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[House Bill 360](#), passed during the 2023 legislative session, requires the Department of Revenue (DOR) to provide a report on or before November 1, 2023, to the Interim Joint Committee on Appropriations and Revenue outlining the proposed procedures, estimated time and cost, recommendations, and other state comparisons for implementing a centralized tax reporting and distribution system for state and local transient room taxes. The DOR's report concerning the Proposal of a Centralized State and Local Transient Room Tax Reporting and Distribution System for the Commonwealth of Kentucky is enclosed.

If you have questions or comments regarding the enclosed report, please contact me.

Sincerely,

Richard Dobson, Executive Director
Office of Sales and Excise Taxes
Department of Revenue

COMMONWEALTH OF KENTUCKY
DEPARTMENT OF REVENUE



OFFICE OF SALES & EXCISE TAXES
DIVISION OF MISCELLANEOUS TAXES

**Report Concerning the Proposal of a Centralized
State and Local Transient Room Tax Reporting and Distribution System
for the Commonwealth of Kentucky – November 2023**

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Overview

The Kentucky Department of Revenue (DOR) prepared this report to examine the implementation of a centralized tax reporting and distribution system for state and local transient taxes required by [House Bill 360](#), passed during the 2023 Regular Session of the General Assembly. This report details estimated system cost, implementation timelines, personnel needs, statutory recommendations, local government viewpoints, and other state experiences implementing a centralized reporting and distribution system.

It is important to factor the current integrated tax project within the scope of any consideration to expand DOR's duties to include administration of local transient room taxes. The current state transient room tax ([KRS 142.400](#)) is in the first phase of the Department of Revenue's Integrated Tax System (DORIS), which is tentatively set to roll out sometime in 2024. Since the first phase design is set and nearing final development, there is no opportunity to program a comprehensive centralized state and local transient room tax for inclusion in Phase 1 of the DORIS project. Any implementation of a centralized local transient room tax in the near term would require development of a temporary system to bridge the gap until the multi-year DORIS project could be reconfigured to incorporate the local transient tax functionality. Retaining this temporary system as a permanent solution is not an option because the platform infrastructure supporting this interim piece is scheduled for complete retirement as DORIS implementation unfolds. In fact, the cost analysis justifying an integrated tax system approach is dependent upon turning off the stand-alone applications to save on costs and eliminate redundancies.

DOR anticipates a minimum of twelve months to fully develop and implement an interim local transient room tax solution prior to its development within DORIS. Revenue Solutions, Inc. (RSI), the third-party vendor developing DORIS, estimates a minimum of 135 working days to customize programming in its product with a dedicated team working exclusively on this development. Practically though, the implementation schedule within DORIS will be much longer because the work must be completed during an existing release using a shared team of resources. Adding centralized local transient room tax functionality would be part of a subsequent release package adjusted in price and timetable to incorporate the new functionality. A final timeline for incorporation into DORIS depends upon how the project is progressing and what remaining releases are left to complete if legislation with a centralized local transient room tax mandate goes forward. At least another twelve-month timeline for the DORIS side is expected.

From a local government perspective, there is understandable reluctance to give up control and administration of the transient room taxes. Both the Kentucky League of Cities and Louisville Metro Government have expressed concern over the transfer of local administration of transient room tax collections to the state and have submitted statements for the record (see Appendix B). Local ordinances establishing a local transient room tax have been in place for decades. The impacted local governments have

committed personnel and, in many cases, have made infrastructure investments to handle the complexities of the local transient room tax structures.

There are a variety of transient tax structures across the country that apply to hotel, short-term vacation rental, and online travel company (OTC) receipts. This report examines several of these examples (Virginia, Indiana, and Tennessee) as well as reviews the unique characteristics of Kentucky's taxing regimes. Many out of state jurisdictions with various levels of centralization continue to face similar administrative and compliance challenges to Kentucky. This review will highlight some of these issues and will document that centralization of local transient room taxes within the Department of Revenue represents a significant increase in administrative duties and technology commitments, conflicts with current Department system development timelines, and is not the only way to ensure the vacation rental platforms comply with state and local lodging tax laws.

Background

State Transient Room Tax

House Bill (HB) 272, passed during the 2005 Session of the General Assembly, imposed the 1% transient room tax that became effective June 1, 2005. Tax receipts are deposited into the Tourism, Meeting, and Convention Marketing Fund and used exclusively to market and promote tourism in the Commonwealth. During the 2022 Session of the General Assembly, HB 8 amended [KRS 142.400](#) to expand the transient room tax to include stays at campgrounds and RV parks. Most notably, the new statutory language also required those facilitating the rental of accommodations to collect the room tax on their total charges for the rental of accommodations for the state transient room tax. HB 8 made these same changes within the respective local transient room tax statutes ([KRS 91A.390](#), [KRS 91A.392](#), [KRS 153.440](#), and [KRS 153.450](#)).

These amendments became effective January 1, 2023. The Department has a uniform tax due date of the 20th day of the following month for state transient tax returns. The filing frequency for monthly, quarterly, or annual returns coincides with the state sales tax due date to bring uniformity and ease for the filing and remittance process. For reference, included in this report is the Transient Room Tax Return and FAQs (see Appendix C). DOR has an electronic filing mandate for state transient room tax to better process and automate the returns and revenues (KY Regulation [103 KAR 1:160](#)). The collection of transient room tax is subject to the interest, penalties, and fees authorized under [KRS 131](#). DOR's implementation of these changes at the state level have generally gone smoothly. However, the same results have not occurred consistently across all local jurisdictions as the next section will highlight.

Local Transient Room Tax

Since the 1968 Session of the General Assembly, local governments have had the option to impose a transient room tax. Currently, there are at least 108 local tourism districts across the state with a local transient tax imposition. During the 2022 Session, the General Assembly amended [KRS 91A.390](#) to mirror the [KRS 142.400](#) state transient room tax changes already discussed. [KRS 91A.390](#) expands the local transient tax to include stays at campgrounds and RV parks as well as adding new statutory language requiring those facilitating the rental of accommodations to collect the local transient tax.

Throughout this year (2023), DOR has received numerous contacts from tourism commissions, taxpayers, and other concerned parties regarding local transient tax collection and payment issues. Certain vacation rental platforms have refused to comply with the provisions of HB 8, which require them to report and remit the local transient room taxes on the total receipts from facilitating the rental of accommodations. Kentucky hosts (short-term rental property owners) using third party online platforms to facilitate reservations face uncertainty regarding their collection responsibilities. For state sales tax and transient tax purposes, the hosts rely on the online facilitators to collect the appropriate taxes from their guests but that may not be the case with local tax liabilities, depending upon the platform. Even though the law places the liability for the local transient taxes with the online facilitators, many Kentucky hosts are still reporting and remitting these local jurisdictional taxes on their portion of receipts to avoid potential audit assessments in the future.

Ironically, the vacation rental platforms are in compliance with requirements to collect in some of the larger Kentucky tourism areas (Lexington, Louisville, Northern Kentucky Convention and Visitors Bureau, Oldham County, Woodford County, and Bowling Green) through separately negotiated contracts executed prior to passage of HB 8. The OTCs have the internal capability or access to third party software necessary to report and remit the taxes for all local tourism jurisdictions in Kentucky. However, in the majority of local jurisdictions across the state, these tourism districts are not receiving reports or returns from the non-compliant vacation rental companies. This compliance gap results in revenue loss in local jurisdictions from some unreported KY host receipts and all the unreported facilitation charges paid to the vacation rental platforms. The counties and local governments have a limited course of redress to pursue civil liability and restitution from any noncompliance actor as set forth in [KRS 91A](#) on a jurisdiction-by-jurisdiction basis rather than taking action as a collective body.

Depending on the local taxing jurisdiction, local transient room tax rates will vary. The following is rate information for the local transient room taxes:

- For a local government other than an urban-county government, the tax rate is a maximum of three percent (3%).
- For an urban-county government, the tax rate maximum is four percent (4%) (applies only to Lexington-Fayette County).

- In addition to the three percent (3%), the local government body other than an urban-county government may impose a special transient room tax not to exceed one percent (1%) for costs related to convention centers.
- A county with a city of the first class may impose an additional tax, not to exceed one and one-half percent (1.5%) of the rents (applies only to Louisville-Jefferson County).
- An urban-county government may impose an additional tax, not to exceed one percent (1%) of the rents.
- Local governing bodies which have formed multicounty tourist and convention commissions may impose an additional tax, not to exceed one percent (1%) of the rents (applies only to Meet NKY, the Commission for Boone, Kenton, and Campbell Counties).
- Consolidated local government, or the fiscal court containing an authorized city (except multicounty tourist and convention center under [KRS 91A.350](#)) may levy an additional two percent (2%) to be used for the retirement of bonds obtained for construction of a convention or fine arts center.
- Fiscal courts in counties containing cities of the first class or consolidated local governments may levy an additional transient room tax not to exceed one percent (1%). Tax receipts are designated to the Kentucky Center for the Arts Corporation.

These taxes and revenues are generally earmarked to promote tourism within the locality where the taxes are imposed ([KRS 91A](#)). Presently, there is no uniform return or due date for local transient room taxes. Each local authority is authorized to develop its own returns / forms, and processes and procedures for reporting the revenues collected. This process allows the counties and local governments to develop procedures that best fit their specific needs and situations.

System Cost and Functionality

DOR estimates the standalone interim system will take four months of programming during a twelve-month overall implementation schedule at a cost of \$549,600 with recurring annual maintenance cost of \$12,000. To scrap and replace the interim solution with integration into DORIS will require at least an extra twelve months of work and cost another \$2.4 million with additional recurring annual system maintenance costs. Below is a breakdown for both the temporary DOR programming solution as well as the permanent DORIS integration of local transient tax functionality provided by the DOR and DORIS IT staff (RSI) respectively. Included below are also cost estimates for each phase of implementation.

DOR Interim System

Online Registration and Processing

1. Provide the taxpayer the ability to submit registration information for the purpose of filing.
2. Allow DOR users with the appropriate user role to approve or reject all pending applications worklist.
3. Provide the taxpayer the ability to login and change previously submitted registration information, before or after approval.

Online Filing

The system should provide the taxpayer the following capabilities based on designated user role.

1. Ability to save or submit original returns online. The users will be able to file a return forty-five days before the due date.
2. Ability to edit or submit previously saved returns.
3. Ability to delete previously saved returns.
4. Ability to amend previously submitted returns. The taxpayer can amend a return any number of times.
5. Ability to view filing history.
6. Ability to view and print returns.
7. Ability to bill for unpaid tax plus penalty and interest.

Online Payments

Provide the taxpayer the following capabilities based on user role. This functionality to mimic the current payment info in DOR's electronic filing (E-File) system.

1. Ability to pay ACH Debit, Debit Card, and Credit Card payments via EEPS (Enterprise Electronic Payment System).
2. Ability to make payments via checks. Checks to be processed through VIKING.
3. Ability to make EFT payments through CACS-G if they have any collections notices.
4. Payments need to be processed through EEPS, CARS (Accounts Receivable), and applied in MIXERS (Miscellaneous Tax System) using the existing financial processes.

Search and Reporting Functionality

The system should provide the DOR users the following capabilities based on their user role.

1. Allow the DOR users to search for returns.
2. Allow the DOR users to run an online report that generates all amended-returns for a selected filing period.
3. Allow the DOR users to run an online report that generates all not-filed-returns for a selected filing period.
4. Allow the DOR users to run an online report that generates all no-pay-returns for a selected filing period.

5. Allow the DOR users to run an online report that generates all partial-paid-returns for a selected filing period.

Email and Dashboard Notifications

1. Send an email to the taxpayer when a registration is submitted.
2. Send an email to the taxpayer when a registration is approved or rejected.
3. When a return is available, send an email to the taxpayer that a return is ready to be filed.
4. When a return is filed, send an email to the taxpayer that a return is ready to be paid.
5. Provide dashboard notifications to the taxpayer along with the ability to delete them.

Distribution

1. Support a monthly distribution to all jurisdictions at the end of each month, and after the tax due date.
2. Collect and distribute an administrative fee to DOR.
3. Model the functionality found in the Utility Gross Receipts License Tax (UGRLT) and Telecommunications (Telecom) systems.

Estimated Cost for DOR Interim System

The development of the interim system is estimated to require 7,920 programming hours for a total system cost of **\$549,600**.

Proposed Scope of Work for DORIS Integration

Transient Tax Expanded to Include Local Jurisdictions for Distribution Assumptions

1. A change for transient tax to become a distributed tax will require the rework of the transient tax return to include a schedule indicating the liability to each recipient (Cities / Counties).
2. Transient tax returns will not be added to Modernized Front End (MFE).
 - a. Even with the added schedule, any paper returns will be keyed to DORIS using "Enter Online Return".
 - b. If the addition of a new recipient-allocation schedule is deemed too tedious to manually key directly to DORIS, additional estimates will need to be added to include the transient tax return as an allowable return through MFE.
3. Transient tax returns will not be added to Viking.
4. An admin fee for performing the tax administration will be included and kept by DOR.
 - a. This will be like admin fees for the Telecom and UGRLT distributions.
 - b. Admin fee will require its own new General Ledger (GL) account.

- c. No additional GL accounts will be required outside of the transient tax Initial Deposit (existing DOR GL) and the new Admin Fee GL.
- 5. Any additionally required Reports, Outbound Correspondence / Notices / Letters, or Compliance initiatives are not included in these estimates and will be configured by DOR / Commonwealth Office of Technology.
- 6. There are no changes needed to registration beyond the existing transient functionality included on the tax registration application (10A100) and its corresponding online portal registration process.
- 7. No additional attributes are needed at the account-level to support this change.
 - a. Any additional attributes or account-level demographic configuration would require further estimates for configuration and data-fix needs (since these will already have been converted).
- 8. Funds are distributed based on financial journal-allocations indicated by the liabilities reported on the new return schedule.
 - a. This distribution would function similarly to UGRLT in that the return indicates how much money each recipient is owed, and those amounts are summed monthly (based on payment received and applied) to produce the calculated amounts.
- 9. No failure to file changes needed.

Changes Needed

- 1. Deposit / Channel
 - a. Portal Filing
 - i. Rework of return on portal to support new schedule.
 - ii. Rework of verbiage and other “front-facing” informational support (e.g., instructions) to indicate how new schedule needs to be completed.
 - b. Send Check Writer (CW) for transient distribution to EMARS.
 - i. A new CW file would be needed to report the distribution amounts to EMARS, and a new extract for EMARS would need to be built.
- 2. Forms
 - a. Rework of the Transient Tax Return
 - i. Addition of a new schedule that will require the users to indicate the allocation of revenue across distribution recipients.
 - 1. Form schema updates
 - 2. Form rule updates
 - ii. Additional form exceptions for the new schedule
 - 1. Form rule updates
 - iii. Posting of liabilities to the appropriate location / jurisdictions under the existing Telecom GL
- 3. Taxpayer Accounting (Process Period Balance (PPB) / Process Financial Transaction (PFT) / Refunds / Billing)
 - a. Applicable penalties and interest to be applied across recipients.
 - i. PFT configuration needed to support the correct calculation for proportionally allocating penalty and interest across recipients.
 - ii. Allocation of overpaid amounts to unallocated.

- b. Refund from unallocated
 - i. Process overpayment configuration so that overpayments are issued from unallocated money and do not impact distribution amounts.
 - c. Process overpayment configuration for disbursement / transient accounts.
 - i. Reference data necessary to create transaction types / other supporting data needed.
 - ii. Process overpayment offline instance and rules to post distributions as “refunds” in disbursement / transient accounts.
4. Revenue Accounting
- a. Configuration of the existing Telecom revenue as a location / jurisdiction allocated GL.
 - i. Reference data update to GL.
 - ii. Reference data update to locations and jurisdictions.
 - b. Configuration of Admin Fee GL Account.
 - c. Configuration of disbursement / transient accounts and creation of entities.
 - i. Entities would either pre-exist (cities / counties) and the accounts need to be added, or entities would need to be generated if not pre-existing.
 - d. Perform distribution.
 - i. Revenue accounting auto process offline configuration to:
 1. Identify applicable funds that needs to be distributed.
 2. Calculate proper amount by recipient based on journal-allocation.
 3. Calculate admin fee for DOR.
 4. Post distribution amounts to disbursement accounts.
 5. Subtract admin fee and move to Admin GL.
 - e. Revenue accounting document for transient distribution.
 - i. A new RA document type and template would need to be generated to voucher the transient disbursement transactions posted in the disbursement / transient accounts.

