

8130.1000 LODGING.

Subpart 1. **General rule.** Under Minnesota Statutes, section 297A.61, subdivision 3, paragraph (g), clause (2), furnishing for a consideration of lodging and related services by a hotel, rooming house, resort, campground, motel, or trailer camp and the granting of any similar license to use real property other than the renting or leasing of it for a period of 30 days or more constitute a sale.

Subp. 2. **Criteria.** The following criteria apply in determining whether a license to use real property for lodging purposes constitutes a sale under Minnesota Statutes, section 297A.61, subdivision 3, paragraph (g), clause (2):

A. A lease of or license to use specific real property enforceable for a period of 30 days or more and which requires serving a notice of intention to so terminate either by the lessor or lessee of a period of at least 30 days prior thereto (or such shorter period as agreed to by the parties for violation of the lease conditions) does not constitute a sale even though the rent may be paid on a weekly or semimonthly basis.

B. A lease of or a license to use real property if the consideration for the lease or license is paid or payable at periods of less than 30 days' duration, or if the parties are not bound by an enforceable written contract to give prior notice of 30 days or more of intention to terminate, constitutes a sale.

C. A person engaged in the furnishing of taxable lodging facilities, in determining the amount of consideration received subject to the tax, shall include separately stated charges for telecommunication service and amounts received for the use of a television set or other items of tangible personal property.

Example 1. "G," guest, registers at hotel without entering into an enforceable written agreement whereby G will occupy a room for a period in excess of 30 days. G stays at the hotel for five full weeks. Thereafter, G settles the account and vacates the room. Although occupancy was in excess of the statutory period of 30 days, the transaction constitutes a sale in accordance with item B.

Example 2. Hotel, in addition to furnishing sleeping accommodations and related service to transients, leases rooms or suites to ten persons on a monthly basis. "G," guest, occupies a small suite, and pays in advance on the first day of each month. The leasing of a suite to G does not constitute a sale, as a hotel also may be a lodging house, and G, who is a tenant at will, is required to give notice of termination of at least 30 days.

Example 3. "T," tenant, rents an apartment from Landlord without a lease. T pays rent weekly. Each of the parties is required to give notice of one week of intention to terminate. Consequently, this arrangement constitutes a sale, as the leasing of the premises to T is for a period of less than 30 days.

Example 4. Motel charges guest \$50 per day for a room. "G," guest, makes three local telephone calls. Motel bills G for \$50 plus a separately stated charge of \$1.50 for telephone calls, and \$5 for use of video games. The taxable consideration paid by G is \$56.50 represented by the \$50 charge for the room, \$5 charge for the video games, and \$1.50 for telephone calls.

Example 5. If "X" company leases a room in a hotel or motel on a yearly basis for occasional use by employees or guests, the charge is exempt even if a particular room is not reserved for the exclusive use of X company.

Statutory Authority: *MS s 14.388; 270C.06; 297A.29*

History: *17 SR 1279; L 2005 c 151 art 1 s 114; 31 SR 449*

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