

Chapter 758

(Senate Bill 533)

AN ACT concerning

Sales and Use Tax – ~~Limited Residential Lodging~~ Short-Term Rentals

FOR the purpose of requiring certain ~~hosting short-term rental~~ platforms to collect the sales and use tax on the sale of the right to occupy certain ~~lodging accommodations~~ short-term rentals; ~~requiring that the sales and use tax be stated and shown in a certain manner for certain retail sales or sales for use; prohibiting a hosting platform from collecting certain fees unless the sales and use tax is collected in a certain manner;~~ defining certain terms; making conforming changes; and generally relating to requiring certain ~~hosting short-term rental~~ platforms to collect the sales and use tax on the right to occupy certain ~~lodging accommodations~~ short-term rentals.

BY repealing and reenacting, without amendments,

Article – Tax – General

Section 11-101(a), (a-1), ~~(a-2)~~, (a-3), (h)(1), ~~and (k)(1)~~ and (l)(1) and 11-102(a)

Annotated Code of Maryland

(2016 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, with amendments,

Article – Tax – General

Section ~~11-101(a-2)~~ 11-101(k)(1), (l)(5) and (6), and (o), ~~11-302~~, and 11-403

Annotated Code of Maryland

(2016 Replacement Volume and 2018 Supplement)

BY adding to

Article – Tax – General

Section 11-101(a-4), ~~(e-2), (e-3), and (e-4)~~ (j-1), (j-2), and (j-3)

Annotated Code of Maryland

(2016 Replacement Volume and 2018 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Tax – General

11-101.

(a) In this title the following words have the meanings indicated.

(a-1) “Accommodation” means a right to occupy a room or lodgings as a transient guest.

(a-2) (1) “Accommodations intermediary” means 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.

~~(2) “ACCOMMODATIONS INTERMEDIARY” INCLUDES A HOSTING PLATFORM.~~

~~(3)~~ (2) For purposes of this subsection, a person shall be 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.

(a-3) “Accommodations provider” means a person that owns, operates, or manages an accommodation and makes the accommodation available for sale or use to a buyer.

(A-4) “BOOKING TRANSACTION” MEANS ANY TRANSACTION IN WHICH THERE IS A RETAIL SALE OF AN ACCOMMODATION.

~~(C-2) “HOSTING PLATFORM” MEANS AN INTERNET-BASED DIGITAL ENTITY THAT:~~

~~(1) ADVERTISES THE AVAILABILITY OF LIMITED RESIDENTIAL LODGING UNITS FOR RENT; AND~~

~~(2) RECEIVES COMPENSATION FOR FACILITATING RESERVATIONS OR PROCESSING BOOKING TRANSACTIONS ON BEHALF OF THE OWNER, OPERATOR, OR MANAGER OF A LIMITED RESIDENTIAL LODGING UNIT.~~

~~(C-3) “LIMITED RESIDENTIAL LODGING” MEANS THE TEMPORARY USE OF A LIMITED RESIDENTIAL LODGING UNIT TO PROVIDE ACCOMMODATION TO TRANSIENT GUESTS FOR LODGING PURPOSES IN EXCHANGE FOR CONSIDERATION.~~

~~(C-4) (1) “LIMITED RESIDENTIAL LODGING UNIT” MEANS A RESIDENTIAL DWELLING UNIT OR A PORTION OF THE UNIT USED FOR LIMITED RESIDENTIAL LODGING.~~

~~(2) “LIMITED RESIDENTIAL LODGING UNIT” INCLUDES A SINGLE FAMILY HOUSE OR DWELLING, A MULTIFAMILY HOUSE OR DWELLING, AN APARTMENT, A CONDOMINIUM, OR A COOPERATIVE.~~

- (h) (1) “Retail sale” means the sale of:
- (i) tangible personal property; or
 - (ii) a taxable service.

(J-1) “SHORT-TERM RENTAL” MEANS THE TEMPORARY USE OF A SHORT-TERM RENTAL UNIT TO PROVIDE ACCOMMODATION TO TRANSIENT GUESTS FOR LODGING PURPOSES IN EXCHANGE FOR CONSIDERATION.

(J-2) “SHORT-TERM RENTAL PLATFORM” MEANS AN INTERNET-BASED DIGITAL ENTITY THAT:

(1) ADVERTISES THE AVAILABILITY OF SHORT-TERM RENTAL UNITS FOR RENT; AND

(2) RECEIVES COMPENSATION FOR FACILITATING RESERVATIONS OR PROCESSING BOOKING TRANSACTIONS ON BEHALF OF THE OWNER, OPERATOR, OR MANAGER OF A SHORT-TERM RENTAL UNIT.

(J-3) (1) “SHORT-TERM RENTAL UNIT” MEANS A RESIDENTIAL DWELLING UNIT OR A PORTION OF THE UNIT USED FOR SHORT-TERM RENTALS.

(2) “SHORT-TERM RENTAL UNIT” INCLUDES A SINGLE-FAMILY HOUSE OR DWELLING, A MULTIFAMILY HOUSE OR DWELLING, AN APARTMENT, A CONDOMINIUM, OR A COOPERATIVE.