Estimated Cost for DORIS Integration

RSI estimates the Local Transient Room Tax solution at **\$2,400,000**. This may be subject to change based on final CR timing, confirmation, and approval.

Estimated Personnel Cost for Administration

DOR will need a minimum of four additional employees to perform the new functions required with centralization of local transient room taxes. Below is a chart showing the position titles and estimated cost of personnel needed to administer the local taxes.

New Personnel for Local Transient Tax Compliance

Position Title	Grade	2023 Midpoint	Yearly	Fringe 57%	Total
Taxpayer Services Specialist I	12	\$4,488.48	\$53,861.76	\$30,701.20	\$84,562.96
Auditor I	12	\$4,488.48	\$53,861.76	\$30,701.20	\$84,562.96
Auditor I	12	\$4,488.48	\$53,861.76	\$30,701.20	\$84,562.96
Resource Management Analyst III	15	\$5,973.76	\$71,685.12	\$40,860.52	\$112,545.64
Totals			\$233,270.40	\$132,964.13	\$366,234.53

In summary, the full implementation cost for full integration of local transient room taxes in a two-phase process is in excess of **\$2.9 million with an additional \$388,234.53 a year in personnel expenses and system maintenance costs.**

Statutory Provisions to Consider with Centralized Administration

- Keep existing statutory language that maintains uniformity in tax base and standardized exemptions.
- Include an administration fee similar to UGRLT and multichannel video programming and communications services tax (see [KRS 160.6154\(2\)](#) and ([KRS 136.652\(1\)](#)).
- Authorize DOR to have all the powers, rights, duties, and authority with respect to the collection, refund, audit, and administration of these taxes as provided under KRS Chapters [131](#), [134](#), and [135](#).
- Establish uniform return format, filing frequency, and deadlines.
- Mandate notification process and effective date of new impositions and rate changes. Ensures businesses will have sufficient time to program rates and meet filing requirements.
- Require local jurisdictions to maintain a boundary table or provide for a third-party service (companies like Avalara provide such databases) to ensure that addresses of short-term vacation rental hosts, etc. are flagged with the appropriate tax rate and jurisdiction for proper tax collections. Contracting this service out to third parties will increase cost of development.
- Consider requiring the short-term vacation rental platforms to submit property addresses and respective receipt amounts from all their client hosts on a regularly scheduled basis. Annually may be sufficient though Virginia requires the reports monthly.

Other State Experiences

Virginia

The Department of Taxation in Virginia recently completed a similar study to this report the Kentucky DOR has been commissioned to perform (see Appendix D). Virginia has a centrally administered sales and use tax system with 133 city and county jurisdictions, a lower food and personal hygiene rate, and four separate regional tax rates. However, the local governments and counties have their own infrastructure for administering various local taxes. For example, the counties already collect occupational, and property taxes in addition to the locally administered transient taxes. There are also regional transient taxes administered locally for certain transportation funding. The various local governments and counties have staff and systems in place to administer these taxes. Due to cost to implement and the perceived lack of benefit, local governments, and industry trade groups (representing hotels, motels, and other typical accommodation providers) oppose a centralized transient tax system. In contrast, the online travel companies favor the creation of a centralized transient tax system.

Ultimately, the Virginia taskforce did not recommend moving forward with a centralized transient tax collection system. The Virginia model provides an example where the short-term vacation rental companies must comply with state laws that require them to report separately to each local jurisdiction just as HB 8 mandates here in Kentucky.

- Virginia enacted legislation in 2021 (Senate Bill 1398) requiring the collection of the local transient tax on facilitators' receipts.
- Virginia enacted legislation in 2022 (House Bill 518 and Senate Bill 651) clarifying the direct payment process and requiring the vacation rental platforms (accommodations intermediaries) to submit property addresses and respective receipt amounts from all their client hosts on a monthly basis.
- A limited number of local jurisdictions also levy a fixed fee bed tax on a per night basis (e.g., \$2 per night) further complicating the taxation of accommodations in Virginia.

Indiana

Unlike Virginia, Indiana does not have a local option sales tax, but the state has a long history of administering local taxes for various jurisdictions across the state (local income taxes, food and beverage taxes, innkeeper's tax). Indiana has eighty county-wide jurisdictions for its longstanding innkeeper's tax with counties given the option to choose state administration. Most counties choose to administer their own transient taxes so that the Department of Revenue currently collects for only fifteen counties. Many of these fifteen counties represent larger population bases, which results in the state handling the majority of the local innkeeper tax revenue though it does not collect for

the majority of counties. There are various rates imposed across the state, but state statute caps all counties at 5% except for Marion County (Indianapolis), which has a 10% cap.

Effective July 1, 2019, Indiana enacted Marketplace Provider language in its sales and excise tax statutes that requires short-term vacation rental and other online platforms (OTCs) with economic nexus to register with the state for centralized collection and reporting of the local innkeeper's tax for all eighty counties. Hotel chains would prefer centralized filing for all jurisdictions and business models rather than the current requirement to file with separate county jurisdictions that administer their own lodging tax.

The Indiana Department of Revenue's viewpoint regarding its hybrid approach (optional state or local administration) is that centralized collections across all counties would be cleaner and more efficient with the same tax base, filing deadlines, and audit process than to allow counties to opt in or out of the centralized framework. The following are other points of interest:

- Indiana's online filing system has always had the capacity to calculate local tax rates across all counties and to accept returns and payments from any jurisdiction once properly notified by the local jurisdiction that centralized collection is requested.
- Indiana has a uniform local return format whether filing with the state or the local jurisdiction and there are uniform filing due dates (usually monthly by the 20th).
- Distributions are made by the Treasurer's Office for the previous monthly reporting period on the first Monday of the next month.
- Indiana DOR does not receive compensation from local jurisdictions for its centralized collection and administration.
- Indiana's tourism district boundaries correspond with state county lines for ease of sourcing and liability tracking.

Tennessee

Tennessee enacted legislation (Senate Bill 1830), effective January 1, 2021, that requires online travel companies to centrally report their receipts from all short-term rentals of residential units to the Department of Revenue on a new schedule on the Tennessee sales and use tax return (Schedule F). This new reporting requirement does not apply to any rentals of hotel rooms, bed and breakfast locations, or other traditional transient room stays. All other room rentals facilitated by OTCs or sold directly by other accommodation providers must be filed with their local tax authority.

Tennessee is well known for a tax structure that relies heavily upon sales taxes rather than income taxes. Its sales tax base includes a longstanding local option sales tax centrally administered by the state for multiple local jurisdictions across all ninety-five counties. For this reason, Tennessee had the capability to add this additional reporting

schedule with its related collection and distribution components to its current sales tax return portal with relative ease. The integration into the current tax system did not require a new system build out. The state had the infrastructure in place to incorporate the collection and distribution of the local transient tax for online travel companies. The legislation was signed by the Governor on July 15, 2020, and implemented at the beginning of 2021.

- There have been approximately twenty unique taxpayers filing the Schedule F for Tennessee and reporting receipts from short-term rentals of residential units.
- There has been discussion within the Tennessee legislature for several years about the state taking over administration of all local transient taxes, but there is no consensus on that approach yet.
- Tennessee has a nightly occupancy fee for rooms similar to the Virginia fixed fee bed tax in its two largest local jurisdictions (Memphis \$2 per room night, Nashville- \$2.50 per room night) also incorporated into its centralized sales tax collections system.

The Kentucky DOR does not have the same capacity or infrastructure as Tennessee to work from. Furthermore, the current Tennessee approach of limited centralization still requires Kentucky to incur the same system programming and expenses as the centralization of all local transient room taxes. Limiting the number of taxpayers filing in the centralized system to short-term vacation rental platforms does not limit the scope or complexity of the number of local jurisdiction collections and distributions required.

Kentucky Local Government Viewpoints

The input from the Kentucky League of Cities and Louisville Metro Government gives a different perspective to the question of central administration of the local transient room taxes. Consolidation and centralization do not always lead to increased efficiencies or collections. Before Kentucky embarks on a costly and lengthy effort to reorganize the administration of the transient tax structure, these viewpoints should be given due consideration (see Appendix B).

Study Conclusion

Based upon the research represented in this study, the Department of Revenue does not recommend moving forward with centralized collection and distribution of local transient room taxes at the present time or the foreseeable future. Instead, HB 8 provisions requiring short-term vacation rental platforms to report and remit the local transient room taxes on their receipts for facilitating the rental of accommodations should be allowed to take effect and be enforced before consideration of any drastic

changes to Kentucky's current tax structure. Some of the reasons for this position are reiterated below:

- DOR would incur more than \$2.4 million in costs of development to incorporate local transient room tax functionality within its integrated DORIS solution with additional annual personnel costs.
- There are additional and less disruptive options for local transient room tax administration to improve uniformity and consistency in filing and remittance to benefit local governments and the business community. For example, IN has model local ordinance guidelines within state statutes to ensure consistency in filing frequency, due dates, and return format.
- All three states (VA, IN, and TN) examined in this study have greater local taxing infrastructure in place than Kentucky; yet not one of these states has elected to mandate a fully centralized state and local transient room tax model.
- Local governments and the tourism districts should have input into any further changes to the tax structure that has been within their purview since its inception.
- The centralization of local transient room tax in Kentucky for any category of taxpayers imposes the same logistical and system costs upon DOR as full centralization for all business models.
- The tax bases for both the statewide transient room tax and the local transient room taxes are uniform because of HB 8, effective January 1, 2023. There are no legal or technological barriers prohibiting online facilitators from complying with their collection and reporting responsibilities to Kentucky's local transient jurisdictions.

APPENDIX A:

Kentucky Revised Statute References

KRS 91A.350 Local tourist and convention commissions -- Continued funding.

- (1) The local governing bodies of counties containing cities of the first class and the local governing bodies of the cities of the first class located therein may, by joint or separate action, establish tourist and convention commissions for the purpose of promoting convention and tourist activity. The local governing body of a consolidated local government may establish or maintain tourist and convention commissions for the purpose of promoting convention and tourist activity.
- (2) Except in a county containing a consolidated local government, the local governing bodies of counties containing an urban-county government and counties containing cities of the home rule class and the local governing bodies of the cities of the home rule class located therein may, by joint or separate action, establish tourist and convention commissions for the purpose of promoting and developing convention and tourist activities and facilities.
- (3) The local governing bodies of two (2) or more counties may jointly establish tourist and convention commissions for the purpose of promoting convention and tourist activities and facilities.
- (4) The local governing bodies of two (2) or more counties, which may include a consolidated local government, may jointly establish tourist and convention commissions for the purpose of promoting convention and tourist activities and facilities.
- (5) Tourist and convention commissions may continue to fund recreational activities or projects not related to tourism or conventions that were funded by the commission prior to July 13, 1990, at a level no greater than that provided by the commission in the 1990 fiscal year.
- (6) For the purpose of promoting recreational, convention, and tourist activity in cities and counties served by joint playground and recreation boards established under KRS 97.035; to provide the boards with the same authority to issue revenue bonds granted to cities by KRS 58.010 to 58.150 and 103.200 to 103.285; and to authorize the boards to build and issue bonds for facilities located on leasehold and permithold land.

KRS 91A.392 Levy of additional transient room tax by consolidated local government or county containing an authorized city -- Exceptions -- Application of money collected from the tax -- Required repeal of tax upon retirement of bonds.

- (1) In addition to the three percent (3%) transient room tax authorized by KRS 91A.390(1)(b), and the one percent (1%) transient room tax authorized by KRS 153.440, a consolidated local government, or the fiscal court in a county containing an authorized city, except those counties that are included in a multicounty tourist and convention commission under KRS 91A.350, may levy an additional transient room tax not to exceed two percent (2%) of the rent for every occupancy of a suite, room, rooms, cabin, lodgings, campsites, or other accommodations charged by any hotel, motel, inn, tourist camp, tourist cabin, campgrounds, recreational vehicle parks, or other place in which accommodations are regularly furnished to transients for a consideration or by any person that facilitates the rental of the accommodations by brokering, coordinating, or in any other way arranging for the rental of the accommodations for consideration.

- (2) The taxes imposed under this section shall not apply to rooms, lodgings, campsites, or accommodations supplied for a continuous period of thirty (30) days or more to a person.
- (3) (a) Except as otherwise provided in paragraph (b) of this subsection, all money collected from the tax authorized by this section shall be applied toward the retirement of bonds issued pursuant to KRS 91A.390(8) to finance in part the expansion or construction or operation of a governmental or nonprofit convention center or fine arts center useful to the promotion of tourism located in the central business district of the consolidated local government or the authorized city located in the county.
 - (b) 1. This paragraph shall apply to the tax levied pursuant to this section, prior to July 1, 2015, by a fiscal court of a county having a population between seventy-five thousand (75,000) and one hundred thousand (100,000) based on the 2010 federal decennial census.
 2. When, in any fiscal year, the money collected from the tax authorized by this section exceeds the amount required to satisfy the annual debt service for the bond for that fiscal year, all or a portion of the excess amount collected for that fiscal year may be used to defray the costs to operate, renovate, or expand the governmental or nonprofit convention center or fine arts center described in paragraph (a) of this subsection, if an amount equal to one (1) year's required debt service is held in reserve to satisfy any future debt service obligations of the bond.
- (4) After the retirement of the bonds provided for in this section, the additional transient room tax levied pursuant to this section shall be void, and the consolidated local government or fiscal court shall take action to repeal the ordinance which levied the tax.
- (5) As used in this section, "authorized city" means a city of the first class and a city included on the registry maintained by the Department for Local Government under subsection (6) of this section.
- (6) On or before January 1, 2015, the Department for Local Government shall create and maintain a registry of cities that, as of August 1, 2014, were classified as cities of the second class. The Department for Local Government shall make the information included on the registry available to the public by publishing it on its Web site.

KRS 91A.394 Civil action to compel compliance with KRS 91A.345 to 91A.394.

Any resident of the county may bring an action in the Circuit Court to enforce the provisions of KRS 91A.345 to 91A.394. The Circuit Court shall hear the action and, on a finding that the commission has violated the provisions of KRS 91A.345 to 91A.394, shall order the commission to comply with the provisions. The Circuit Court, in its discretion, may allow the prevailing party, other than the commission, court costs, to be paid from the commission's account.

KRS 131.183 Tax interest rate.

- (1) (a) Except for the addition to tax required when an underpayment of estimated tax occurs under KRS 141.044 and 141.305, all taxes payable to the Commonwealth

not paid at the time prescribed by statute shall accrue interest at the tax interest rate.

- (b) 1. a. Except as provided by subparagraph 2 of this paragraph, the tax interest rate shall be equal to the adjusted prime rate charged by banks rounded to the nearest full percent as adjusted by subsection (2) of this section.
 - b. The commissioner of revenue shall adjust the tax interest rate not later than November 15 of each year if the adjusted prime rate charged by banks during September of that year, rounded to the nearest full percent, is at least one (1) percentage point more or less than the tax interest rate which is then in effect. The adjusted tax interest rate shall become effective on January 1 of the immediately succeeding year.
 2. For additional tax billed in accordance with KRS 136.180(2), the tax interest rate shall be equal to the federal short-term rate applicable to each quarter of the period that begins on the date the protest was filed by the taxpayer under KRS 131.110 and ends on the due date of the tax as stated on the final tax bill. The federal short-term rate for each quarter shall be the federal short-term rate determined by the Secretary of the Treasury under Section 6621(b) of the Internal Revenue Code of 1986 or equivalent section in case of amendment. The two percent (2%) adjustment provided by subsection (2)(a) of this section shall not apply to the interest rate determined under this subparagraph.
- (2) (a) 1. All taxes payable to the Commonwealth that have not been paid at the time prescribed by statute shall accrue interest at the tax interest rate as determined in accordance with subsection (1) of this section until May 1, 2008.
2. Beginning on May 1, 2008, all taxes payable to the Commonwealth that have not been paid at the time prescribed by statute shall accrue interest at the tax interest rate as determined in accordance with subsection (1) of this section plus two percent (2%).
- (b) 1. Interest shall be allowed and paid upon any overpayment as defined in KRS 134.580 in respect of any of the taxes provided for in Chapters 131, 132, 134, 136, 137, 138, 139, 140, 141, 142, 143, 143A, and 243 of the Kentucky Revised Statutes and KRS 160.613 and 160.614 at the rate provided in subsection (1) of this section until May 1, 2008.
2. Beginning on May 1, 2008, interest shall be allowed and paid upon any overpayment as defined in KRS 134.580 at the rate provided in subsection (1) of this section minus two percent (2%).
3. Effective for refunds issued after April 24, 2008, except for the provisions of KRS 138.351, 141.044(2), 141.235(3), and subsection (3) of this section, interest authorized under this subsection shall begin to accrue sixty (60) days after the latest of:
- a. The due date of the return;
 - b. The date the return was filed;
 - c. The date the tax was paid;
 - d. The last day prescribed by law for filing the return; or
 - e. The date an amended return claiming a refund is filed.
- (c) In no case shall interest be paid in an amount less than five dollars (\$5).

