

Department of Legislative Services
 Maryland General Assembly
 2016 Session

FISCAL AND POLICY NOTE
 First Reader

Senate Bill 776 (Senator Astle)
 Budget and Taxation

Hotel Rental Tax and Sales and Use Tax - Limited Residential Lodging

This bill imposes the State sales and use tax on limited residential lodging transactions facilitated by an online hosting platform. In addition, if a local jurisdiction imposes a hotel rental tax, transient charges for limited residential lodging accommodations in that jurisdiction that are facilitated by an online hosting platform are subject to a limited residential lodging tax, imposed at the same rate as the hotel rental tax.

Fiscal Summary

State Effect: State sales and use tax revenues increase by a potentially significant amount beginning in FY 2017 from collections from limited residential lodging transactions. The amount of the revenue increase depends on the number of transactions that occur and the taxable value of the transactions. General fund expenditures increase by \$73,600 in FY 2017 for personnel and one-time tax form changes. Future year expenditure estimates reflect annualization and inflation.

(in dollars)	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
GF Revenue	-	-	-	-	-
GF Expenditure	\$73,600	\$66,300	\$68,900	\$71,700	\$74,600
Net Effect	(\$73,600)	(\$66,300)	(\$68,900)	(\$71,700)	(\$74,600)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: Local revenues increase beginning in FY 2017 from collections from limited residential lodging transactions. The amount of the revenue increase depends on the number of transactions that occur and the taxable value of the transactions. Local expenditures may increase to administer the limited residential lodging tax.

Small Business Effect: Minimal.

Analysis

Bill Summary: Limited residential lodging is defined as the use of a room or space in a residential dwelling unit, in exchange for compensation, for dwelling, sleeping, or lodging purposes. The transient charge for this type of lodging is subject to taxation if the proprietor of the residential dwelling unit, or “operator,” uses an online hosting platform to facilitate the lodging transaction on the operator’s behalf.

Specifically, the bill requires hosting platforms that offer limited residential lodging in the State to register with the Comptroller to collect and remit, on behalf of the lodging operators, the State sales and use tax and the limited residential lodging tax (LRL tax), which functions as part of the local hotel rental tax and is imposed at the same rate. The bill also establishes rules and procedures that relate to the collection and remittance of the specified taxes. The taxes, identified in a statement, are paid to the hosting platform by the person paying the transient charge and held in trust by the platform. A lodging operator is shielded from liability for the failure of a hosting platform to collect and remit the taxes, or file the appropriate tax returns.

As it relates to the LRL tax, the bill requires that, after a distribution for specified administrative costs, the Comptroller must distribute the LRL tax revenues in the same manner as hotel rental tax revenues.

Additionally, the bill prohibits the Comptroller from disclosing any information obtained from the hosting platform in connection with taxable lodging transactions without the written consent of the hosting platform or in accordance with an agreement between the platform and the Comptroller. The bill exempts any such information from applicable public information requests and would prohibit the Comptroller from disclosing the information to any other unit of the State. The bill also allows only the Comptroller or its authorized agent to audit applicable taxes payable by the hosting platform and prohibits the Comptroller from conducting the audit on the individual operator or occupant when the taxes are payable by the hosting platform.

Finally, the bill imposes penalties on hosting platforms that fail to file the required LRL tax returns, fail to pay the tax or the full amount of tax due, or file fraudulent returns. The penalties that apply under the State sales and use tax law apply to the remittance of the LRL tax under the bill.

Current Law: 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 Revenue

County	County Tax Rates		FY 2016	Per Capita Revenues	Per Capita Ranking
	FY 2015	FY 2016			
Allegany	8.0%	8.0%	\$1,024,345	\$14	9
Anne Arundel	7.0%	7.0%	14,532,000	26	5
Baltimore City	9.5%	9.5%	32,031,151	51	3
Baltimore	8.0%	8.0%	9,750,000	12	10
Calvert	5.0%	5.0%	800,000	9	15
Caroline	5.0%	5.0%	40,000	1	23
Carroll	5.0%	5.0%	351,200	2	22
Cecil	3.0%	3.0%	91,536	1	24
Charles	5.0%	5.0%	949,000	6	19
Dorchester	5.0%	5.0%	300,000	9	13
Frederick	3.0%	3.0%	1,331,506	5	20
Garrett	6.0%	6.0%	2,100,000	71	2
Harford	6.0%	6.0%	2,000,000	8	16
Howard	7.0%	7.0%	4,976,000	16	7
Kent	5.0%	5.0%	129,000	7	18
Montgomery	7.0%	7.0%	20,339,825	20	6
Prince George's	5.0%	7.0%	7,989,500	9	14
Queen Anne's	5.0%	5.0%	520,000	11	12
St. Mary's	5.0%	5.0%	725,000	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%	2,350,000	16	8
Wicomico	6.0%	6.0%	1,168,600	12	11
Worcester	4.5%	4.5%	13,015,083	252	1
Total			\$117,768,746	\$20	

Source: FY 2016 County Budgets; Department of Legislative Services

Senate Bill 190 of 2015, which was the subject of a successful veto override in the 2016 session, 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.

Background: Property owners who wish to offer all or a portion of their homes for temporary rental for a charge frequently utilize online booking platforms that enable the property owner to list and describe the property being offered for rental, and that allow tourists and other transients to arrange for the rental of the property and payment of the booking. Founded in 2008, Airbnb is an online booking platform for people to list, find, and rent limited residential lodging. The company's website features over 2.0 million listings in 34,000 cities and 190 countries. Currently, Airbnb has made agreements with several states and local governments to collect and remit hotel rental taxes on behalf of the lodging operators. Airbnb collects the taxes for lodging operators in Alabama, Hawaii, Illinois, Rhode Island, Washington, the District of Columbia, and various municipalities across the country.

In Virginia, legislation was introduced in the 2016 session (HB 812) to address limited residential lodging transactions and the taxation of those transactions by online booking platforms such as Airbnb. As of February 29, 2016, the bill was passed by the Virginia House of Delegates and is now being considered by the Senate Finance Committee.

State Revenues: State sales and use tax revenues increase by a potentially significant amount beginning in fiscal 2017 from collections from limited residential lodging transactions. The amount of the revenue increase depends on the number of transactions that occur and the taxable value of these transactions, but cannot be reliably estimated at this time.

As a point of reference, State sales taxes collected from hotel and motel room rentals, as well as apartment and cottage rentals, totaled \$100.4 million in fiscal 2015.

State Expenditures: General fund expenditures increase by \$73,635 in fiscal 2017, which accounts for the bill's October 1, 2016 effective date. This estimate reflects the cost of hiring one field auditor to assist in the administration of the tax as well as a one-time expenditure of \$20,000 to develop a new limited residential lodging tax form. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses. Future year expenditures reflect full salaries with annual increases and employee turnover as well as annual increases in ongoing operating expenses.

Local Fiscal Effect: Local limited residential lodging tax revenues increase beginning in fiscal 2017 from collections from limited residential lodging transactions. The amount of the revenue increase depends on the number of transactions that occur and the taxable value of these transactions, but cannot be reliably estimated at this time.

As a point of reference, county governments are estimated to collect \$117.8 million in hotel rental tax revenues in fiscal 2016, as shown in Exhibit 1.

Additional Information

Prior Introductions: None.

Cross File: HB 1361 (Delegate M. Washington, *et al.*) - Ways and Means.

Information Source(s): Baltimore City; Kent, Washington, and Worcester counties; Town of Leonardtown; City of Salisbury; Maryland Association of Counties; Comptroller's Office; Department of Legislative Services

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