(k) (1) “Tangible personal property” means:

(i) corporeal personal property of any nature; ~~or~~

(ii) an accommodation; **OR**

(III) A SHORT-TERM RENTAL.

(l) (1) “Taxable price” means the value, in money, of the consideration of any kind that is paid, delivered, payable, or deliverable by a buyer to a vendor in the consummation and complete performance of a sale without deduction for any expense or cost, including the cost of:

(i) any labor or service rendered;

(ii) any material used; or

(iii) any property sold.

(5) “Taxable price” includes, for the sale or use of an accommodation facilitated by an accommodations intermediary OR A SHORT-TERM RENTAL PLATFORM, the full amount of the consideration paid by a buyer for the sale or use of an accommodation, but not including any tax that is remitted to a taxing authority.

(6) “Taxable price” does not include, for the sale or use of an accommodation facilitated by an accommodations intermediary OR A SHORT-TERM RENTAL PLATFORM, a commission paid by an accommodations provider to a person after facilitating the sale or use of an accommodation.

(o) (1) “Vendor” means a person who:

(i) engages in the business of an out-of-state vendor, as defined in § 11-701 of this title;

(ii) engages in the business of a retail vendor, as defined in § 11-701 of this title;

(iii) holds a special license issued under § 11-707 of this title; [or]

(iv) is an accommodations intermediary; OR

(V) IS A ~~HOSTING~~ SHORT-TERM RENTAL PLATFORM.

(2) “Vendor” includes, for an out-of-state vendor, a salesman, representative, peddler, or canvasser whom the Comptroller, for the efficient administration of this title, elects to treat as an agent jointly responsible with the dealer, distributor, employer, or supervisor:

(i) under whom the agent operates; or

(ii) from whom the agent obtains the tangible personal property or taxable service for sale.

11-102.

(a) Except as otherwise provided in this title, a tax is imposed on:

(1) a retail sale in the State; and

(2) a use, in the State, of tangible personal property or a taxable service.

~~11-302.~~

~~(A) For each retail sale or sale for use other than a sale under § 11-405, § 11-406, or § 11-410 of this title, the sales and use tax shall be:~~

~~(1) stated separately from the sale price; and~~

~~(2) shown separately from the sale price on any record of a sale;~~

- ~~(i) at the time of the sale;~~
- ~~(ii) when the vendor issues evidence of the sale; or~~
- ~~(iii) when the vendor uses evidence of the sale.~~

~~(B) FOR EACH RETAIL SALE OR SALE FOR USE OF AN ACCOMMODATION, THE SALES AND USE TAX SHALL BE:~~

- ~~(1) STATED SEPARATELY FROM THE SALE PRICE;~~
- ~~(2) SHOWN SEPARATELY FROM THE SALE PRICE ON ANY RECORD OF SALE; AND~~
- ~~(3) STATED SEPARATELY FROM ANY FEES OR CHARGES IMPOSED BY AN ACCOMMODATIONS INTERMEDIARY THAT ARE NOT IMPOSED BY OR PAYABLE TO AN ACCOMMODATIONS PROVIDER FOR THE USE OF AN ACCOMMODATION;~~

- ~~(I) AT THE TIME OF THE SALE;~~
- ~~(II) WHEN THE VENDOR ISSUES EVIDENCE OF THE SALE; OR~~
- ~~(III) WHEN THE VENDOR USES EVIDENCE OF THE SALE.~~

11-403.

(a) IN THIS SECTION, “SALE” INCLUDES A BOOKING TRANSACTION MADE THROUGH A ~~HOSTING~~ SHORT-TERM RENTAL PLATFORM.

(B) Except as otherwise provided in this subtitle, a vendor shall collect the applicable sales and use tax from the buyer:

- (1) at the time that the sale is made, regardless of when the taxable price is paid;
- (2) if the tax is based on a credit or installment sale, at the time that the Comptroller requires by regulation; or
- (3) if a sale for use is not taxable when the sale is made, at the time that the use becomes taxable.

[(b)] (C) Except as otherwise provided in this title, unless a buyer is otherwise required by regulation to pay the sales and use tax directly to the Comptroller, the buyer

shall pay the sales and use tax to the vendor at the time required under subsection [(a)] (B) of this section.

[(c)] (D) A vendor shall refund to a buyer the proportionate amount of sales and use tax that the buyer has paid if:

- (1) (i) a sale is rescinded or canceled; or
- (ii) the property sold is returned to the vendor; and
- (2) the purchase price is wholly or partially repaid or credited.

~~(E) A HOSTING PLATFORM MAY NOT COLLECT A FEE FROM THE BUYER OF AN ACCOMMODATION OR AN ACCOMMODATION PROVIDER AS PART OF A BOOKING TRANSACTION UNLESS THE SALES AND USE TAX IS COLLECTED IN ACCORDANCE WITH SUBSECTION (B) OF THIS SECTION.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2019.

Enacted under Article II, § 17(c) of the Maryland Constitution, May 25, 2019.