- (d) No refund shall be made of any estimated tax paid unless a return is filed as required by KRS Chapter 141.
- (3) Effective for refund claims filed on or after July 15, 1992, if any overpayment of the tax imposed under KRS Chapter 141 results from a carryback of a net operating loss or a net capital loss, the overpayment shall be deemed to have been made on the date the claim for refund was filed. Interest authorized under subsection (2) of this section shall begin to accrue ninety (90) days from the date the claim for refund was filed.
- (4) No interest shall be allowed or paid on any sales tax refund as provided by KRS 139.536.
- (5) For purposes of this section, any addition to tax provided in KRS 141.044 and 141.305 shall be considered a penalty.

KRS 142.400 Statewide transient room tax -- Rate -- Exclusions from tax.

- (1) As used in this section:
- (a) "Person" has the same meaning as in KRS 91A.345; and
- (b) "Rent" has the same meaning as in KRS 91A.345.
- (2) A statewide transient room tax shall be imposed at a rate of one percent (1%) of the rent for every occupancy of any suite, room, rooms, cabins, lodgings, campsites, or other accommodations charged by any hotel, motel, inn, tourist camp, tourist cabin, campgrounds, recreational vehicle parks, or other place in which accommodations are regularly furnished to transients for a consideration or by any person that facilitates the rental of the accommodations by brokering, coordinating, or in any other way arranging for the rental of the accommodations for consideration.
- (3) As used in this subsection, rent shall not include any other local or state taxes paid by the person or entity renting the accommodations.
- (4) The tax imposed by subsection (1) of this section shall not apply to rooms, lodgings, campsites, or accommodations supplied for a continuous period of thirty (30) days or more to a person.

KRS 142.402 Transient room tax due monthly -- Returns -- Extension for filing -- Assessments -- Refund or credit -- Interest and penalties due.

- (1) On or before the twentieth day of every month, a taxpayer subject to the tax provided in KRS 142.400 shall submit a return and the tax due for the preceding month to the Department of Revenue, in a form prescribed by the department. To facilitate administration, the department may permit or require returns or tax payments for other periods. Upon written request received on or before the due date, the department may extend the filing or tax payment due date up to thirty (30) days.
- (2) The Department of Revenue shall examine and audit each return as soon as practicable after it is received. If the tax computed by the department is greater than the tax paid by the taxpayer, the department shall assess the excess within four (4) years from the filing deadline, including any extensions granted. If the taxpayer failed to file a return or filed a fraudulent return, then the excess may be assessed at any time.
- (3) A taxpayer may request a refund or credit for any overpayment of tax under KRS 142.400 within four (4) years after the tax due date, including any extensions granted.

The request shall be made to the Department of Revenue in writing and shall state the amount requested, the applicable period, the basis for the request, and any other information the department reasonably requires.

- (4) Any tax not paid on or before its due date shall bear interest at the tax interest rate provided in KRS 131.183 from the date due until the date of payment. If an extension is granted, and the tax is not paid within the extension period, then interest shall accrue from the original due date.

KRS 142.406 Tourism, meeting, and convention marketing fund -- Creation and fund sources -- Authorized investments -- Use of funds -- Annual report to Legislative Research Commission and to Governor.

- (1) There is hereby created and established in the State Treasury a trust and agency account to be known as the tourism, meeting, and convention marketing fund. The fund shall be administered by the Tourism, Arts and Heritage Cabinet, with the approval of the Governor's Office for Policy and Management.
- (2) All tax receipts from the tax imposed under KRS 142.400 shall be deposited into the tourism, meeting, and convention marketing fund, and shall be appropriated for the purposes set forth in subsection (3) of this section. The fund shall also contain any other money contributed, allocated, or appropriated to it from any other source. Money in the fund shall be invested by the Finance and Administration Cabinet in instruments authorized under KRS 42.500. Investment proceeds shall be deposited to the credit of the fund. Money in the fund shall not lapse but shall be carried forward to the next fiscal year or biennium.
- (3) The tourism, meeting, and convention marketing fund shall be used for the sole purpose of marketing and promoting tourism in the Commonwealth including expenditures to market and promote events and venues related to meetings, conventions, trade shows, cultural activities, historical sites, recreation, entertainment, natural phenomena, areas of scenic beauty, craft marketing, and any other economic activity that brings tourists and visitors to the Commonwealth. Marketing and promoting tourism shall not include expenditures on capital construction projects.
- (4) By September 1 of each year, the secretary of the Tourism, Arts and Heritage Cabinet shall report to the Governor and the Legislative Research Commission concerning the receipts, expenditures, and carryforwards of the fund for the preceding fiscal year.

KRS 141.985 Interest on tax not paid by date due -- Addition to tax provided in KRS 141.305 and 141.044 to be considered a penalty.

- (1) Except for the addition to tax required when an underpayment of estimated tax occurs under KRS 141.044 and 141.305, any tax imposed by this chapter, whether assessed by the department, or the taxpayer, or any installment or portion of the tax is not paid on or before the date prescribed for its payment, there shall be collected, as a part of the tax, interest upon the unpaid amount at the tax interest rate as defined in KRS 131.010(6) from the date prescribed for its payment until payment is actually made to the department.

- (2) Interest shall be assessed, collected, and paid in the same manner as if it were a deficiency.
- (3) For purposes of this section, any addition to tax provided in KRS 141.044 and 141.305 shall be considered a penalty.

KRS 141.990 Penalties.

- (1) Any individual, fiduciary, corporation, employer, or other person who violates any of the provisions of this chapter shall be subject to the uniform civil penalties imposed pursuant to KRS 131.180.
- (2) Every tax imposed by this chapter, and all increases, interest, and penalties thereon, shall become, from the time it is due and payable, a personal debt to the state from the taxpayer or other person liable therefor.
- (3) In addition to the penalties herein prescribed, any taxpayer or employer, who willfully fails to make a return or willfully makes a false return, or who willfully fails to pay taxes owing or collected, with intent to evade payment of the tax or amount collected, or any part thereof, shall be guilty of a Class D felony.
- (4) Any person who willfully aids or assists in, or procures, counsels, or advises the preparation or presentation under, or in connection with any matter arising under this chapter of a return, affidavit, claim, or other document, which is fraudulent or is false as to any material matter, whether or not the falsity or fraud is with the knowledge or consent of the person authorized or required to present such return, affidavit, claim, or document, shall be guilty of a Class D felony.
- (5) A return for the purpose of this section shall mean and include any return, declaration, or form prescribed by the department and required to be filed with the department by the provisions of this chapter, or by the rules and regulations of the department or by written request for information to the taxpayer by the department.

APPENDIX B:

Transient Position Statements of Kentucky League of Cities and Louisville Metro Government



October 13, 2023

Kentucky Department of Revenue
Finance and Administration Cabinet
501 High Street
Frankfort, KY 40601

RE: State Collection of Local Transient Room Taxes

To Whom It May Concern:

The Kentucky League of Cities (KLC) is aware that the Department is engaging in analysis and study related to the concept of centralized collection and distribution of local transient room taxes as required by the HB 360 Free Conference Committee Report from the 2023 Regular Session. Since the November 1 deadline for the Department's report is fast approaching, our organization thought it would be prudent to provide our position for its possible inclusion in the report.

Regardless of the conclusions reached in DOR's report regarding the cost and other operational requirements of implementing such a system at the state level, KLC remains steadfastly opposed to the state collection of local revenue. It has been the long-standing position of city governments and KLC to oppose any attempted breach of local autonomy in the administration of local taxes and fees. This has been our position since the telecommunications tax centralization effort in 2005. As the Department is aware, the 2005 attempt was litigated and appealed to the Kentucky Supreme Court, which ultimately sided with city governments.

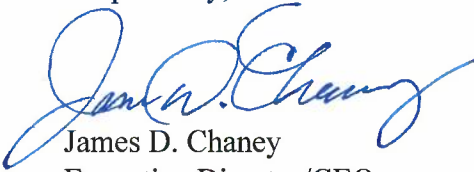
The imposition, collection, and administration of local transient room taxes are within the discretion of local governments. There are no special circumstances or other compelling policy reasons applicable to transient room taxes that would warrant a reversal of our position or consideration by the state of attempting to pass legislation that would infringe on home rule and local responsibility regarding the administration of this tax. This is especially true in light of the General Assembly's passage of HB 8 in the 2022 Regular Session requiring online reservation platforms to collect and remit the tax in the same the manner as establishments located within the boundaries of the local taxing jurisdiction.

From what information we have, the request for the study of centralization that has taken the time and resources of the Department appears to have been prompted by representatives of the online broker Airbnb. While there are no problems with compliance by any of the other online brokers now subject to the provisions of HB 8, Airbnb has generally refused to comply with the requirements of HB 8 under a claim that the provisions violate federal law. Rather than litigate

their claim, that organization has unilaterally decided to defy the state law and has not collected and remitted the tax to most local jurisdictions. It is KLC's hope that the General Assembly does not reward one bad actor by entertaining a policy proposal so offensive to local governments. Instead, we would urge members of the General Assembly to examine the compliance of other similarly situated entities and to hold fast to its continued support of local autonomy in the administration of local taxes.

We appreciate your consideration of this information as you present your report to the Interim Joint Committee on Appropriations and Revenue.

Respectfully,

A handwritten signature in blue ink, appearing to read "James D. Chaney". The signature is fluid and cursive, with the first name being particularly prominent.

James D. Chaney
Executive Director/CEO



LOUISVILLE METRO REVENUE COMMISSION
LOUISVILLE, KENTUCKY

CRAIG GREENBERG
MAYOR

AMANDA BAKER
EXECUTIVE DIRECTOR

August 15, 2023

Commissioner Thomas B. Miller
Department of Revenue
Finance and Administration Cabinet
200 Mero Street, 5th Floor
Frankfort, Kentucky 40622

Re: HB 360 Report to Joint Committee on Appropriations & Revenue

Dear Sir:

This correspondence represents the position and views of Louisville Metro Government with regards to centralized collection of the local transient tax collected on behalf of the local tourism authority. In short, a centralized collection mechanism would not be in the best interest of either the local tourism authority or Louisville Metro Government.

Legislative History of Transient Tax Collection in Louisville

The Louisville Metro Revenue Commission has a long and storied history of collecting the multiple transient room taxes levied on behalf of the local tourism authority. In 1968, the Fiscal Court of Jefferson County first adopted a Resolution and Order providing for the then *Louisville and Jefferson County Visitors and Convention Commission* (known today as the Kentucky International Convention Center) to impose a transient room tax of 1% to cover its operating costs.

In 1980, the Kentucky General Assembly of the Commonwealth of Kentucky adopted House Bill No. 858, which was signed into law by then Governor John Y. Brown, Jr., establishing the Kentucky Center for the Arts Corporation. The Act also granted authority for the local government at the time to levy a transient room tax not to exceed 1% (in addition to the already existing 3% transient room tax) that would be turned over to the Kentucky Center for the Arts Corporation to be used to defray operating costs of the Kentucky Center for the Arts.

The Fiscal Court of Jefferson County enacted a corresponding ordinance to levy the 1% transient tax for that specific purpose. At that same time, the Sinking Fund, known today as the Louisville Metro Revenue Commission, was designated by the Fiscal Court as its agent to collect all the above transient taxes on its behalf. The Revenue Commission continues to collect those taxes, and the additional transient room taxes authorized by statute since 1980, to this day. Today, the Revenue Commission levies an 8.5% transient tax in aggregate. The collective 8.5% represents five separate enactments for different entities and purposes: 3% for local tourism

(Louisville Tourism) operations; 1.5% for Louisville Tourism pledged operations; 1% for the Kentucky Center for the Arts Corporation operations; 2% for Convention Center Bonds Issue; 1% for financing renovation or expansion of the Kentucky International Convention Center. The Revenue Commission is charged with distributing the transient tax in accordance with those separate purposes and remits monthly to each of those respective organizations separately. More specific detail is outlined below as to the operational requirements for that process to occur.

In 2022, the Kentucky General Assembly of the Commonwealth of Kentucky adopted House Bill 8, which was signed into law by Governor Andy Beshear. The act expanded the forms of occupancies subject to the transient tax and the types of entities responsible for filing and reporting the local transient tax. Prior to January 1, 2023, any person who facilitated the rental of accommodations online by brokering, coordinating, or in any way arranging the stay was not responsible for remitting the transient tax – though Louisville Metro had a sharing agreement in place to do so. HB 8 expanded that responsibility to online travel companies such as AirBnB, VRBO, and Evolve. As the Revenue Commission had already been collecting the transient tax from certain online travel companies, it was able to quickly pivot in response to the legislative change and began expanding this offering to ALL online travel companies effective July 1, 2023.

Operational Considerations

The local transient tax has been collected by the LMRC for over forty years, and as a result we are unable to identify staffing considerations specific to it. The LMRC is staffed by 54 employees over 6 major divisions including customer service, business innovation and technology services, and finance, all of which play a role in the successful administration of this tax type. Additionally, costs specific to transient collections are not tracked separately and therefore cannot be provided independently of other tax type collection efforts.

The distribution of transient tax collection occurs monthly for tax collected in the preceding month. The governing ordinance prescribes the percentages of total transient rental income earned as tax due. Total tax received, however, is distributed based on the percentage of the total rate each entity's percentage represents. As an example, the 3% assessed for Louisville Tourism general operations represents 35.2941% (3/8.5) of the total tax collected and to be distributed. Calculations are completed and reviewed monthly to confirm the proper percentages of tax collected is being reported and distributed to each entity.

Once confirmed, reviewed, and approved, the tax is distributed to four separate entities by the LMRC (the 3% collected for Louisville Tourism and 1% for the Kentucky Center for the Arts Corporation are distributed collectively to the Louisville Metro Government, who then is responsible for distributing the LMRC reported/calculated totals to each respective entity).

In accordance with an agreement executed in 1980, the LMRC charges a collection fee of 1.25% of total transient tax distributed each month, as well as 10% of interest and other investment income attributable to transient funds invested. Total collection fees charged for FYE 6/30/2023 were \$575,502. Transient collection fees earned represent 5.053% of total collection fees earned by the LMRC in FY2023.

Modernized System Requirements and Implementation Costs to Collect

In 2017-2018 the LMRC implemented a modern tax collection software solution, called MINT\$. All tax types levied by the Revenue Commission are collected, recorded, and distributed utilizing this integrated tax software solution.¹

The total initial capital investment of Louisville Metro Government, as approved by Metro Counsel, for the first two years to implement the MINT\$ software system was over **\$11.5 million dollars.**² Annual licensing, support and data hosting costs average **\$1,871,000** from FY2019-FY2025. The funding source of all expenditures listed were the Louisville Metro Government annual operating and capital budget allocations for the LMRC-no entity for whom the LMRC collects taxes or fees was financially responsible for any portion of the investments detailed at that time, the Louisville Metro Government absorbed the costs for all tax types collected by the Revenue Commission as the collecting agent for those organizations.

Fees Collected

Average annual transient room tax collections for fiscal years 2021-2023 has been \$32,326,093, with \$44,977,413 collected in FYE 06/30/2023. Tax collection efforts of all tax types are combined, so all employees play a role in transient tax collection, recording, review, and distribution. The percentage of time dedicated by each employee specifically to transient tax collection efforts is unknown, so a specific annual cost for this (or any) specific tax type cannot be developed. Transient tax collections for FYE 6/30/2023 represented 5.32% of total revenue collected by the LMRC.

The average total collections for all tax/fee types for the past three fiscal years (FYE 6/30/2023, FYE 6/30/2022, and FYE 6/30/2021) has been \$804,419,867. The average annual operating costs for the last three fiscal years has been \$7,305,531. Total operating costs for FYE 6/30/2023 were \$8,041,778, with an average of 54 full time employees. The operating budget for FY2024 is \$8,836,200.

