

10-4-04

FILED

04 DEC -8 PM 2:27

STATE OF FLORIDA, DEPARTMENT OF REVENUE
TALLAHASSEE, FLORIDA

SHERATON BAL HARBOUR
ASSOCIATES, LTD.,)

Petitioner,)

vs.)

STATE OF FLORIDA
DEPARTMENT OF REVENUE,)

Respondent.)

DOAH CASE NO. 04-2241
DOR 04-9-FOF

CA-1005

AT

FINAL ORDER

This cause came before me, as Executive Director of the Florida Department of Revenue, for the purpose of issuing a Final Order. The Administrative Law Judge assigned by the Division of Administrative Hearings submitted a Recommended Order to the Florida Department of Revenue ("Department"). A copy of that Recommended Order, issued on October 4, 2004, by Administrative Law Judge Claude B. Arrington, is attached to this order and incorporated to the extent described herein. Petitioner has not filed exceptions to the Recommended Order. The Department has jurisdiction of this cause.

STATEMENT OF THE ISSUE

Whether the Petitioner is entitled to a refund for sales taxes paid by Petitioner to Respondent on valet parking transactions for the period May 1, 1997 through April 30, 2002.

PRELIMINARY STATEMENT

The Department adopts and incorporates in this Final Order the Preliminary Statement contained in the Recommended Order as if fully set forth herein.

FINDINGS OF FACT

The Department adopts and incorporates in this Final Order the Findings of Fact contained in the Recommended Order as if fully set forth herein.

CONCLUSIONS OF LAW

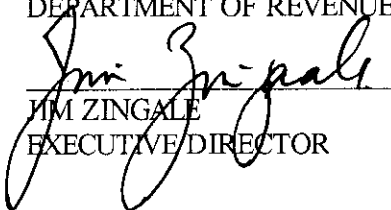
The Department adopts and incorporates in this Final Order the Conclusions of Law contained in the Recommended Order as if fully set forth herein.

Based on the forgoing, it is,

ORDERED that the Petitioner's request for a sales tax refund is denied.

DONE AND ENTERED in Tallahassee, Leon County, Florida this 7th day of December, 2004.

STATE OF FLORIDA
DEPARTMENT OF REVENUE


JIM ZINGALE
EXECUTIVE DIRECTOR

CERTIFICATE OF FILING

I HEREBY CERTIFY that the foregoing Final Order has been filed in the official records of the Department of Revenue, this 8th day of December 2004.


JUDY LANGSTON
AGENCY CLERK

Any party to this Order has the right to seek judicial review of the Order pursuant to Section 120.68, Fla. Stat., by the filing of a Notice of Appeal pursuant to Rule 9.110, Florida Rules of Appellate Procedure, with the Clerk of the Department in the Office of the General Counsel, Post Office Box 6668, Tallahassee, Florida 32314-6668, and by filing a copy of the Notice of Appeal accompanied by the applicable filing fees with the appropriate District Court of Appeal. The Notice of Appeal must be filed within 30 days from the date this Order is filed with the Clerk of the Department.

Attachment: Administrative Law Judge's Recommended Order

Copies furnished to:

Claude B. Arrington
Administrative Law Judge
Division of Administrative Hearings
The Desoto Building
1230 Apalachee Parkway
Tallahassee, FL 32399-3060

Joseph C. Moffa, Esquire
Law Offices of Moffa & Gainor, P.A.
One Financial Plaza, Suite 2202

100 Southeast Third Avenue
Fort Lauderdale, Florida 33394

Martha F. Barrera, Esquire
Office of Attorney General
The Capitol, Plaza Level 01
Tax Section
Tallahassee, FL 32399-1050

Bruce Hoffmann
General Counsel
Department of Revenue
P.O. Box 6668
Tallahassee, FL 32314-6668

Isabel Noguez
Assistant General Counsel
Department of Revenue
P.O. Box 6668
Tallahassee, FL 32314-6668