

Bulk Sales Taxes When a Hospitality Business is Sold

By Holly Unck

Are you planning on buying or selling a hotel? Have you addressed the sales tax implications of the transaction?

During the hectic activity that accompanies the purchase of a business, buyers and sellers frequently overlook two sales tax issues that can arise when a transaction is structured as an asset sale. This article provides a general look at these issues from a multistate perspective. For specific transactions, the statutes and regulations of the jurisdiction where the transaction will take place must be consulted to provide guidance for your particular transaction.

First, is sales tax due on any of the assets that are being purchased? In most states the sales tax is applied to all sales of tangible personal property unless a specific exemption applies to the sale. Thus, the parties must ascertain whether an exemption applies to the sale. In most states an isolated or occasional sale is not subject to sales tax. This exemption is often applied to the sale of a business as a business that is in the business of selling inventory, not in selling business assets.

Of the states that impose a sales tax, only New York, Colorado, Oklahoma and Wyoming do not provide an occasional sale exemption. This exemption is limited, however, in several states. For example, in California, a business that is required to hold a sales tax permit cannot claim the occasional sale exemption and must collect and remit sales tax on the sale of business assets. Thus, the specific facts of the transaction and the taxing jurisdiction must be reviewed before making a determination as to whether or not sales tax would apply to the sale of business assets.

The second question is whether the purchaser is subject to liability for the seller's outstanding sales tax due as a successor to the business. Most states have a provision whereby the state taxing authority can collect a seller's outstanding tax liability from the purchaser in an asset sale. A purchaser can protect itself from this liability by following procedures the states have put into place that allow the states to review the seller's sales tax history to collect any outstanding debts before the seller closes up shop. These provisions were established to prevent sellers from selling their assets and avoiding their sales tax debts and to protect purchasers from the sales tax liability of dishonest sellers. The procedure available varies from state to state but usually takes one of two forms, either the seller must obtain a tax clearance certificate from the taxing jurisdiction, or the purchaser must notify the state of the pending bulk sale transaction.

Actions: The tax professionals at **Paradigm Tax Group** can review the specifics of your transaction to minimize your tax liabilities. **Paradigm Tax Group** is a national consulting firm specializing exclusively in providing taxpayers of commercial, industrial, multi-residential, and special purpose properties with full-range property assessment and tax management services. We began as a "Big 4" National Property Tax Services Practice and now we are an independent firm. We have a strategic national reach with [28 offices](#) across the United States. Check out our website at www.paradigmatx.com for more information.

Should you have any questions regarding how **Paradigm Tax Group** could assist you with this tax issue or any other state and local tax issue, please contact Holly Unck at (602) 427-4059 or hunck@paradigmatx.com.