Special Considerations: Local License Impact and Tourism Improvement District

In December of 2015, Louisville Metro Council adopted its initial ordinance regulating short term rentals (STRs) and provided for host rental standards, an annual registration requirement, and enforcement penalties. Every short-term rental host is required to register with the Louisville Metro Revenue Commission for both a transient tax and occupational license tax account and remit both local tax types where applicable to be issued an STR license or a renewal. Since both the license and the tax collection happen at the local level, we can work together with the local licensing office to ensure compliance with all ordinances and regulations for the benefit and safety of local taxpayers, citizens, and visitors. The centralization of transient tax would create a burden on the multiple small business owners. Currently many bed & breakfasts, hotels, motels, campgrounds, and other operators maintain their own booking websites, filing and remitting their own transient taxes. Local business owners also visit our office for assistance with tax returns. Creating an additional agency for the filing of the transient tax would create a burden

¹ In addition to the transient tax, the Louisville Metro Revenue Commission collects occupational license tax on net profits and wages, insurance premiums tax, and truck license fees on behalf of the Louisville Metro Government, and the School Board.

² The total capital budget project expenditures were \$11,503,450 which includes the initial cost of implementation of \$8.2 million plus first year operating costs of \$1.94 million and second year operating costs of \$1.36 million.

for many small business owners and impede their ability to resolve tax issues locally and in person.

LMRC utilizes data gathered from the filing of transient tax returns to administer and ensure compliance with the Occupational License tax on net profits as well. The readily available data from transient returns filed with our office reduces the likelihood of net profit reporting errors, encourages compliance, and reduces the likelihood of audits, saving both the Commission and taxpayers time and resources.

Finally, as recently as 2022, Louisville Metro Council enacted legislation creating the Greater Louisville Lodging Management District to collect an assessment on certain hotels to improve tourism in Louisville Metro and authorized the District to collect this assessment through our office by agreement. We are in the beginning process of implementing that assessment to offer a seamless, one stop location for the lodging industry to file both the transient tax return and pay their annual assessments where applicable. Software upgrades are already underway to facilitate this process.

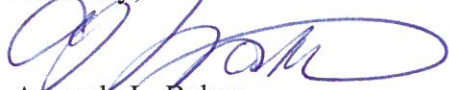
Conclusion

In conclusion, local collection of transient room taxes in Louisville Metro is the most efficient and successful means of recovering this source of revenue for the lodging industry – as the General Assembly first recognized in 1968. Since 1980, the Louisville Metro Revenue Commission has successfully levied this tax on behalf of Louisville Metro, and as recently as 2023, was identified by the local lodging industry as the best solution for them to collect the local assessment in conjunction with the transient tax.

We have been quite successful working with Online Travel Companies given their sophisticated portals to process bookings and payments to millions of individual hosts, as well as portals for hosts to verify bookings, access account, statements and stay information as well as providing guest identity, reservation screening, and liability insurance to hosts. Companies with such sophisticated technologies can easily administer a transient tax that lodging hosts, both large and small, have complied with for decades.

Based upon the analysis outlined above, it is the position of LMRC that conversion to a centralized system is unnecessary for Louisville Metro and could actually impede the collection and distribution of these revenues in a timely, accurate manner. Thank you for considering our comments as you finalize your report to the General Assembly.

Sincerely,



Amanda L. Baker

Cc: Richard Dobson (Richard.dobson@ky.gov)

APPENDIX C:

State Transient Room Tax Return and FAQs

TRANSIENT ROOM TAX RETURN



FOR DEPARTMENT USE ONLY		
/ 100 /		
Account Number	Mo.	Yr.

Report for Period

Return and payment are due the 20th of the month following the reporting period.

Check box if changes noted above

1.	Gross Room Rental	\$	
	Total gross room rental receipts from all sources, includes local and state taxes filer collected on rental charges for accommodations.		
2.	Local and/or state taxes	\$	
	Taxes included in gross room rental receipts reported on line 1.		
3.	Long-term rental exemption	\$	
	Receipts from rentals of a continuous period of 30 days or more reported on line 1.		
4.	Net room rental received from rental facilitator	\$	
	Room rental receipts received from third parties reported on line 1. Gross rental receipts are reported and taxes are paid on separate Transient Room Tax returns filed by facilitators.		
5.	Taxable rent	\$	
	Line 1 minus lines 2, 3, and 4.		
6.	Transient room tax	\$	
	Multiply line 5 by 1% (0.01).		
7.	Penalty Due	\$	
	See instructions on reverse side.		
8.	Interest Due	\$	
	See instructions on reverse side.		
9.	Amount due for Tourism, Meeting, and Convention Marketing Fund	\$	
	Add lines 6, 7, and 8.		
10.	Number of Rooms Available		
11.	Average Room Rate	\$	

Make check payable to **Kentucky State Treasurer.**

INSTRUCTIONS: See Reverse Side

CERTIFICATION

I, the undersigned, a principal officer of the above-named company, certify that I have examined this report and it is, to the best of my knowledge and belief, a true, correct, and complete report.

 Signature Title Date

 Telephone Number E-mail Address

INSTRUCTIONS

Businesses and individuals providing accommodations in Kentucky must complete this form even if no tax is due and mail to the Excise Tax Section, Department of Revenue, Frankfort, Kentucky 40619. The form and payment of the tax are due on or before the 20th of the month following the month in which the occupancies occur. Make check payable to Kentucky State Treasurer. KRS 131.180 imposes a penalty of 2 percent of the tax, up to a maximum of 20 percent of the tax for each 30 days or fraction thereof that the return is filed late. In no case shall the penalty be less than \$10. KRS 131.180 imposes a penalty of 2 percent of the tax, up to a maximum of 20 percent of the tax for each 30 days or fraction thereof for failure to pay the tax by the due date. In no case shall the penalty be less than \$10. KRS 131.183 imposes interest at the "tax interest rate" from the original due date of the return until the tax is paid. Keep a copy for your records.

GENERAL INFORMATION

A transient room tax is imposed at the rate of 1 percent of the rent, on every occupancy of any suite, room, rooms, cabins, lodgings, campsites, or other accommodations charged by any hotel, motel, inn, tourist camp, tourist cabin, campgrounds, recreational vehicle parks, or other place in which accommodations are regularly furnished to transients for consideration or by any person that facilitates the rental of the accommodations by brokering, coordinating, or in any other way arranging for the rental of the accommodations for consideration. The tax does not apply to rooms, lodgings, campsites, or accommodations supplied for a continuous period of 30 days or more to a person. Contact the Excise Tax Section, Station 62, Department of Revenue, Frankfort, Kentucky 40620, (502) 564-6823, should you have any questions regarding the payment of this tax.

TRANSIENT ROOM TAX FREQUENTLY ASKED QUESTIONS

Legislative changes for the 1% State Transient Room Tax, and Local Transient Room Taxes, effective 01/01/2023

Provisions included by the General Assembly in House Bill 8 expand the transient room tax to include stays at campgrounds and RV parks. In addition, the new statutory language requires those facilitating the rental of accommodations to collect the room tax on their total charges for the rental of accommodations. Also, receipts from a customer for a continuous stay of 30 days or more are excluded from the transient room tax. The new statewide transient room tax language is available at KRS [91A.390](#), KRS [91A.392](#), KRS [153.440](#), and KRS [153.450](#).

Does the legislation require short-term rental platforms (Airbnb, VRBO, etc.) and online travel companies (OTC's) to pay the transient room taxes?

Yes, those required to pay the taxes include “any person that facilitates the rental of the accommodations by brokering, coordinating, or in any other way arranging for the rental of the accommodations” and this provision includes short term rental platforms and OTC’s.

This requirement applies to both the statewide transient room tax and local transient room taxes.

Does the rental amount include fees and commissions received by those that facilitate the rental of the accommodations?

Yes, the definition of “rent” includes “any charges for any services necessary to facilitate the rental of accommodations whether the amount is charged by the provider of the accommodations or by a person facilitating the rental of the accommodations.” Therefore, the tax applies to fees and commissions charged by those that facilitate the rental of accommodations.

Are local property owners (hosts) required to register and report the statewide transient room tax if their rentals are handled exclusively through an online rental platform registered and paying the transient room tax?

No, the hosts of local, short-term rental properties are not required to register or report their rental receipts for the statewide transient room tax if all their rentals are handled by the online rental platforms. However, if the hosts receive any rent directly and not through a facilitator, then the hosts must register, report all rental receipts, and remit tax on the portion of receipts received directly from customers. The Department of Revenue offers an electronic statewide transient room tax return that provides guidance on how to report on all rental receipts.

Are separately stated fees such as pet fees, cleaning fees, rollaway bed or crib fees, damage fees, cancellation fees, etc. included in the rental charges subject to the transient room tax?

Yes, all charges listed above meet the definition of “rent” as charges related to and part of the total rental of accommodations and, therefore, are subject to the tax even if separately stated on the customer’s bill.

Is the Tourism Improvement District assessment of 1.5% imposed by the Greater Louisville Lodging Management District or any other local or state tax itemized on the customer’s lodging receipt subject to the 1% statewide transient room tax?

No, the calculation of the transient room tax on the rent does not include any local or state taxes paid by the person or entity renting the accommodations. See [KRS 142.400\(3\)](#). However, gross receipts subject to the state sales tax include all local fees and taxes not imposed directly on the customer but that are passed on to the customer as part of the charge for the accommodations. Therefore, the 6% state sales tax applies to the total sales price for the accommodations charged to the customer, which includes any local transient room taxes or local assessments. See [KRS 139.010\(17\)](#).

How are the first 29 days of an extended stay lasting 30 days or more treated for the calculation of the transient room tax?

As of January 1, 2023, charges for the rental of accommodations for a continuous period of 30 days or more are exempt from both the statewide and local transient room taxes. Therefore, charges for the first 29 days of a continuous stay of 30 days or more are also exempt.

Sometimes a company will contract rooms at a hotel for its employees for 30 or more continuous days. Does this arrangement with different parties occupying the room or rooms during the contract period constitute a continuous stay for the rooms booked?

The exemption for continuous stays of 30 or more days does not require the same employee to occupy the room or rooms a company has booked. However, the **same** room or rooms must be booked and paid for by the company throughout the 30-day or more continuous period, even if the room or rooms happen to be vacant for certain nights of the continuous period.

Are campground and recreational vehicle park passes and memberships with come and go privileges subject to the statewide transient room tax?

Yes, the payment for campground or RV park access is considered a rental of accommodations subject to the transient room tax. However, the rent for a specific campsite or RV park space for a continuous rental period of 30 days or more, where the specific site is exclusively occupied by or reserved for that single customer’s use for the entire rental period, is excluded from the transient room tax.

What types of exemptions are available to exclude rental receipts from the transient room taxes?

The transient room taxes are imposed upon the persons providing or facilitating the accommodations regardless of the tax status of the customers; therefore, there are no exemptions from the tax due on the rental receipts.

Are federal campgrounds or other federal accommodations providers subject to the transient room taxes?

No, federal entities are not subject to state and local taxes. However, if a third party is under contract with the federal government to operate the federal facilities or facilitates the rental of the accommodation, then the third party is liable for the state and local transient taxes on the rental charges to customers.

Are charges for the rental of houseboats subject to the statewide transient room tax?

HB 8 did not impact the application of the statewide transient room tax to houseboats. Since its enactment in 2005, rent for houseboat accommodations provided from either a fixed position or under terms that prohibit the customer from navigating the boat is subject to the statewide transient room tax. In contrast, rentals of watercraft leaving the boat dock, navigating the waterway, or moving about for recreational purposes are not subject to the statewide transient room tax.

Are the charges for stays in “boatels,” floating cabins, or floating cottages subject to the statewide transient room tax?

Yes, these rental charges are considered the sale of accommodations with the facilities used primarily for the purpose of lodging.

APPENDIX D:

2022 Virginia Department of Taxation Transient Workgroup Study



COMMONWEALTH of VIRGINIA

Department of Taxation

October 31, 2022

The Honorable Janet D. Howell
Co-Chair, Senate Finance and Appropriations Committee

The Honorable, George L. Barker
Co-Chair, Senate Finance and Appropriations Committee

The Honorable Roxann L. Robinson
Chairwoman, House Finance Committee

During the 2022 Session, the General Assembly enacted House Bill 518 and Senate Bill 651 which directed the Department of Taxation to convene and facilitate a work group to examine the processes currently used to collect local transient occupancy taxes and make recommendations for improving and the efficiency and uniformity of these processes. The report of the Workgroup on Improving the Efficiency and Uniformity of the Local Transient Occupancy Tax Collection Process is enclosed.

If you have any questions or comments regarding the work of the workgroup of the enclosed report, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Craig M. Burns".

Craig M. Burns
Tax Commissioner

C: The Honorable Stephen E. Cummings, Secretary of Finance

**Workgroup on Improving the Efficiency and Uniformity of the Local
Transient Occupancy Tax Collection Process Pursuant to 2022
Senate Bill 651 and House Bill 518**

Report

Department of Taxation

October 31, 2022

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Executive Summary

2022 Senate Bill [651](#) and House Bill [518](#) (2022 *Acts of Assembly*, Chapters 640 and 7) modify the procedures for collecting and remitting the Retail Sales and Use Tax and local transient occupancy taxes for accommodations sales involving accommodations intermediaries. In addition, the 2022 legislation directed the Department of Taxation (“the Department”) to convene and facilitate a work group of stakeholders to examine the processes currently used to collect local transient occupancy taxes and make recommendations for improving the efficiency and uniformity of those processes. See Appendix A.

Prior to September 1, 2021, local transient occupancy taxes were not imposed on accommodations fees charged by accommodations intermediaries as part of room rental transactions. 2021 Senate Bill [1398](#) (2021 *Acts of Assembly*, Special Session I, Chapter 383) changed this treatment by providing that, effective September 1, 2021, local transient occupancy taxes collected on the sales of transient accommodations were required to be calculated based on the total charges or the total price paid for use or possession of the transient lodgings, including any fees charged by accommodations intermediaries for the facilitation of transactions for the provision of transient accommodations. Senate Bill 1398 specified that, in such transactions, the intermediary is generally deemed the dealer for the transaction and required to collect the local transient occupancy taxes on accommodations transactions. Such local transient occupancy taxes must then be remitted to the locality.

In cases where the accommodations were at a hotel, the accommodations intermediary was required to remit the portion of the local transient occupancy taxes attributable to the fee charged by the intermediary to the applicable locality and to remit the remainder of the tax collected to the hotel. The hotel was then required to remit the remaining amount to the locality. The Department issued [Guidelines for the Application of the Retail Sales and Use Tax to Sales of Accommodations Facilitated by Accommodations Intermediaries](#) to provide guidance regarding the 2021 legislation.

Effective October 1, 2022, the 2022 legislation changes the process by which local transient occupancy taxes are collected for transactions involving accommodations intermediaries. The legislation also broadens the definitions of “accommodations intermediary” and “room charge” for purposes of those taxes. While the legislation still requires accommodations intermediaries to collect the taxes, intermediaries are no longer required to return any portion of the taxes collected to the accommodations provider and instead must remit all of the taxes collected to the appropriate locality. The legislation also requires intermediaries to submit to a locality each month the property addresses and gross receipts for all accommodations facilitated by the intermediary in such locality. The Department has issued [2022 Guidelines for the Application of the Retail Sales and Use Tax to Sales of Accommodations Facilitated by Accommodations Intermediaries](#) to provide guidance regarding the 2022 legislation.

As required by 2022 Senate Bill 651, the work group is comprised of the following members:

- One representative of the Commissioners of the Revenue
- One representative of the Treasurers
- One representative of the counties
- One representative of the cities and towns
- Two representatives of the hotel industry, and
- Two representatives of the accommodations intermediaries

The Department contacted the stakeholder groups identified in the legislation to notify them of the work group and to request that each stakeholder group appoint a representative to participate in the work group.

The initial teleconference meeting of the work group was held on August 8, 2022. The second teleconference meeting was held on September 8, 2022. Following the second meeting, the Department circulated a draft report for written comment. All comments received from the work group are attached. This is the final report of the work group.

The work group identified the following areas of consensus:

1. In order to improve the efficiency and uniformity of the collection and remittance of local occupancy taxes, a uniform occupancy tax return should be created.
2. The due dates for the return should be unified or significantly streamlined. Although localities that currently require a monthly filing were not amenable to moving to a quarterly filing basis, localities that currently require a quarterly filing would be willing to move to a monthly filing basis. The due date in most localities is the 20th of the month, which is consistent with the state sales tax return due date.
3. The work group was supportive of a model ordinance for localities to use in implementing the new return and due date. CORA has developed such a model ordinance.
4. Local governments, the accommodations intermediary industry, and any other interested parties should continue to work together to make the local taxation of transient accommodations as efficient as possible.

