

Answer Key
Sales and Use Tax – Part I
Section F

1. The answer is c. In accordance with **KRS 139.100(2)(a)** and effective 7/1/04, **KRS 139.200(2)(a)** retail sale or sale at retail shall include the rental of any room or rooms, lodgings or accommodations furnished by any hotel, motel, inn, tourist camp or any other place in which rooms, lodgings or accommodations are regularly furnished to transients for a consideration. The tax shall not apply however, to rooms, lodgings or accommodations supplied for a continuous period of 30 days or more to an individual. The tax applies to any charge made for such rooms, lodging or accommodations until the same individual or organization has occupied the rooms, lodging or accommodations for a period of 30 or more continuous day, unless the lease is for a period of 30 days or longer.

2. No. Items which are entirely consumed directly by the occupant or occupants thereof in a single-occupancy of a room or accommodation subject to tax are considered a part of the sale, rental or charge for such rooms or accommodations and are not subject to the tax when purchased. These items may be purchased under a resale certificate. The Department's position is substantiated by the court case Commonwealth of Kentucky v. Brown Hotel.

3. In accordance with **KRS 139.050** gross receipts means the total amount of the sale, lease or rental price without any deduction for any other expenses. The transient room tax levy is a license tax (expense) that must be paid by motels, hotels, inns or like or similar accommodation businesses and does not constitute a tax on ultimate purchasers or consumers. Accordingly, the transient room tax is to be included in gross receipts subject to sales tax.

4. Charges for intrastate telephone service to guests must be included in receipts subject to tax. Furthermore, the hotel or motel may not deduct from these taxable receipts any charges billed to the hotel or motel by its telecommunications provider for telephone and telegraphic communications and services, as provided in **Section 2 of Regulation 103 KAR 28:140**. The hotel or motel is considered to be the user and not a reseller of the telephonic services it purchases from its telecommunications provider (**Effective 01/01/2001, receipts from charges for interstate telephone calls are also subject to sales tax.**)