Long-Term Lodging Exemption

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Colorado sales tax is generally imposed on amounts charged for rooms or accommodations in hotels and other lodging establishments. The Long-term Lodging Exemption allows people who live in a lodging establishment for at least 30 consecutive days to be exempted from paying state sales tax on the cost of their lodgings. The exemption was likely intended to provide equal tax treatment between people who enter into residential leases, which are not subject to sales tax, and those who reside in lodging establishments on a long-term basis.

We found that the exemption equalizes tax treatment between people who reside in traditional housing and those who live in lodging establishments on a long-term basis when it is applied correctly. However, it appears that some establishments may not be aware of or applying the exemption.

- When the exemption is applied, people living in long-term lodging establishments receive 2.9 percent in tax savings (an estimated $44 to $98 per month, or $529 to $1,176 per year) on the cost of their housing.

- The exemption may not be applied consistently to all eligible stays. Most accommodation booking websites that we examined do not apply the exemption at the time of booking. However, the majority of respondents of a small sample of lodging establishments appear to be applying the exemption correctly.

Policy Considerations

We did not identify any policy considerations for this exemption.

Tax Type:	**Sales tax**	Year Enacted:	**1959**
Expenditure Type:	**Exemption**	Repeal/Expiration date:	**None**
Statutory Citation:	**Section 39-26-704(3)(a), C.R.S.**	Revenue Impact (2021):	**$9.1 million**

Purpose given in statute or enacting legislation? **No**

Long-Term Lodging Sales Tax Exemption

Background

Colorado sales tax is generally imposed on amounts charged for rooms or accommodations in hotels and other lodging establishments. **The Long-term Lodging Sales Tax Exemption allows people who live in a lodging establishment for at least 30 consecutive days to be exempted from paying state sales tax on the cost of their lodgings.**

People of all income levels who stay in lodging establishments on a long-term basis can claim the exemption, and we could not identify a source of data to provide demographic information for those who use it. However, some news articles indicate that some low income individuals and families in Colorado may live in hotels or motels because they do not meet the qualifications for renting a residence under a standard lease agreement. Other people who live in temporary accommodations for at least 30 days may include individuals on temporary assignment or working on specific projects, such as traveling nurses, construction workers, and consultants.

In order to qualify for the exemption, the permanent resident must have a written agreement for occupancy of the accommodations for at least 30 consecutive days, which, under Department of Revenue (Department) regulations, can include a hotel registration or rent receipt. The exemption is generally applied by the lodging establishment at the time of sale. Alternatively, if the resident is incorrectly charged for sales tax at the time of sale, they may submit a request for a refund to the Department.

Of the 47 other states and the District of Columbia that apply state sales tax and/or lodging tax to the cost of accommodations, we determined that 44 states exempt long-term stays from one or both of these taxes. The minimum length of stay to qualify for the exemption varies, but the most common is 30 days.

The exemption was likely intended to provide equal tax treatment between people who enter into residential leases, which are not subject to sales tax, and those who reside in lodging establishments on a long-term basis.

The exemption was enacted in 1959 with the same legislation that imposed the state sales tax on amounts paid for lodgings, which suggests that the legislature only intended to impose sales tax on short-term stays in lodgings. The exemption has remained largely unchanged since then, with the exception of House Bill 20-1020, which the General Assembly passed in 2020 to limit the exemption to "any natural person," which are individuals rather than businesses. Based on the bill's legislative declaration, this change was intended to restrict the exemption's availability in accordance with the exemption's "presumed original purpose of providing equal tax treatment for persons who enter into residential leases of 30 days or more and persons who stay for more than 30 days in lodgings that are typically used for short-term stays."

In addition to limiting the exemption to natural persons, House Bill 20-1020 also requires local governments with a state-collected local sales tax to apply the exemption to local sales taxes unless local ordinances expressly tax long-term lodgings. Statute does not limit the local exemption to natural persons but rather allows any "occupant" of the accommodations to claim the exemption.

Performance Measures. In order to determine whether the exemption is meeting its purpose, we assessed the extent to which the exemption equalizes tax treatment between traditional housing and lodging establishments, and whether establishments are aware of and correctly applying the exemption.

Evaluation Results

We found that the exemption equalizes tax treatment between people who reside in traditional housing and those who live in lodging establishments on a long-term basis when it is applied correctly. However, it appears that some establishments may not be aware of or applying the exemption correctly.

When the exemption is applied correctly, its beneficiaries receive 2.9 percent in tax savings (an estimated \$44 to \$98 per month, or \$529 to \$1,176 per year) on the cost of their housing. Exhibit 1 estimates the monetary benefit that people living in accommodations establishments may receive as a result of the exemption. As shown, the exemption could provide about \$44 in savings per month at a lower-cost hotel. Representatives of an association that provides services to the homeless population stated that these savings could be significant for low income families; for example, \$44 could help a family pay for food for a week.