The work group failed to come to a consensus regarding the development of a centralized portal for remittance of local transient occupancy taxes. Given opposition to mandates on local governments and scarcity of funding, local officials and the industry trade groups representing hotels, motels, and other traditional providers of accommodations expressed that localities should not be required to develop or participate in the creation or operation of a centralized portal for remittance of occupancy taxes. They expressed that they did not want to discuss this issue as part of the work group discussions. Travel intermediaries strongly disagreed with this view and expressed that they felt this issue

warranted further discussion or at least consideration of the merits of the portal separate from the issue of how to fund its creation.

In addition, the work group failed to reach consensus regarding proposed audit simplification measures or the enforceability of the monthly requirement to report the property addresses and gross receipts for all accommodations facilitated by an intermediary within a particular locality.

Background

Local Occupancy Taxes in Virginia

In Virginia, the sale of hotel and motel rooms, short term rentals, and other transient accommodations are subject to local transient occupancy taxes under *Va. Code* §§ [58.1-3818.8](#) and [3840](#), *et seq.* Local transient occupancy taxes are collected and administered wholly at the local level. Revenue from the tax is generally earmarked to promote and foster tourism within the locality collecting the tax. Occupancy taxes are collected either by the provider of the accommodations or, if an intermediary is involved in the transaction, the intermediary.

In certain localities, regional occupancy taxes are imposed to fund regional transportation purposes under *Va. Code* § [58.1-1743](#), *et seq.* The regional occupancy taxes are administered and collected in the same manner as the local occupancy tax in the locality in which the lodging is located.

A limited number of localities also levy a per-night "bed tax" on the sale of transient accommodations that applies in addition to the occupancy tax. Unlike occupancy taxes which are expressed as a percentage of the overall sales price, bed taxes are levied on a fixed amount, per-night basis, such as \$2 per night. Bed taxes are administered and collected alongside occupancy taxes and utilize the same return in localities that levy both taxes.

There is currently no uniform return or due date for local occupancy taxes. Each locality may develop its own form, process for remittance of said form, and due date. In addition, localities do not have a uniform filing frequency. Some localities require monthly returns while others require quarterly returns.

Any city or town having general taxing powers may levy taxes on transient room rentals at an unrestricted rate. Prior to July 1, 2020, however, counties could not levy occupancy taxes at a rate exceeding two percent unless a higher rate was specifically authorized by state law. Beginning July 1, 2020, [House Bill 785](#) and [Senate Bill 588](#) (2020 Acts of Assembly, Chapters 1214 and 1263) equalized the taxing authority between counties and cities and towns and as a result counties are now permitted to levy occupancy taxes at unrestricted rates.

The 2020 law change also provided that for counties, any revenue generated by a rate of tax in excess of two percent shall be designated and spent solely for such purpose as

was authorized by state law prior to the law change and if no such purposes were stipulated, then revenue generated by the tax between two and five percent shall be designated solely for tourism and travel related initiatives. Any revenue generated by that portion of occupancy tax attributable to a rate exceeding five percent may be spent by the locality in the same manner as general revenues.

Work Group

The Department contacted the stakeholder groups identified in the legislation to notify them of the work group and to request that each stakeholder group appoint a representative to participate in the work group. The legislation required the work group to be comprised of the following:

- One representative of the Commissioners of the Revenue
- One representative of the Treasurers
- One representative of the counties
- One representative of the cities and towns
- Two representatives of the hotel industry, and
- Two representatives of accommodations intermediaries

The Department asked each stakeholder group to appoint their own representative. The appointed representatives were:

- Commissioners of the Revenue Association (CORA) – Maggie Ragon, Commissioner of the Revenue for the City of Staunton
- Treasurers' Association – Leigh Henderson, Treasurer of the City of Virginia Beach
- Virginia Association of Counties (VACO) – Jay Doshi, Director of the Fairfax County Department of Tax Administration
- Virginia Municipal League (VML) – Adam Melita, Deputy City Attorney for the City of Norfolk
- Two Representatives of the Hotel Industry:
 - Virginia Restaurant, Lodging & Travel Association (VRLTA) – Robert Melvin
 - American Hotel & Lodging Association (AHLA) – Sharon Sykes
- Two Representatives of Accommodations Intermediaries:
 - AirBnB – Alan Maher
 - Expedia/VRBO – Stephanie Gilfeather

The Department asked work group participants to submit any initial written comments prior to the first meeting. The Department circulated such written comments to the other work group members. The initial meeting of the work group was held on August 8, 2022. The second meeting was held on September 8, 2022. Following the second meeting, the Department circulated the draft report for review and written comments. All comments received from the work group are attached.

Work Group Meetings

August 8, 2022 Meeting

The first work group meeting was held on August 8, 2022. All work group participants were in attendance. Prior to the meeting, the Department gave all work group participants an agenda with an outline of topics to be discussed. See Appendix B.

At the beginning of the meeting, representatives of the Department provided an overview of the legislation and the work group mandate. Following the overview, each work group participant was given the opportunity to state their position and express any concerns and goals that they had for the work group. The remaining content for the agenda was based on the initial written comments from the participants as well as general topics addressed by the 2022 legislation:

- Streamlining through standardization
- Streamlining through the use of electronic processes
- Audit reform
- Data sharing

Representatives of the accommodations intermediaries provided their view that, while tax compliance is their priority, the Commonwealth's large number of localities and lack of uniformity in the tax remittance procedures in the localities creates significant administrative burdens for them. The accommodations intermediaries also expressed a desire for centralization of rate information, a centralized body to whom they could refer, a centralized electronic portal for remittance, and a centralized or uniform audit process. Finally, the accommodations intermediaries enumerated their goal of a standardized form and due date. The representative for AirBnB also highlighted the importance of having as much notice as possible of rate changes.

The representatives of CORA, the Treasurers' Association, VML, and VACO were receptive to the idea of a standardized return and the possibility of streamlining, if not standardizing, return due dates. They noted, however, the fiscal and administrative challenges to standardizing procedures presented by the disparity in the size, resources, and reliance on occupancy tax revenue between the localities in Virginia. The CORA representative noted that localities do not want to expend the resources to audit and are unlikely to do so if they are confident in the accuracy of information and remittances received from the intermediaries. None of the representatives of the localities expressed any support for development of an electronic portal due to the cost, complexity, and

administrative difficulty likely to be involved in its development. Taking the other members' reservations about portal cost into account, the representatives for the accommodations intermediaries were willing to discuss the merits of the portal divorced from any discussion of how to fund its development. However, the other members of the work group did not want to participate in discussion of the portal, citing implementation challenges including the cost and time required to train officials in smaller/less affluent localities that may not even have full-time staff dedicated to occupancy taxes, the administrative burden of disseminating information and training to dealers, and the challenges inherent to changes requiring legislation and subsequent uniform ordinances.

The representatives of the VRLTA and AHLA expressed their desire for parity in the tax collection responsibilities between the lodging industry and short-term rentals. They also expressed support for streamlining the return and due date but only so far as such streamlining would not place an undue burden on localities or divert tourism funding. The AHLA representative noted that, while the AHLA understands the intermediaries' desire for efficiency, the lodging industry has been tax compliant across Virginia's numerous localities for decades. Neither representative expressed any support for development of an electronic portal, with the VRLTA representative noting the difficulty in funding such a portal. In support of the proposal for the development of the portal, the representative from Expedia/VRBO referenced and offered to share with the work group a 2022 report by the State Tax Research Institute that discussed the impact of the local administration of taxes. The representative for Expedia/VRBO shared the study, as well as informational materials pertaining to GovOS, the company that has developed portals for other states, with the work group members after the meeting. The report and informational materials are attached as Appendices F and G.

September 8, 2022 Meeting

The second work group meeting was held on September 8, 2022. All work group members were in attendance. The agenda for the second meeting was developed based solely on an electronic poll of possible discussion topics sent to the work group participants:

- Streamlining returns and due dates
- A centralized control list of rates
- Possibilities for audit simplification
- A two-tiered system of returns and due dates based on criteria to be determined by the group
- Administrative hurdles faced by localities and intermediaries
- Options for creation and funding of an electronic portal

As for the issue of streamlining returns and due dates, the CORA representative noted that the commissioners of the revenue had a streamlined return in the works. However, the issue of how to handle returns for localities that have a bed tax is yet to be resolved. CORA has developed a model ordinance that all localities can use to implement the new return and due date. The representative of the Treasurers' Association expressed some

concern on behalf of less affluent localities towards switching to a quarterly return instead of a monthly one since those localities rely on the cash flow that a monthly return affords but she also noted that discussions are not foreclosed with those localities. The representative for Expedia stated that a different return for localities with a bed tax would be acceptable since so few localities currently have such a tax.

The issue of development of a centralized control list of rates garnered some support from the group members and did not generate any strong disinterest from any group members. The Department noted that it has compiled such a list on its website in response to the 2021 legislation. However, the list remains incomplete because approximately 50 towns have not provided their current rate information.

The representative for AirBnB, noting the privacy concerns of its hosts, requested streamlining of the audit process whereby a locality would be required to send the intermediary an audit letter or subpoena detailing the information that the locality is seeking. According to the representative, the proposal would meet tax authorities' need for the requested information while recognizing the accommodations intermediaries' legal protections pertaining to the disclosure of personal and corporate data. Under his proposal, in the interest of administrative simplicity, localities would only be permitted to send such a letter on a pre-determined and generally infrequent cadence. The representative for Expedia did not voice agreement nor disagreement with AirBnB's view. The remaining group members each voiced opposition to such a proposal.

The representatives of CORA, the Treasurers' Association, and the VRLTA expressed a strong disinterest in development of an electronic portal. The representatives of the accommodations intermediaries reiterated the need for a centralized portal. Given the local government and hotel association members' refusal to discuss the idea, the accommodations intermediaries requested a discussion of the specific reasons why the localities were so strongly opposed to it. In response, the VRLTA representative noted that development of such a portal would, in the opinion of the VRLTA, extend beyond the legislative mandate of the work group. The CORA representative stated that development of such a large centralized tool is not feasible given the large number of localities and their disparate levels of revenue. The CORA representative also noted that the existing procedures for remittance have been in place for decades and the localities see no need to change.

No consensus on any new issues was achieved during this meeting.

Conclusion & Findings

The work group mandated by 2022 Senate Bill 651 and House Bill 518 brought together different constituencies involved in the administration, collection, and remittance of transient occupancy taxes in Virginia. The work group had two official meetings. The Department is grateful to all those who participated and provided input for this report. The work group identified the following areas of consensus:

1. In order to improve the efficiency and uniformity of the collection and remittance of local occupancy taxes, a uniform occupancy tax return should be created.
2. The due dates for the return should be unified or significantly streamlined. Although localities that currently require a monthly filing were not amenable to moving to a quarterly filing basis, localities that currently require a quarterly filing would be willing to move to a monthly filing basis. The due date in most localities is the 20th of the month, which is consistent with the state sales tax return due date.
3. The work group was supportive of a model ordinance for localities to use in implementing the new return and due date. CORA Has developed such a model ordinance.
4. Local governments, the accommodations intermediary industry, and any other interested parties should continue to work together to make the local taxation of transient accommodations as efficient as possible.

APPENDIX A

CHAPTER 7

An Act to amend and reenact §§ 58.1-602, 58.1-612.2, and 58.1-3826 of the Code of Virginia, relating to sales and transient occupancy taxes; accommodations intermediaries.

[H 518]

Approved March 2, 2022

Be it enacted by the General Assembly of Virginia:

4. That the Department of Taxation (the Department) shall convene and facilitate a work group to examine the processes currently used to collect local transient occupancy taxes and make recommendations for improving the efficiency and uniformity of those processes. The work group shall include one representative of the Commissioners of the Revenue, one representative of the Treasurers, one representative of counties, one representative of cities and towns, two representatives of the hotel industry, and two representatives of each type of accommodations intermediaries as defined in § 58.1-602 of the Code of Virginia, as amended by this act. The Department shall prepare and submit a report of the work group's findings and recommendations to the Chairmen of the House Committee on Finance and the Senate Committee on Finance and Appropriations no later than October 31, 2022.

CHAPTER 640

An Act to amend and reenact §§ 58.1-602, 58.1-612.2, and 58.1-3826 of the Code of Virginia, relating to sales and transient occupancy taxes; accommodations intermediaries.

[S 651]

Approved April 11, 2022

Be it enacted by the General Assembly of Virginia:

4. That the Department of Taxation (the Department) shall convene and facilitate a work group to examine the processes currently used to collect local transient occupancy taxes and make recommendations for improving the efficiency and uniformity of those processes. The work group shall include one representative of the Commissioners of the Revenue, one representative of the Treasurers, one representative of counties, one representative of cities and towns, two representatives of the hotel industry, and two representatives of accommodations intermediaries as defined in § 58.1-602 of the Code of Virginia, as amended by this act. The Department shall prepare and submit a report of the work group's findings and recommendations to the Chairmen of the House Committee on Finance and the Senate Committee on Finance and Appropriations no later than October 31, 2022.

APPENDIX B

August 8, 2022 Meeting Agenda

Work Group Participants

Jay Doshi – Virginia Association of Counties - jay.doshi@fairfaxcounty.gov

Stephanie Gilfeather – Expedia/VRBO - sgilfeather@expediagroup.com

Leigh Henderson – Treasurers Association - LWHenderson@vbgov.com

Alan Maher - AirBnB - Alan.Maher@airbnb.com

Adam Melita – Virginia Municipal League - adam.melita@norfolk.gov

Robert Melvin – Virginia Restaurant, Lodging & Travel Association - robert@vrlta.org

Maggie Ragon – Commissioners of the Revenue Association- RAGONMA@ci.staunton.va.us

Sharon Sykes – American Hotel & Lodging Association - ssykes@ahla.com

Department of Taxation

- Kristin Collins – kristin.collins@tax.virginia.gov
- Joseph Mayer – joseph.mayer@tax.virginia.gov

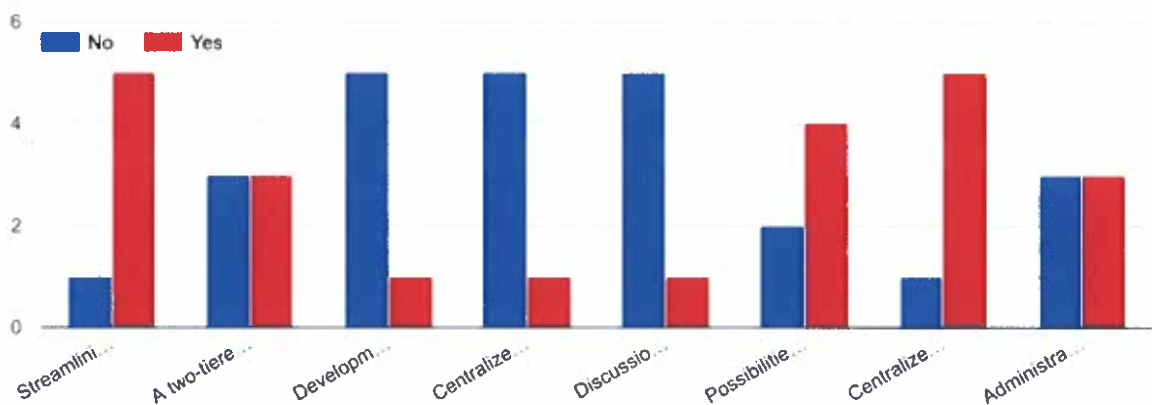
3:00 PM Start Time

- I. Greeting and Introductions – Kristin Collins
- II. Legislative Overview – Department of Taxation
 - a. 2022 House Bill 518 – [Bill History](#) and [Impact Statement](#)
 - b. 2022 Senate Bill 651 – [Bill History](#) and [Impact Statement](#)
- III. Participants discuss their viewpoints and concerns
 - a. Alan Maher - AirBnB
 - b. Stephanie Gilfeather – Expedia/VRBO
 - c. Adam Melita – VML
 - d. Jay Doshi – VACO
 - e. Maggie Ragon – CORA
 - f. Leigh Henderson – Treasurers Association
 - g. Robert Melvin – VRLTA
 - h. Sharon Sykes – AHLA
- IV. Group Discussion and Questions
 - a. Suggested Topics:
 - i. Streamlining through standardization
 - ii. Streamlining through the use of electronic processes
 - iii. Audit reform
 - iv. Data sharing
- V. Meeting Wrap-up

Results of Survey Sent to All Participants to Determine Agenda of September 8 Meeting

	No	Yes
Streamlining of returns and due dates	<input type="radio"/>	<input type="radio"/>
A two-tiered system of returns and due dates (based on factors to be determined by the group)	<input type="radio"/>	<input type="radio"/>
Development of a unified portal	<input type="radio"/>	<input type="radio"/>
Centralized alternatives to a portal	<input type="radio"/>	<input type="radio"/>
Discussion of cost-sharing for streamlining processes	<input type="radio"/>	<input type="radio"/>
Possibilities for audit simplification	<input type="radio"/>	<input type="radio"/>
Centralized control list of rates in each locality	<input type="radio"/>	<input type="radio"/>
Administrative hurdles faced by Intermediaries and Localities	<input type="radio"/>	<input type="radio"/>

Should the Work Group Agenda for meeting 2 include the following topics? (Yes/No)



Please suggest additional topics for discussion not listed above.

