then my conclusion might well be different. As I understand the facts, your client's guests are not given the option of choosing whether or not to purchase the right to use the recreational facilities.

SEARCH

Select an area to search

Search

Earlier Letter from Department Employee

I understand that in 1979 your client received a letter from a Department employee which arguably approved the allocation of the single charge among room charge, meals charge, and non-taxable facilities charge. This approval was conditioned upon your client's agreement to state the "facilities charges" separately in its guest bills and books and records. Your client has not complied with the requirement of separate statement.

I do not have the earlier letter before me. However, to the extent that any earlier written or oral representations by the Department conflict with my conclusions in this letter, this letter revokes the earlier representations.

Proposed Form Bill

You attached to your letter a form bill showing separate statement of the room charge, the meals charge and the facilities charge. You ask whether your client may use this bill to make the allocations shown. My conclusion that your client may not allocate a separate non-taxable "facilities charge" answers your question about the form bill.

Please be advised that this is a letter ruling within the meaning of 830 CMR 62C.03.

Very truly yours,
Ira A. Jackson
Commissioner of Revenue
January 22, 1986
LR 86-2