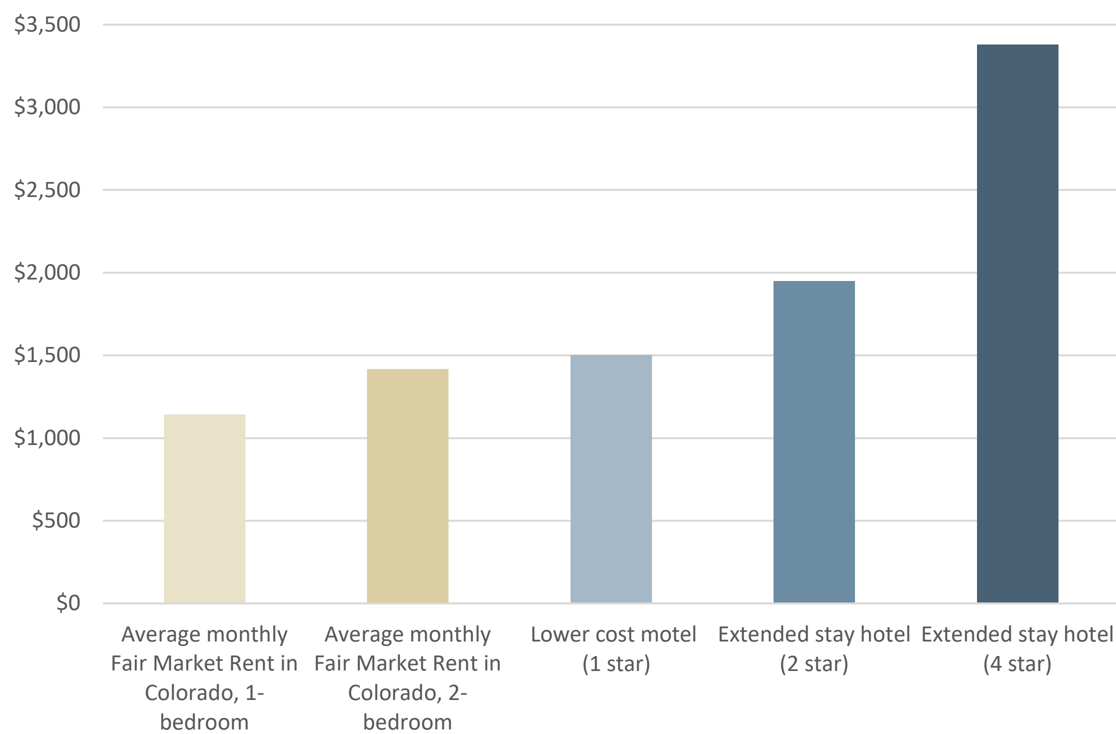
Exhibit 1
Estimated Exemption Benefit to Residents of Accommodations Establishments

Type of Accommodations	Estimated Monthly Cost of Accommodations Without Exemption	Colorado Sales Tax Rate	Estimated Monetary Benefit, Monthly	Estimated Monetary Benefit, Annual
Lower cost motel (1 star)	$1,544	2.90%	$44	$529
Extended stay hotel (2 star)	$2,007		$57	$688
Extended stay hotel (4 star)	$3,478		$98	$1,176

Source: Office of the State Auditor analysis of typical accommodations costs and the Colorado sales tax rate.

While the exemption does equalize the tax treatment between long-term accommodations and traditional housing, even with the exemption, long-term stays in lodging establishments are generally much more expensive than comparable housing obtained through a traditional rental lease, with the exemption providing a relatively small reduction in the additional cost of long-term stays. Although we were unable to determine the average cost of living permanently in temporary accommodations in Colorado, Exhibit 2 provides some examples of possible housing costs incurred by people who live in temporary accommodations compared with typical housing costs for those who live in traditional housing.

Exhibit 2
Comparison of Monthly Fair Market Rent[1] in Colorado (2021) with Estimated Cost of 30-day Stay in Colorado Lodging Establishments



Source: Office of the State Auditor analysis of Colorado lodging establishment prices as of January 2023 and US Department of Housing and Urban Development Fair Market Rents 2021 data.
[1]FMRs are estimates of the 40th percentile gross rents for "standard quality units" in a given location and are used to determine the benefits provided under various HUD income-based housing programs.

Some booking websites and lodging establishments might not apply the exemption to all eligible stays. We examined 12 accommodation booking websites that allow long-term stays and found that 10 do not apply the long-term lodging exemption at the time a reservation is created, even if the cost of the stay is nonrefundable. It is possible that some of these lodging establishments would apply the exemption upon final payment; for example, some of the websites notify customers that the actual sales tax rates applied may change after the reservation is booked. However, we lacked information necessary to determine how often this may occur. Additionally, when we spoke with lodging establishments directly, the majority of respondents — seven out of nine establishments that allow guests to stay for 30 days or more— were aware of the exemption and appear to be applying it correctly, one respondent was unaware of the exemption, and the final respondent indicated that they might not automatically apply the exemption. As noted above, eligible customers who do not receive the exemption can apply for a refund through the Department, but due to how the information is stored in the State's tax system, GenTax, we were unable to determine how often they do so.

None of the lodging establishments we spoke to were aware of the changes to the exemption that occurred as a result of House Bill 20-1020, i.e. limiting the exemption to natural persons. However, several establishments reported that they either do not allow businesses to pay for long-term stays on behalf of the businesses' staff or have not come across this situation, so the restriction of the exemption to natural persons is not generally applicable to their operations. Additionally, an industry representative stated that hotels that contract with businesses for long-term use of rooms (e.g. for airlines booking a set of rooms for flight crews) do not allow the exemption on these contracts.

We estimated that the exemption had a revenue impact of about $9.1 million to the State in Tax Year 2021.

Lodging establishments report exempt sales of long-term stays along with other exempt sales on the same reporting line of the Colorado sales tax return, so we were unable to obtain data necessary to provide an exact estimate of the exemption's revenue impact. However, Department data indicates that the accommodations industry reported about $312 million in tax-exempt sales in Tax Year 2021. Since most of the other exemptions included in this data are unlikely to be applied frequently to accommodations industry sales, the long-term lodging exemption likely accounted for most of the $312 million in exempt sales, for a total state revenue impact of about $9.1 million.

Policy Considerations

We did not identify any policy considerations for this exemption.

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