4 responses

N/A

My recommendation is that the discussion of a portal be moved to a third meeting as the other issues are less contentious. I also am hoping we can split the conversation of the development of a unified portal into two separate discussions: 1) options for a portal and how it would work without considering funding and 2) funding opportunities and guardrails (i.e., potential funding sources). I am concerned that if we don't break the discussion into two topics, concerns about how to fund will be a blocker to analyzing the potential viability of a portal as well as evaluate options/benefits/concerns.

I think we should aim to discuss, and get consensus on items 1, 2, 6, 7 and 8 in meeting no 2, so that items 3, 4 and 5 can be discussed/progressed if time allows in the second meeting, and if not, they be agenda items for meeting no 3.

September 8, 2022 Meeting Agenda

Work Group Participants

Jay Doshi – Virginia Association of Counties - jay.doshi@fairfaxcounty.gov

Stephanie Gilfeather – Expedia/VRBO - sgilfeather@expediagroup.com

Leigh Henderson – Treasurers Association - LWHenderson@vbgov.com

Alan Maher - AirBnB - Alan.Maher@airbnb.com

Adam Melita – Virginia Municipal League - adam.melita@norfolk.gov

Robert Melvin – Virginia Restaurant, Lodging & Travel Association - robert@vrlta.org

Maggie Ragon – Commissioners of the Revenue Association- RAGONMA@ci.staunton.va.us

Sharon Sykes – American Hotel & Lodging Association - ssykes@ahla.com

Department of Taxation

- Kristin Collins – kristin.collins@tax.virginia.gov
- Joseph Mayer – joseph.mayer@tax.virginia.gov
- Vivek Bakshi – vivek.bakshi@tax.virginia.gov

3:00 PM Start Time

- VI. Greeting - Kristin Collins

- VII. Group Discussion and Questions
 - a. Suggested Topics Based on Poll Responses:
 - i. Streamlining of returns and due dates
 - ii. Centralized control list of rates in each locality
 - iii. Possibilities for audit simplification
 - iv. A two-tiered system of returns and due dates based on factors TBD by group
 - v. Administrative hurdles faced by intermediaries and localities
 - vi. Additional topics suggested by work group members
 - 1. Options for and functionality of a portal, independent of funding
 - 2. Potential funding sources for a portal
 - b. Discussion of items potentially not covered previously

- VIII. Meeting Wrap-up

APPENDIX C: Comments Received Prior to the First Meeting

*Emails from work group participants not containing substantive information have been omitted

First Submission is on behalf of the Commissioners of the Revenue Association

Transient Occupancy Tax Work Group

Guiding Principle

Transient occupancy tax as authorized by §58.1-3819, or §58.1-3840, is a local tax, enabled by local ordinance, administered locally. Further, all transient occupancy tax collections shall be deemed to be held in trust for the county, city or town imposing the tax.

If requirements of the authorizing code were perceived as a barrier to entry in the Virginia market, perhaps efforts on the part of the intermediaries should have taken place prior to operating in the market under the current governing laws.

Thousands of transient lodging establishments across the state currently collect and remit to over 100 cities, counties and towns without incident and have done so for decades.

Some accommodations intermediaries are currently collecting and remitting on a regular basis. There should be no reason all intermediaries cannot do the same.

All new businesses have the responsibility to create systems to fulfill their tax obligations, whether on the federal, state or local level. Companies wishing to operate locally in Virginia are no exception.

Monitoring tax compliance in the same governmental subdivision where the tax revenues (or refunds) are being realized is the most effective way to ensure taxation is done equitably and accurately.

Streamlining Operations

In an effort to assist intermediaries in fulfilling their obligation to local governments, Commissioners of Revenue are willing to accept the responsibility of creating one transient occupancy tax return format to be adopted by all localities. Commissioners of Revenue will also agree to standardize reporting and remittance to a monthly submission on a common date. This will enable intermediaries to work with a single standard for all localities.

While many localities currently have the ability to accept electronic filing and/or payment, many do not. It would be substantially burdensome to require all localities to expend significant investment, engineering, product, design and technological expertise to meet this standard.

Auditing

Transient occupancy taxes, when collected and remitted by an entity to the locality are largely self-reported. Compliance is generally determined by comparing local and state submissions for agreement. Resulting requests for audits are few. Intermediaries can be assured that taxes reported, collected and remitted, by location and in a timely fashion would similarly result in few audit requests. Only by obscuring the source of the taxes remitted, would intermediaries create the need for multiple audit and information requests.

Data Sharing

Currently, most Commissioners of Revenue are receiving copies of the regular reporting by intermediary platforms from the hosts operating locally. These reports demonstrate that the data collection is already underway, and that a mere consolidation by locality of data currently generated will likely result in a usable format to meet our requirements.

In Summary

Consolidated collection and remittance are not an acceptable option to local governments. As this work group meets to examine the processes currently used to collect local transient occupancy taxes and make recommendations for improving the efficiency and uniformity of those processes, we hope to focus on the efficiencies we can promote among local governments, meaning those entities authorized to adopt ordinances levying this local tax.



Suggested Focus
for
Transient Occupancy Tax Work Group

Chapters 7 and 640 of the 2022 Acts of Assembly require the Department of Taxation to convene and facilitate a work group to examine the processes currently used to collect local transient occupancy taxes and to make recommendations for improving the efficiency and uniformity of those processes.

Airbnb's goal is to collect and remit the transient occupancy taxes owed to Virginia local governments as quickly and efficiently as possible. Airbnb's national and global tax experience has shown that harmonized rules and consolidated administration of this process will provide the greatest efficiency and encourage compliance for all platforms, big and small, and Airbnb continues to support that goal.

Current Challenges posed by HB 518

The lack of (i) harmonization across VA local occupancy tax laws and (ii) administrative centralization gives rise to significant challenges for all platforms. The following are some of those challenges:

- Local transient occupancy taxes (TOT) are collected across more than 100 Virginia towns, cities, and counties with varying tax rates. As of October 1, 2022, Airbnb and other platforms will be required to collect these taxes on behalf of its hosts and then remit the taxes to each of those localities. The systems will need to be built to display the correct amount of tax to the guest and charge the correct rate across each jurisdiction. This is not a straightforward task and requires significant engineering, product, design and technological expertise.
- The processes for filing a TOT return are as varied as those localities themselves. Some require a monthly remittance, others quarterly, others semi-annually and a few even annually. Even the dates vary within the month that the TOT returns are due.
- The format and data required in the TOT return also vary tremendously by locality. While some localities have made this process fully electronic, others continue to use paper returns and remittance by paper check.
- Under the current system, Airbnb and other platforms could also be subject to audit, notices and one off contacts by over 100 separate entities at any time in Virginia alone. It is therefore not inconceivable that Airbnb would be under audit by one or multiple Virginia entities at all times, on a continuous basis. This is just one state in one country in which Airbnb does business.

The above are examples of the *substantial burden* that will be placed on platforms trying to accurately comply with the law and applies 20th Century thinking to the 21st Century digital economy. The United States Supreme Court's 2018 decision in *South Dakota v. Wayfair* explicitly ruled that tax collection obligations that impose an "undue burden" on interstate

commerce may still be unconstitutional under the Commerce Clause and/or the Due Process Clause. The overwhelming complexity with complying (from collection through remittance and audit) leaves the Virginia law open to a constitutional challenge. Airbnb and Expedia are not the only two accommodation platforms. There are hundreds, if not thousands, who offer the same.

Guiding Principles from Airbnb's Perspective

Airbnb is supportive of the goals as expressed in the General Assembly's charge for the workgroup to "make recommendations for improving the efficiency and uniformity of those processes." We believe this can be accomplished by bringing 21st century business practices to what currently is a 20th century process. The result would be a streamlined local TOT process that could serve as a 21st Century model regime for other states to follow and make Virginia a leader in this area.

To help reach this goal, we recommend that the workgroup specifically focus on the following:

- **Harmonization** - Develop a uniform enabling statute for all locals to follow. The enabling statute will provide uniform tax rules and definitions (scope of taxable listings, exemptions, etc.) that all locals must use when imposing a tourist tax.
- **Consolidation of compliance & administration.** This involves the following:
 - **Consolidated collection and remittance** - Virginia should establish an online method which allows for one return and payment to be made by the taxpayer. The return would split out the amounts to be allocated to each local jurisdiction. This is the most effective and efficient way to reduce the administrative burden on taxpayers. There are various methods that could be implemented to accomplish this goal.
 - **Standardization** --- Develop a uniform TOT return to be accepted by all local jurisdictions. The content of every transient occupancy tax return across the Commonwealth should be identical.
 - **Return/due date uniformity** --- Establish a single, uniform date for the filing of TOT returns. Whether that established date becomes monthly, quarterly, semi-annually or annually, the date for filing transient occupancy tax returns should be identical in every locality across the Commonwealth.
 - **Electronic transaction requirements** --- The use of paper forms for returns and checks for remittances is highly inefficient and should be eliminated. All TOT returns should be filed, and all remittances paid, electronically. Electronic financial transactions are a staple of the 21st century. With uniform data sets and filing date, electronic processing is greatly simplified. This should be the rule for all localities, not an exception.
 - **Electronic streamlined filing requirements** --- Combining the previous two bullet points - a portal should be established which allows the 100+ returns to be filed in one central online repository. The associated payments should be made through this portal also.
 - **Audit** --- The audit or compliance function is often overlooked when reforming tax collection and remittance processes, though is one the biggest burdens placed on platforms. Audit parameters should be developed to ensure that remote seller platforms are not subject to the potential for continuous audit at any time by over 100 local entities in Virginia alone. This could include a single audit on a defined schedule by a third party on behalf of all Virginia localities, similar to the process

used for audit of the local option sales and use tax. Other models may also be available for consideration.

- o **Data Sharing** --- The law currently requires Airbnb to submit large volumes of host data with each return, adding to the already extensive compliance burden. It also calls into question how an audit of the tax return will be carried out if the data required to audit the return is already provided. Accordingly, any additional host data should not be provided as part of the regular compliance, but instead be provided during the audit process, where appropriate, subject to all applicable laws, and in conjunction with the single audit process outlined above.

Airbnb's Proposed Workflow

Airbnb believes that the time and presence of every workgroup member is valuable. It is therefore incumbent upon all of its members to identify the focus areas with a high degree of specificity and then work as expeditiously as possible to review the underlying issues and develop specific actionable recommendations. To that end, we are suggesting the following workflow.

Meeting #1 – This first meeting would include introductions and related comments, review of the 2021 legislation and the General Assembly's charge to the workgroup, the role of the Tax Department in the workgroup activities, and the estimated time frame envisioned for completing the workgroup's efforts. The workgroup would also review the written comments/pre-meeting suggestions submitted and most importantly, develop consensus on the specific items/areas for inquiry. Airbnb would suggest that the items listed in the section above provide a template for that discussion. Airbnb also suggests that the written comments/pre-meeting suggestions are distributed to all attendees in advance of the meeting.

Meeting #2 – For each of the agreed upon specific items/areas for inquiry, workgroup members would present and review the associated business problem from their perspective with the objective of developing consensus agreement on the scope of that problem. While for some specific items/areas, the discussion could lead quickly to agreement on the scope of the problem and a potential recommendation, most discussion of recommendations would by design take place at the next meeting. In either case, where details of a recommendation may need to be further fleshed out, a subset of the group might be tasked with developing the details of that recommendation for presentation at the next meeting.

Meeting #3 – This meeting would be focused on recommendations. It would begin with any follow up on recommendations discussed at the previous meeting including presentation by any small group tasked with fleshing out details. The objective is to complete these before moving on. The remaining areas from the previous meeting, wherein consensus had been reached on the scope of that problem for a specific item/area but no recommendations had been discussed, would be taken up with the objective of developing a consensus recommendation for each.

Meeting #4 – Should a fourth meeting be necessary it would be used to complete work on any unfinished recommendations.

We would envision the Tax Department staff capturing this process in written form for a report to the General Assembly that reflected the specific items/areas of inquiry where consensus was reached as well as those where consensus could not be reached.



Bakshi, Vivek <vivek.bakshi@tax.virginia.gov>

RE: [External] Re: Transient Occupancy Tax Work Group

1 message

Stephanie Gilfeather <sgilfeather@expediagroup.com>
To: "Bakshi, Vivek" <vivek.bakshi@tax.virginia.gov>
Cc: Stephanie Gilfeather <sgilfeather@expediagroup.com>

Thu, Jun 23, 2022 at 8:11 PM

Hi Vivek,

Thank you for coordinating this, and it certainly is an honor to be appointed. I am blocked on June 21-25, but I am otherwise available during the two week block.

As for written comments or concerns to be addressed at the first meeting, We would simply like to define the purpose of this study group, which in our opinion is to identify opportunities for efficiencies, standardization, and published guidance in order to reduce the burden on accommodation intermediaries while still ensuring taxes are remitted to the local governments timely and accurately. We are looking forward to learning more from the other stakeholders about issues that should be addressed from their perspective.

Thank you!

From: Bakshi, Vivek <vivek.bakshi@tax.virginia.gov>
Sent: Friday, June 3, 2022 12:13 PM
To: Katie Boyle <kboyle@vaco.org>; Dean Lynch <dlynch@vaco.org>; Michelle Gowdy <mgowdy@vml.org>; Philip J. Kellam <pkellam@vbgov.com>; Jeff Shafer (Jeff.Shafer@harrisonburgva.gov) <Jeff.Shafer@harrisonburgva.gov>; Robert Melvin <robert@vrta.org>; gov.affairs@ahla.com; David Skiles <dsiles@vectrecorp.com>; rjordan@advantusstrategies.com; adam.melita@norfolk.gov; jay.doshi@fairfaxcounty.gov; Sharon Sykes <ssykes@ahla.com>; Stephanie Gilfeather <sgilfeather@expediagroup.com>; kburcher@advantusstrategies.com; Alan.Maher@airbnb.com; Vincent.Frillici@airbnb.com
Cc: Joseph Mayer <joseph.mayer@tax.virginia.gov>; Collins, Kristin <kristin.collins@tax.virginia.gov>; Vivek Bakshi <vivek.bakshi@tax.virginia.gov>
Subject: [External] Re: Transient Occupancy Tax Work Group

Dear Interested Parties,

Thank you to everyone for your timely nominations for the work group. The list below reflects the responses we received from each group:

VML - Adam Melita

VACO - Jay Doshi

Commissioners of the Revenue Assoc. - Maggie Ragon

APPENDIX D: Comments Received Subsequent to the First Meeting

*Emails from work group participants not containing substantive information have been omitted

First Submission is on behalf of the Commissioners of the Revenue Association

Transient Occupancy Tax Work Group Post meeting 1 update

Locality representatives offered to implement streamlining measures to include consistent reporting format, consistent filing date and voluntary updates on rate changes to the Department of Taxation. The group is open to further discussion on the specifics of this proposal, including implementation of a two-tiered system, should a threshold be agreed upon.

Consultation with a number of locality attorneys resulted in no information on data sharing limitations and privacy concerns. The current environment provides sufficient protections for businesses operating in the Commonwealth under §58.1-3 of the Code of Virginia.

Localities need clearer information on how the intermediaries plan to determine which locality is entitled to the collected revenues. Mere use of reporting software such as Vertex or Taxware will not prevent all errors in assignment of jurisdictions within Virginia. In order to suspend the need for further documentation and auditing, localities need verification by operator and address. The current scenario provides no relief for hosts currently remitting TOT if the intermediary does not provide corroborating evidence of remittance. This is merely a reallocation of the burden for local tax compliance and is contrary to the letter and intent of recently enacted legislation.

