

**New York State Department of Taxation and Finance**  
**Taxpayer Services Division**  
**Technical Services Bureau**

TSB-A-93 (5) S  
Sales Tax  
January 5, 1993

STATE OF NEW YORK  
COMMISSIONER OF TAXATION AND FINANCE

ADVISORY OPINION

PETITION NO. S921014A

On October 14, 1992 a Petition for Advisory Opinion was received from World University Games, c/o Buffalo Athletic Corporation, 235 North Street, Buffalo, New York 14202.

The issue raised by Petitioner, World University Games, is whether the owner of a private home will be required to collect sales tax when a guest pays for staying in the home during the 1993 World University Games.

During the period from July 8, 1993 through July 18, 1993 the World University Games competitions will be held in Buffalo, New York. The Private Home Lodging committee of the World University Games has determined that individuals unable to be lodged in hotels, motels, Bed and Breakfasts and campgrounds because the games are being held during a busy tourist season may require supplemental private home lodgings during this event. The committee will refer such individuals to homeowners or their real estate agents. The committee will not receive any compensation for such referrals.

Section 1105(e) of the Tax Law imposes a tax on "the rent for every occupancy of a room or rooms in a hotel in this state, except that the tax shall not be imposed upon (1) a permanent resident, or (2) where a rent is not more than at the rate of two dollars per day."

Section 1101(c)(1) of the Tax Law defines the term "hotel" as follows:

A building or portion of it which is regularly used and kept open as such for the lodging of guests. The term 'hotel' includes an apartment hotel, a motel, boarding house or club, whether or not meals are served.

Section 527.9(b)(1) of the Sales and Use Tax Regulations defines the term "hotel" as follows:

A building or portion of it, which is regularly used and kept open for the lodging of guests. The term 'hotel' includes but is not limited to an apartment hotel, a motel, bungalow or cottage colony, boarding house or club, whether or not meals are served.

Accordingly, private home owners who provide lodging during the 1993 World University Games to individuals referred to them by the Private Home Lodging committee and whose homes are not regularly used for the lodging of guests, will not be considered to be operating a hotel in accordance with the meaning and intent of Section 1101(c)(1) of the Tax Law and Section

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527.9(b)(1) of the Sales and Use Tax Regulations, and thus the occupancy will not be subject to the sales tax imposed under Section 1105(e) of the Tax Law.

DATED: January 5, 1993

/s/  
PAUL B. COBURN  
Deputy Director  
Taxpayer Services Division

NOTE: The opinions expressed in Advisory Opinions  
are limited to the facts set forth therein.