

Department of Legislative Services
Maryland General Assembly
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FISCAL AND POLICY NOTE
First Reader

Senate Bill 533 (Senators Guzzone and McCray)
Budget and Taxation

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 and requires online hosting platforms to collect and remit the State sales and use tax. **The bill takes effect June 1, 2019.**

Fiscal Summary

State Effect: State sales and use tax revenues increase by a potentially significant amount beginning in FY 2020 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 \$81,300 in FY 2020.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Bill Summary: The bill expands the definition of an accommodations intermediary to include a hosting platform and the definition of vendor to include a hosting platform for purpose of collecting and remitting the State sales and use tax.

For each retail sale or sale for use of an accommodation, the sales and use tax must 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 at the time of the sale, when the vendor issues evidence of the sale, or when the vendor uses evidence of the sale.

The bill prohibits a hosting platform from collecting a fee from a buyer of an accommodation or an accommodation provider as part of a booking transaction unless the sales and use tax is collected.

A hosting platform is defined as an Internet-based digital entity that advertises the availability of limited residential lodging units for rent and receives compensation for facilitating reservations or processing booking transactions on behalf of the owner, operator, or manager of a limited residential lodging unit.

Limited residential lodging is defined as the temporary use of a limited residential lodging unit to provide accommodation to transient guests for lodging purposes in exchange for consideration. A limited residential lodging unit is a residential dwelling unit or a portion of the unit used for limited residential lodging. A limited residential lodging unit includes a single-family house or dwelling, a multifamily house or dwelling, an apartment, a condominium, or a cooperative.

A booking transaction is defined as any transaction in which there is a retail sale of an accommodation.

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.

Background: The sales and use tax is the State’s second largest source of general fund revenue, accounting for approximately \$4.9 billion in fiscal 2019 and \$5.0 billion in fiscal 2020, according to the December 2018 revenue forecast. **Exhibit 1** shows the sales and use tax rates in surrounding states and the District of Columbia.

Exhibit 1
Sales and Use Tax Rates in Maryland and Surrounding States

Delaware	0.0%
District of Columbia	6.0%; 10.0% for liquor sold for on-the-premises consumption and restaurant meals; 10.25% for alcoholic beverages for consumption off the premises, tickets to specified sporting events, and specified rental vehicles
Maryland	6.0% 9.0% for alcoholic beverages
Pennsylvania	6.0% plus 1.0% or 2.0% in certain local jurisdictions
Virginia*	5.3%; 2.5% for eligible food items; both rates include 1.0% for local jurisdictions
West Virginia	6.0% plus 0.5% (in two municipalities) or 1.0% (in 41 municipalities)

*An additional state tax of 0.7% is imposed in localities in Northern Virginia and the Hampton Roads region and an additional 1.7% is imposed in localities in the Historic Triangle.

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 individuals 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. In addition to Airbnb, there are several other lodging hosting platforms including, VRBO, Booking.com, HomeAway, Flipkey, Homestay, Go With Oh, One Fine Stay, House Sitting, VillasDirect, and Outdoorsy.

Airbnb has made agreements with several states and local governments to collect and remit sales and hotel rental taxes on behalf of the lodging operators. The Airbnb website indicates that the company collects various taxes for lodging operators in the following states: Alabama, Alaska, Arizona, Arkansas, California, Colorado, District of Columbia, Florida, Idaho, Illinois, Iowa, Kansas, Louisiana, Maine, Maryland, Michigan Minnesota, Missouri, Mississippi, Montana, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, Wisconsin, and Wyoming. In some of these locations the company may only collect taxes

in specified jurisdictions rather than for the state as a whole. For example, in Maryland Airbnb reports only collecting the hotel rental tax in Montgomery County.

Airbnb reported \$2.6 billion in revenue in 2017.

State Revenues: State sales and use tax revenues increase by a potentially significant amount beginning in fiscal 2020 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.

The Comptroller's Office reports that some online hosting platforms are currently collecting and remitting State sales and use taxes. However, due to confidentiality requirements, the names of these companies and the amount of sales and use taxes that are collected and remitted cannot be disclosed.

As a point of reference, State sales taxes collected from hotel and motel room rentals, as well as apartment and cottage rentals, totaled \$125.0 million in fiscal 2018.

State Expenditures: The Comptroller's Office will incur a one-time expenditure increase of \$81,300 in fiscal 2020 to notify the approximately 130,000 sales and use tax account holders of the sales tax change.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Comptroller's Office; Department of Legislative Services

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