Locality and hospitality industry representatives are aware that recent changes to IRS rules applicable to short term transactions create a threshold of \$600 in annual revenue will be reported to hosts on Schedule 1099 K.

Locality and hospitality industry representatives agree auditing specifics are difficult to address given a complete lack of transparency on the part of intermediaries to date.

Locality and hospitality industry representatives agree further discussion of a unified portal and cost sharing for such are futile and discussions should be limited to topics of agreement or commonality.

VRLTA Government Affairs Representative Robert Melvin advised his membership is not in favor of considering a consolidation portal for the reporting and remittance of local taxes. Please see official positions below:

► **Taxation:** VRLTA opposes single industry taxes aimed at the hospitality industry, such as meals taxes, transient occupancy taxes, and admissions taxes, unless there is support from the industry, the revenue generated is intended to promote visitation in the areas the taxes are being levied, and a clear and defined means for the collection and disbursement of the revenues for tourism marketing.

► **Short Term Online Rental Market:** VRLTA maintains that Short Term Online Rental Market companies should compete on a level playing field and be subject to the same laws and regulations as other businesses competing in the lodging and residential building industries. However, VRLTA opposes attempts to operate residential buildings or other mass occupied non-transient establishments as short-term online rentals in a de facto hotel manner. VRLTA opposes any efforts from short-term online rental

market companies to collect and remit taxes, on behalf of the short-term online rental operators utilizing their websites, through agreements that restrict data transparency and auditability. Further, VRLTA is opposed to any attempts to undermine the ability of localities to regulate short term rentals. A review of the Executive Summary in the KPMG document suggests support for the “undue burden” argument asserted by the intermediary companies. We struggle to understand this assertion both because of the continued self-description by the intermediaries as technology companies first and foremost, with the ability to create a sophisticated portal for hosts to access stay and account information, statements and histories, and more recently a pilot program introducing technology to identify potential party bookings. Ability to create a solution for compliance with local taxes seems to be within the grasp of the companies’ developers despite not having done so in anticipation of the legislative changes faced in Virginia and beyond.

The benefits of increased tourism promotion spending (codified in Virginia code in some instances) can be reasonably expected to favor the taxpayer.

Lastly, the following purported compliance burdens:

- a) Interacting with each individual locality
- b) Obtaining information
- c) Registration
- d) Determining local rates and exemptions
- e) Filing and remittance
- f) Dealing with compliance and enforcement

are truly reminiscent of the interactions with host providers:

- a) Interacting with each host
- b) Obtaining listing information
- c) Registration of host to platform(s)
- d) Determining listing rates and charges
- e) Reporting and payouts
- f) Dealing with complaints and refunds

Thus, it appears that none of the burdens identified for intermediaries are new. They are merely shifted from the host providers, who are in turn relieved of tax compliance burdens at least to the same extent, if not greater, than the extent of the burden placed on intermediaries by the recent legislative amendments.

We urge the intermediary companies to put their considerable technological abilities behind developing a solution to ensure compliance with local tax laws that were in place before the companies entered the Virginia market, given that they appear to be doing so in numerous other markets.



Bakshi, Vivek <vivek.bakshi@tax.virginia.gov>

RE: Transient Occupancy Tax Work Group Meeting 2 Agenda

1 message

Maggie Ragon <RagonMA@ci.staunton.va.us>

Wed, Sep 7, 2022 at 12:41 PM

To: "Bakshi, Vivek" <vivek.bakshi@tax.virginia.gov>, "adam.melita@norfolk.gov" <adam.melita@norfolk.gov>, Alan Maher <alan.maher@airbnb.com>, "McGhee, Chelsea" <chelsea.mcgee@tax.virginia.gov>, Craig Burns <craig.burns@tax.virginia.gov>, "dbabb@franklinva.com" <dbabb@franklinva.com>, Dean Lynch <dlynch@vaco.org>, David Skiles <dskiles@vectrecorp.com>, "gov.affairs@ahla.com" <gov.affairs@ahla.com>, "Doshi, Jay" <jay.doshi@fairfaxcounty.gov>, "Jeff Shafer (Jeff.Shafer@harrisonburgva.gov)" <jeff.shafer@harrisonburgva.gov>, Joseph Mayer <joseph.mayer@tax.virginia.gov>, "kati@aahoa.com" <kati@aahoa.com>, Katie Boyle <kboyle@vaco.org>, "kburcher@advantusstrategies.com" <kburcher@advantusstrategies.com>, "Collins, Kristin" <kristin.collins@tax.virginia.gov>, "Leigh W. Henderson" <lwhenderson@vbgov.com>, Michelle Gowdy <mgowdy@vml.org>, "Philip J. Kellam" <pkellam@vbgov.com>, "R. Ronald Jordan" <rjordan@advantusstrategies.com>, Robert Melvin <robert@vrlta.org>, Stephanie Gilfeather <sgilfeather@expediagroup.com>, Sharon Sykes <ssykes@ahla.com>, Vincent Frillici <vincent.frillici@airbnb.com>

Vivek,

Thank you for sending the meeting invitation and agenda. As previously stated in my documented response to the first meeting, the industry and government participants do not wish to further discuss the development or utilization of a portal for TOT. Absent the desire by the intermediaries to develop their own portals by which to share *all information needed* by Commissioners and Treasurers to properly administer TOT, at their expense, I see no need to entertain this discussion.

I am currently in the process of gathering the information needed to move forward with efforts to streamline returns and dates. Happy to discuss that tomorrow.

Regards,

Maggie

From: Bakshi, Vivek <vivek.bakshi@tax.virginia.gov>

Sent: Tuesday, September 6, 2022 5:33 PM

To: adam.melita@norfolk.gov; Alan Maher <alan.maher@airbnb.com>; McGhee, Chelsea <chelsea.mcgee@tax.virginia.gov>; Craig Burns <craig.burns@tax.virginia.gov>; dbabb@franklinva.com; Dean Lynch <dlynch@vaco.org>; David Skiles <dskiles@vectrecorp.com>; gov.affairs@ahla.com; Doshi, Jay <jay.doshi@fairfaxcounty.gov>; Jeff Shafer (Jeff.Shafer@harrisonburgva.gov) <jeff.shafer@harrisonburgva.gov>; Joseph Mayer <joseph.mayer@tax.virginia.gov>; kati@aahoa.com; Katie Boyle <kboyle@vaco.org>; kburcher@advantusstrategies.com; Collins, Kristin <kristin.collins@tax.virginia.gov>; Leigh W. Henderson <lwhenderson@vbgov.com>; Michelle Gowdy <mgowdy@vml.org>; Philip J. Kellam <pkellam@vbgov.com>; Maggie Ragon <RagonMA@ci.staunton.va.us>; R. Ronald Jordan <rjordan@advantusstrategies.com>; Robert Melvin <robert@vrlta.org>; Stephanie Gilfeather <sgilfeather@expediagroup.com>; Sharon Sykes <ssykes@ahla.com>; Vincent Frillici <vincent.frillici@airbnb.com>

Subject: Transient Occupancy Tax Work Group Meeting 2 Agenda

Good Afternoon,

Some of you may not be able to view the PDF agenda that was attached to the meeting invite due to some permissions issues with Google Meet. If so, please use the attached version.

Virginia Department of Taxation
Attn: Vivek Bakshi
Senior Policy Analyst
600 East Main Street
15th Floor
Richmond, VA 23218

Vivek,

We appreciate the Virginia Department of Tax convening a workgroup to discuss the accommodations intermediaries legislation—HB518 and SB651—from the 2022 Virginia General Assembly Session. This correspondence represents the views of the Commissioners of Revenue Association of Virginia, Treasurers Association of Virginia, Virginia Municipal League, Virginia Association of Counties, Virginia Restaurant, Lodging & Travel Association, and the American Hotel & Lodging Association. Together, our six groups make up a majority of workgroup participants.

Based on the discussions between all parties (including the intermediaries) during the 2022 General Assembly session, CORVA (Commissioners of Revenue Association) and TAV (Treasurers Association) are expecting to receive filing and remittance to include the addresses and gross receipts of all hosts in our respective localities. This having been codified in *§58.1-3826 F: Subject to applicable laws, an accommodations intermediary shall submit to a locality the property addresses and gross receipts for all accommodations facilitated by the accommodations intermediary in such locality. Such information shall be submitted monthly.*

Additionally, Commissioner Maggie Ragon and Treasurer Leigh Henderson, participated in the work group facilitated by the Department of Taxation (TAX), as directed by SB651, to examine the current processes for collecting local transient occupancy taxes (TOT) and made substantive recommendations for improving the efficiency and uniformity of these processes.

Recommendations included:

- a. Establishing a single, uniform filing form to contain all information needed to satisfy locality requirements across counties, cities and towns. This form is currently under design.
- b. Agreeing to a single filing and remittance date set as the 20th of each month following the collection month. Discussion included the possibility of a second option for quarterly filing for certain localities - localities currently requiring monthly filing do not agree to less frequency of filing.

As a means of TOT reporting, many hosts are currently providing to their Commissioners and Treasurers the financial reports provided to them by their intermediaries. Many localities are accepting these reports from hosts as demonstration of what is being collected on their behalf. CORVA and TAV are willing to accept an aggregated report of this very same information, by host, already being compiled by the intermediaries, as fulfillment of the requirement set out above in *§58.1-3826 F*. This information will allow the local officer to verify the amount and source of TOT due to the locality.

Localities already accepting electronic filing and remittance will continue to do so. As time and advances in locality technology permit, more localities are sure to adopt this methodology.

There is no will on the part of CORVA or TAV to develop a centralized portal for use by the intermediaries for filing and remittance. Constitutional officers rely on their respective localities for the technology and systems used in their offices. Any expenses incurred in upgrading technology or creating new systems are borne by the locality and not at the discretion of the officer. Therefore, the possibility of Commissioners and/or Treasurers shouldering the financial burden of creating a central filing and remittance portal, as suggested by the intermediaries, is not possible. Forcing localities to shoulder what amounts to the administrative costs of a few taxpayers will not be popular with local boards and councils.

We are not opposed to working in tandem with the intermediaries should they wish to pursue creating their own portals, at their expense, for our access to the data needed to satisfy filing requirements. This seems a natural environment for these sophisticated technology companies.

Discussion around the subject of auditing has followed several paths. From the CORVA/TAV position, complete monthly filing of addresses and gross receipts by host, along with remittance of correct tax amounts will not result in an unusual number of local audits, as is the current state of affairs with other TOT filers.

In initial discussions, the intermediary representatives voiced concerns about an excessive number of audits, or being under audit at all times, on a continuous basis. More recently, regular audits have been suggested by the intermediaries as an alternative to actually filing the host address and gross receipt information required by §58.1-3826.

This change in direction leads CORVA/TAV wondering what the intermediaries had in mind when the 2022 legislation was agreed upon. I have included a copy of language Airbnb sent recently to hosts in Virginia. This information was shared by a local host. (Attachment A)

Other members included in the TAX work group are Robert Melvin of the Virginia Restaurant, Lodging & Travel Association and Sharon Sykes of the American Hotel & Lodging Association. These representatives have brought forth the views of their respective members. Hundreds of lodging businesses in Virginia have been in compliance with local requirements for decades. Indeed, it is standard practice for business to understand regulatory practices and compliance needs prior to entry in any given market. Any changes to local TOT requirements would have to apply to all lodging businesses, thereby creating a burden on those existing businesses already in compliance. VRLTA membership is supportive of common filing forms, but not creation of a filing and remittance portal. VRLTA membership further has concerns over taking TOT monies out of the funding stream for tourism promotion.

Further points from the group:

Any effort to streamline or create efficiencies must not solely include the accommodations intermediaries on this work group, but the totality of businesses in Virginia already complying with current law.

Shifting TOT compliance to the intermediaries relieves individual hosts of this burden. This benefit accrues to thousands of hosts across the state and offers the intermediaries a competitive advantage over platforms not providing this service to their hosts. The intermediaries certainly stand to gain from this arrangement.

The question of information privacy between the intermediary and the COR or Treasurer needs further illumination. There are existing statutory requirements and available policy options to negate privacy concerns. Consider:

- a. §58.1-3 requires confidentiality of taxpayer information in the hands of Constitutional officers.
- b. Intermediaries can require hosts to allow them to share the information.
- c. Localities can utilize a waiver provision in the Stored Communications Act to gain consent from hosts to access information.
- d. Hosts can voluntarily provide reports to localities as is current practice.
- e. Accommodations intermediaries are complying with local laws in other states, demonstrating their ability to do so.

Determining constitutionality of the language included in §58.1-3826 is beyond the scope of this group, however it must be noted that there was no indication from the intermediaries at the time of passage that the language would pose a barrier to compliance with the legislation.

Finally, CORVA and TAV look for the accommodations intermediaries to follow the current Code of Virginia sections governing the collection and remittance of TOT as amended in the 2022 General Assembly session. Efforts to standardize filing forms will continue into the coming months.

Please consider these comments for integration into your report.

Regards,

Maggie Ragon

ATTACHMENT A

Subject: Important: Airbnb will collect and remit occupancy taxes in Virginia State



Hi *****,

Great news! Airbnb will start collecting and remitting the following tax(es) administered by the below State for all reservations booked on or after October 1, 2022.

State Name:

- Virginia State

Tax(es) Name(s):

- Local Occupancy Taxes
- The State-administered Sales Taxes will continue to be collected and remitted by Airbnb

Guests will see a separate line item for the tax(es) when booking. Airbnb will collect and pay the tax(es) to the jurisdiction at the next filing due date.

Will my payouts be affected?

No. The tax(es) will be charged to guests.

How do you know what tax(es) to apply to my listing?

The tax(es) applied will be determined by the address you have entered for your listing. Please double check the details of your address in the [Manage Your Space](#) page to ensure you have entered a complete and accurate address for your listing. Airbnb will not be responsible for any tax collection errors due to a typo in the address.

How can I see the amount of tax collected on my behalf?

The amount is displayed in the Gross Earnings tab of your [Transaction History](#).

How will you be remitting tax on my behalf?

We will be filing one tax return per jurisdiction with the total combined reservation revenue for all Airbnb bookings in the area.

This means that all hosts will be represented by one payment amount, and we will not be providing your personal information on the return. We may provide your personal data only in cases where we receive a binding request by a competent authority pursuant to applicable law, including data protection laws, and our [Privacy Policy](#).

I've been collecting the above tax(es). What do I do now?

You'll no longer need to collect this tax for transactions completed through the Airbnb platform from guests who book their reservation on or after October 1, 2022.

Are there other taxes that I need to collect?

You are responsible for understanding and fulfilling all of your tax obligations. For a summary of the taxes collected by Airbnb for a listing, visit the [Manage Your Space](#) page and click Local Laws. If there are other applicable taxes that you need to collect from your guests, the process for collecting is outlined [here](#). As always, you must be upfront about any such taxes with guests before booking.

Do I have any other tax reporting obligations?

You may be responsible for other tax reporting obligations. Please contact your respective taxing authorities for more information on what these obligations are.

Do I have any other obligations related to my listing?

You may be responsible for complying with local rules and regulations that apply to your listing. Please contact your respective local government agencies for more information on what these obligations are.

To learn more, please visit our [Help Center](#) or contact your local tax authority for more details.

Thanks,
The Airbnb team

Note: Under the Airbnb [Terms of Service](#), you instruct and authorize Airbnb to collect and remit Occupancy Taxes on your behalf in jurisdictions where Airbnb decides to facilitate such collection. If

you believe applicable laws exempt you from collecting a tax that Airbnb collects and remits on your behalf, you have agreed that, by accepting a reservation request, you are waiving that exemption. If you don't want to waive an exemption you believe exists, you should not accept the reservation.

APPENDIX E: Official Comments to the Draft Report

*Emails from work group participants not containing substantive information have been omitted

Official Comment on the Draft Report Received from Expedia/VRBO (excerpted at their request):

Accommodation intermediaries participated in the Commission believing it would explore and discuss many different suggestions to update and modernize tax collection and remittance in the Commonwealth. While there was no expectation of agreement from all parties on all suggested solutions, the expectation was for members to raise recommendations for efficiencies and for the Commission to discuss the merits of these ideas. Despite numerous requests to discuss the idea of a statewide portal for the collection and remittance of local lodging taxes, the Commission, at the prompting of local Tax Commissioners, voted to not discuss that topic.

