

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 935
Ways and Means

(Delegates M. Washington and Tarlau)

Hotel Rental Tax - Accommodations Intermediary - Collection Requirement

This bill requires an accommodations intermediary that collects and remits State sales and use taxes from the use of an accommodation to also collect and remit local hotel rental taxes in specified counties. An accommodations intermediary must collect local hotel rental taxes without regard to limitations or exemptions based on the location, number of rooms, or size of the hotel.

The bill takes effect July 1, 2017.

Fiscal Summary

State Effect: None.

Local Effect: Local hotel rental tax revenues in specified counties may increase beginning in FY 2018. The amount of the revenue increase depends on the number of hotel bookings made through an accommodations intermediary that occur in each county, the cost of the hotel room, and the local hotel rental tax rate. Local expenditures are not affected.

Small Business Effect: Minimal.

Analysis

Current Law: Chapter 3 of 2016 clarified that the State sales and use tax applies to the sale or use of hotel accommodations facilitated by an accommodations intermediary – a person, other than the hotel, who facilitates the sale or use of an accommodation and charges a buyer the taxable price for the accommodation.

An accommodation is defined as a right to occupy a room or lodgings as a transient guest. An accommodations provider is a person who owns, operates, or manages an accommodation and makes the accommodation available for sale or use to a buyer. An accommodations intermediary is a person, other than an accommodations provider, who facilitates the sale or use of an accommodation and charges a buyer the taxable price for the accommodation. A person is considered to facilitate the sale or use of an accommodation if the person brokers, coordinates, or in any other way arranges for the sale or use of an accommodation by a buyer.

Background: Online travel companies (OTCs) typically obtain access to hotel inventory (rooms) through contractual agreements with hotels. OTCs pay a discounted rate for these hotel rooms that they sell (as room rentals) and then retain certain fees that are part of the total price paid by customers. The purchaser of the room rental is typically charged the same rate as the person would be if the hotel room rental was purchased directly from the hotel. The issue that has arisen in recent years is the definition of taxable price that state and local sales and use taxes and hotel rental taxes are to be based on. OTCs have typically been paying and remitting these taxes based on the reduced rate that they pay for the hotel rooms; however, states and local jurisdictions have argued that these taxes should be collected on the total room rate paid, which is the base for which the taxes would have been imposed if a customer rented the hotel room directly from the hotel.

Hotel rental taxes are currently authorized in all counties and Baltimore City, with rates ranging from 3.0% to 9.5% as shown in **Exhibit 1**.

Exhibit 1
Hotel Rental Tax Rates and Revenue

County	County Tax Rates			Per Capita Revenues	Per Capita Ranking
	FY 2016	FY 2017	FY 2017		
Allegany	8.0%	8.0%	\$1,024,345	\$14	9
Anne Arundel	7.0%	7.0%	14,712,000	26	5
Baltimore City	9.5%	9.5%	33,000,000	53	3
Baltimore	8.0%	8.0%	10,242,652	12	10
Calvert	5.0%	5.0%	750,000	8	15
Caroline	5.0%	5.0%	46,000	1	23
Carroll	5.0%	5.0%	315,830	2	22
Cecil	3.0%	3.0%	100,136	1	24
Charles	5.0%	5.0%	1,027,000	7	18
Dorchester	5.0%	5.0%	315,000	10	13
Frederick	3.0%	5.0%	1,331,506	5	19
Garrett	6.0%	6.0%	2,300,000	78	2
Harford	6.0%	6.0%	2,025,000	8	16
Howard	7.0%	7.0%	5,534,805	18	7
Kent	5.0%	5.0%	86,424	4	20
Montgomery	7.0%	7.0%	20,637,350	20	6
Prince George's	7.0%	7.0%	9,600,200	11	12
Queen Anne's	5.0%	5.0%	530,000	11	11
St. Mary's	5.0%	5.0%	775,000	7	17
Somerset	5.0%	5.0%	55,000	2	21
Talbot	4.0%	4.0%	1,200,000	32	4
Washington	6.0%	6.0%	2,523,000	17	8
Wicomico	6.0%	6.0%	983,000	10	14
Worcester	4.5%	4.5%	13,112,583	254	1
Total			\$122,226,831	\$20	

Source: FY 2017 County Budgets; Department of Legislative Services

Local Fiscal Effect: This bill requires accommodations intermediaries to collect and remit local hotel rental taxes in specified counties in the same manner that they collect and remit the State sales tax. The bill applies to code counties (Allegany, Caroline, Charles, Kent, Queen Anne's, and Worcester counties); Baltimore City; and Anne Arundel, Calvert,

Carroll, Cecil, Dorchester, Frederick, Garrett, Harford, Howard, Prince George's, St. Mary's, Somerset, Talbot, Washington, and Wicomico counties. As a result, local hotel rental tax revenues in these counties may increase beginning in fiscal 2018 to the extent accommodations intermediaries are not currently collecting and remitting hotel rental taxes. The amount of the revenue increase depends on the number of hotel bookings made through an accommodations intermediary that occur in each county, the cost of the hotel room, and the local hotel rental tax rate.

Based on current sales and use tax collections from OTCs, current hotel rental tax collections, and the estimated OTC share of hotel room sales, the Comptroller's Office estimates that local hotel rental taxes may increase by approximately \$2.5 million in the 22 jurisdictions affected by the bill.

Additional Information

Prior Introductions: None.

Cross File: SB 93 (Senator Astle - Budget and Taxation) is listed as a cross file; however, the bills are not identical.

Information Source(s): Baltimore City; Caroline and Montgomery counties; cities of Bowie and Takoma Park; Comptroller's Office; Department of Legislative Services

Fiscal Note History: First Reader - February 28, 2017
mm/jrb

Analysis by: Michael Sanelli

Direct Inquiries to:
(410) 946-5510
(301) 970-5510