

DECLARATION OF EMERGENCY

Department of Revenue Policy Services Division

Hurricane Katrina—Hotel Sales Tax Exclusion
Uniform State and Local Sales Tax Definitions
(LAC 61:I.4301)

The Department of Revenue, Policy Services Division, is exercising the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), to clarify what “transient guest” means for purposes of the state sales tax imposition on the taxable service of furnishing sleeping rooms, cottages or cabins by hotels.

This Emergency Rule is being adopted to provide tax relief for citizens whose occupancy of hotel rooms in Louisiana was necessitated when Hurricane Katrina displaced them from their normal places of dwelling. This Emergency Rule will apply to the four percent sales tax imposed by the State of Louisiana and the Louisiana Tourism Promotion District.

This Emergency Rule is effective August 27, 2005, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act.

Title 61 REVENUE AND TAXATION Part I. Taxes Collected and Administered by the Secretary of Revenue

Chapter 43. Sales and Use Tax

§4301. Uniform State and Local Sales Tax Definitions

A. ...

B. Words, terms and phrases defined in R.S. 47:301(1) through R.S. 47:301(27), inclusive, have the meaning ascribed to them therein and as further provided in §4301.C.

C. ...

Hotel—

a. The term *hotel* has been defined under R.S. 47:301(6) to be somewhat more restrictive than normally construed, both as to use of the facility and relative size. Only those establishments engaged in the business of furnishing sleeping rooms, cottages or cabins primarily to transient guests consisting of six or more guest or sleeping rooms at a single business location meet the statutory definition. If an establishment has less than six sleeping rooms, cottages or cabins at a single business location or if more than one-half of the guests are permanent, regardless of the number of sleeping rooms, cottages or cabins, the establishment is not a *hotel* for purposes of *state and local sales or use tax*.

b.(i) In determining whether an establishment furnishes sleeping rooms primarily to transient guests, each guest must be considered individually. A guest who engages his lodging and pays his bill on a monthly basis and who remains as a guest for two consecutive months is considered to be a permanent guest and not transient. Guests who remain for any lesser period are considered transient.

(ii) Solely for purposes of the sales tax imposed by the State of Louisiana and the Louisiana Tourism Promotion District, persons whose occupancy of hotel rooms in Louisiana is attributable solely to their displacement from their normal places of dwelling in areas that were declared by the President of the United States to be natural disaster areas will not be considered transient guests with respect to such occupancy. Hotel guests claiming not to be transient under these provisions must furnish hoteliers with the complete residential addresses from which they were displaced and written statements that their occupancy of the hotel rooms was attributable to such displacement.

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AUTHORITY NOTE: Promulgated in Accordance with R.S. 47:301 and R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Sales Tax Section, LR 13:107 (February 1987), amended by the Department of Revenue and Taxation, Sales Tax Division, LR 21:957 (September 1995), LR 22:855 (September 1996), amended by the Department of Revenue, Policy Services Division, LR 27:1703 (October 2001), LR 28:348 (February 2002), LR 28:1488 (June 2002), LR 28:2554, 2556 (December 2002), LR 29:186 (February 2003), LR 30:1306 (June 2004), LR 30:2870 (December 2004), LR 31

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