To help facilitate the conversation into what technology solutions may be feasible, a third-party vendor, GovOS was willing to provide a demonstration of their technology at the Commission's convenience. While not the only technology platform that could maintain a cooperative portal run by the localities, GovOS is the technology backbone for other cooperative portals provided by state and local governments where the tax imposition is non-uniform, including the Colorado Sales & Use Tax System ("SUTs") and the Alaska Municipal League's cooperative portal. GovOS is also actively engaging with municipal and county associations throughout the country on how their solution may reduce the burden of locally admitted taxes.

To add to the Commission's report, APPENDIX [G] is materials from GovOS summarizing their Local Lodging Portal that the Accommodation Intermediaries believe would significantly reduce taxpayer burden of the current law without substantively disrupting the localities' current processes for receiving funds

Virginia Department of Taxation
Vivek Bakshi
Senior Tax Policy Analyst | Policy Development Division
600 East Main Street
16th Floor
Richmond, VA 23218

Vivek,

Thank you for providing a draft copy of the Executive Summary of the work group meetings focused on procedures for collecting and remitting local transient occupancy taxes.

All parties in support of the comments submitted here are very appreciative of the facilitation and staff support provided for the two workgroup meetings and subsequent reporting.

We remain committed to working with the intermediaries to streamline processes across localities. A single filing form and date are forthcoming, as is a model ordinance for localities. We will also continue working to ensure that all tax rates are available and up to date with the department.

Please allow us to concisely reiterate our position on electronic submissions via a portal and audit procedures.

Senate Bill 651 and House Bill 518 (2022 *Acts of Assembly*, Chapters 640 and 7) require the intermediaries to submit to a locality each month the property addresses and gross receipts for all accommodations facilitated by the intermediary in such locality.

- a. Stephanie Gilfeather, representative for Expedia, indicated expected compliance to this requirement by Expedia and its affiliates.
- b. Alan Maher, representative for AirBnB, indicated concerns over host privacy may be an impediment to compliance.

A review of testimony offered during the 2022 session neither reveals objection to this requirement at the time the legislation was agreed upon and passed, nor was the subject of a portal raised.

During the August meeting, the intermediaries raised the possibility of a centralized electronic portal for remittance.

- c. The purpose of the workgroup as directed by legislation was to examine the processes currently used to collect local transient occupancy taxes and make recommendations for improving the efficiency and uniformity of those processes.
- d. The workgroup was not directed to discuss creating any completely new processes for remittance, data dissemination or audit.
- e. Local government groups, and hospitality and tourism organization representatives made clear focus should be on areas where participants could find common ground.

During the September meeting, Alan Maher, representative for AirBnB introduced a request for an unprecedented audit process whereby a locality would be required to send the intermediary an audit letter enumerating the specific items of information the locality is seeking and the statute already requires. Further, the locality would only be permitted to send such a letter on a pre-determined and infrequent basis. This came as a surprise to our group since the legislation requires this information without particularized audit requests.

The representative from Expedia did not endorse a similar need and again indicated their intent to comply with the legislation as written.

Again, thank you for working with us. As we continue to gather information, we will share as appropriate.

Regards,

Maggie Ragon
CRAV

Leigh Henderson
TAV

Adam Melita
VML

Jay Doshi
VACO

Robert Melvin
VRLTA

Sharon Sykes
AHLA



Airbnb Comments on Draft Report issued Monday, October 17, 2022

- The draft report identifies four items on which the Working Group reached a consensus. Airbnb understands there was a fifth:
 - The Working Group members agreed that a centralized control list of rates would be published and maintained.
- The report does not reflect the follow-up items agreed upon at the end of the first meeting and circulated via email to the working group members on August 11, 2022. We suggest they be appended to the report along with other appendices. We have added them below for completeness.
- The accommodations intermediaries reiterated a number of times that the purpose of the working group – as envisioned by the implementing statute – was to examine the processes currently used to collect local transient occupancy taxes and make recommendations for improving the efficiency and uniformity of those processes.
 - It was agreed that the record would reflect the CORA representative and the VRLTA's lack of desire to discuss the merits and/or feasibility of a portal or any method which would allow for increased efficiency and uniformity of the tax collection and remittance processes.
- The report reflects the fact that the work group failed to come to a consensus regarding the development of a centralized portal for remittance of local transient occupancy taxes and that local officials and the industry trade groups representing hotels, motels, and other traditional providers of accommodations did not want to discuss this issue as part of the work group discussions. The reasons given are also reflected in the report as “opposition to mandates on local governments and scarcity of funding”. However, the report fails to acknowledge the following:
 - The travel intermediaries suggested bifurcating the discussion of the portal into two separate discussions - one being the merits and feasibility of the portal and the other being the funding. It was suggested that the former be discussed initially in an attempt to gain consensus on a method which could allow for increased efficiency and uniformity of the tax collection and remittance processes (which per the statute, is the purpose of the working group).
 - It was for this reason that, at the end of the first meeting, the travel intermediaries were requested to “[p]rovide information about jurisdictions with existing and proposed portals, as well as enabling legislation” for the second meeting. This can be seen in the file sent to the Working Group on Aug 11, 2022, 1:54 PM (Pacific) entitled “Transient Occupancy Tax Work Group August 8, 2022 Meeting - Follow-Up Items for Next Meeting.”
 - At the second meeting on September 8th, the local officials and the industry trade groups representing hotels, motels, and other traditional providers of accommodations refused, without providing any rationale, to discuss the centralized

portal. This refusal came despite these members' agreement during the first meeting to discuss a centralized portal at the second meeting once the travel intermediaries had obtained further information on the portals.

- The local officials and the industry trade groups representing hotels, motels, and other traditional providers of accommodations were also clear that they were not willing to discuss a possible alternative method which could allow for increased efficiency and uniformity of the tax collection and remittance processes. In their view, it extended beyond the legislative mandate of the working group.
- The report also does not note the unwillingness of the AHLA representative to provide an update on their designated follow up at the end of meeting one (see "Transient Occupancy Tax Work Group August 8, 2022 Meeting - Follow-Up Items for Next Meeting"), namely, how the AHLA members would view the use of a portal if it simplified their compliance in the Virginia localities. Instead, the AHLA representative simply refused to engage on the matter.
- The draft report also mischaracterizes Airbnb's proposal to address the provision in House Bill 518 (HB 518) regarding the disclosure of hosts' property addresses.
 - During the working group meeting, the representative for Airbnb explained the legal privacy concerns and constitutional protections implicated with the disclosure of hosts' personal identifying information absent valid legal process. He pointed out that HB 518 clarifies that any data sharing requests would need to be done "subject to applicable laws" – a qualifier that courts have routinely found to include constitutional protections and applicable federal laws.

Accordingly, the representative proposed a streamlined process by which local tax authorities could initiate an audit and submit an audit request or subpoena for the requested information. The representative explained how the proposal would meet tax authorities' need for the information while recognizing the accommodations intermediaries' legal protections pertaining to the disclosure of personal and corporate data. Indeed, this proposal would help ensure that tax authorities are not running afoul of required legal processes when requesting data under HB 518.

The representative from the Virginia Municipal League (VML) expressed understanding of Airbnb's position but requested further information on the position and suggested a separate call with Airbnb's legal counsel to discuss it further. The representative for Expedia did not voice agreement or disagreement with Airbnb's proposal, and the remaining group members opposed the proposal but did not engage in a substantive discussion on the legal protections implicated by HB518.

Transient Occupancy Tax Work Group
August 8, 2022 Meeting - Follow-Up Items for Next Meeting

Travel Intermediaries

- Provide information about jurisdictions with existing and proposed portals, as well as enabling legislation.

Stephanie Gilfeather

- Provide information as to Federal limitations on data sharing and privacy concerns.
- To the extent there is an entity that runs multiple facilities, is the revenue sufficiently segregated so that the locality can determine which jurisdiction is entitled to the revenue?
- Share the KPMG/Sutherland report with the group.

Maggie Ragon

- Check with jurisdictions that require monthly filing regarding changing to quarterly filing if combined with streamlining measures.

Robert Melvin

- Share portal proposal with members and relay feedback to the group
- How many hotels report at the hotel level versus how many report at a consolidated or corporate level? Stephanie asked whether hotels not dealing with reporting at the hotel level would be more likely to see the value in the proposed streamlining changes if they were not utilizing corporate/consolidated reporting. Robert agreed to take the matter under advisement.

Summary of Potential Topics for Next Meeting

- Streamlining returns and due dates
- A two-tiered system of returns and due dates
- Development of a unified portal
- Centralized alternatives to a portal
- Discussion of cost-sharing for streamlining processes
- Possibilities for audit simplification
- Centralized control list of rates in each locality
- Administrative hurdles faced by intermediaries and localities
- Topics to be suggested by participants

Virginia Association of Counties

Connecting County Governments since 1934



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VIA ELECTRONIC MAIL

October 24, 2022

Mr. Vivek Bakshi
Senior Tax Policy Analyst, Policy Development Division
Virginia Department of Taxation
P.O. Box 1115
Richmond, VA 23218-1115

Dear Mr. Bakshi:

Thank you for the opportunity to provide comment on the draft report from the workgroup convened pursuant to SB 651 and HB 518 to improve the efficiency and uniformity of the local transient occupancy tax collection process. The Virginia Association of Counties appreciates the Department's work to facilitate the workgroup's discussions and the ability to participate in the workgroup.

As documented in the report, we are in support of proposals offered by the Commissioners of the Revenue to improve the existing process of administering the local transient occupancy tax: developing a standard form for tax returns and streamlining the monthly due date for remittance of transient occupancy taxes. We believe that these changes will provide greater uniformity and convenience for tax filers, while not fundamentally disrupting the structure of this locally-administered tax. We also remain supportive of the existing requirement, enacted in 2021, for local governments to provide timely information to the Department regarding transient occupancy tax rates so that the centralized repository maintained on the Department's website can be a reliable, convenient source of information for taxpayers. We would be happy to assist the Department in continuing to raise awareness of this requirement among local governments.

We do not feel that a centralized portal for transient occupancy tax filing would be a viable option for local governments, given our concerns about who would fund and maintain such a system, as well as our concerns about ceding local responsibility and oversight over this local revenue source. Given the lack of consensus regarding this proposal, we did not view further discussion by the workgroup about the portal as being worthwhile, and we preferred to focus the group's time on the areas of possible improvements to the existing processes outlined above, rather than developing a new collections structure.

We maintain our understanding that SB 651 and HB 518 require intermediaries to provide localities the property addresses and gross receipts for all accommodations facilitated by the intermediaries in each locality on a monthly basis. This information is important in verifying transient occupancy tax compliance.

Again, we thank you and your colleagues for your work on this project and for the opportunity to provide comments.

Sincerely

Dean A. Lynch, CAE
Executive Director

1207 E. Main St., Suite 300
Richmond, Va. 23219-3627

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APPENDIX E:

**Tennessee Department of Revenue
State and Local Sales and Use Tax Return
Schedule F**



TENNESSEE DEPARTMENT OF REVENUE
State and Local Sales and Use Tax Return

RV-R0012001 (7/22)

SLS
450

Form header section containing fields for Filing Period, Account Number, Due Date, Location ID, Legal Name, Mailing Address, City, State, ZIP Code, Location Address, and checkboxes for Amended return, Final return, and Change of mailing address.

Round to nearest dollar

- 1. Gross sales.....(1)
2. Cost of personal property purchased on a resale certificate but used.....(2)
3. Cost of out-of-state purchases and property imported into Tennessee for use(3)
4. Fair market value of tangible personal property fabricated, produced, compounded, or severed from the earth for use in Tennessee.....(4)
5. Total sales and purchases (add Lines 1-4).....(5)
6. Exempt transactions from Schedule A Line 11.....(6)
7. State net taxable total (subtract Line 6 from Line 5).....(7)
8. State sales and use tax (multiply non-food sales and purchases by 7%).....(8)
9. State food tax (multiply food sales by 4%).....(9)
10. Local sales and use tax from Schedule B, Line 8.....(10)
11. Tax collected in excess of state and local levies.....(11)
12. State tax on transactions subject to single article and reduced rates from Schedule C Line 9.....(12)
13. Local tax on transactions subject to the special tax rate from Schedule C Line 15.....(13)
14. Central Business Improvement District Fee from Schedule D Line 10.....(14)
15. Prepaid Wireless 911 Surcharge \$1.50 per retail transaction for prepaid wireless telecommunications less 2% administrative fee.....(15)
16. Local Occupancy Tax on Short-term Rentals total from Schedule F, Column H.....(16)
17. Net tax due (add Lines 8-16).....(17)
18. Vendor's compensation total for timely filed/paid return not to exceed \$25.00. (Calculated from Lines 8, 9, and 12).....(18)
19. Credit memo balance.....(19)
20. Penalty (see instructions).....(20)
21. Interest (see instructions).....(21)
22. Total tax due - If filed and paid timely, subtract Line 18 and 19 from Line 17. If filed or paid late, subtract Line 19 from Line 17 and add Lines 20 and 21.....(22)

FOR OFFICE USE ONLY

Two rows of empty rectangular boxes for office use.

Schedule A- Exempt Transactions (See Separate Instructions)

- 1. Net taxable food sales..... (1) _____
- 2. Sales made to vendors or other establishments for resale, and sales of items to be used in processing articles for sale. (Certificates of Resale required) (2) _____
- 3. Sales of items paid for with SNAP Benefits (3) _____
- 4. Sales to federal or Tennessee governments and qualified nonprofit institutions (Certificate required) (4) _____
- 5. Returned merchandise reported as sales on this or a previous return. Show on Schedule B, Line 2 amounts claimed on Schedule B, Line 4, of prior returns..... (5) _____
- 6. Exempt industrial machinery and agricultural purchases (6) _____
- 7. Sales in interstate commerce (7) _____
- 8. Repossessions - portion of unpaid principal balances in excess of \$500 due on TPP repossessed from customers. Report same amount on Schedule B, Line 2 (8) _____
- 9. Other deductions (See instructions) (9) _____
- 10. Temporary exemptions (Total from Schedule G, Column C) (10) _____
- 11. Total exemptions (Add Lines 1 through 10; enter here and on First Page, Line 6)..... (11) _____



Attention Sellers located outside Tennessee:

Beginning October 1, 2019, all sales that originate from a business located outside of Tennessee and sold to a destination inside Tennessee must be reported using the tax rate applicable to the delivery destination. Report all your sales made by location using Schedule E and bring total of all sales from Columns B through I over to Lines 1 through 8 below.

Schedule B - Local Sales and Use Tax (See Separate Instructions)

- 1. State net taxable total from First Page, Line 7 (1) _____
- 2. Adjustments (total of Schedule A, Line 1 and any applicable amounts from Schedule A, Lines 5 and 8) (2) _____
- 3. Total with adjustments (add Lines 1 and 2)..... (3) _____
- 4. Excess amount over single article tax base (4) _____
- 5. Energy fuel sales taxed at full state rate (5) _____
- 6. Other deductions including sales of specified digital products and of merchandise sold through vending machines (6) _____
- 7. Net taxable total (subtract Lines 4, 5, and 6 from Line 3)..... (7) _____
- 8. Local sales and use tax (multiply Line 7 x the applicable local tax rate; Enter here and on the first page, Line 10).... (8) _____

Schedule C - State Single Article Tax and Special Tax Rates (See Separate Instructions) If no taxable single articles were sold at \$1,600 or above, or if you have no special tax rate products to report, put \$0 on Lines 9 and 15 below and on Lines 12 and 13 on the first page.

1. Taxable single article sales from \$1,600 to \$3,200 (1) _____
2. State single article sales tax (multiply Line 1 x 2.75%) (2) _____
3. Industrial water sales (3) _____
4. Industrial water tax (multiply Line 3 x 1.00%) (4) _____
5. Industrial energy fuel sales..... (5) _____
6. Industrial energy fuels tax (multiply Line 5 x 1.50%)..... (6) _____
7. Aviation fuel tax (total amounts from Lines A and B; multiply x 4.25%)..... (7) _____
 - A. Taxable aviation fuel sales (\$ _____) Gallons (_____)
 - B. Out-of-state purchases for use (\$ _____) Gallons (_____)
8. Water carrier energy fuel tax (total amounts from Lines A and B; multiply x 7.00%).....(8) _____
 - A. Taxable energy fuel sales to water carriers (\$ _____) Gallons (_____)
 - B. Out-of-state purchases for use (\$ _____) Gallons (_____)
9. State single article and reduced rates tax (add Lines 2, 4, 6, 7, and 8)
Enter here and on Line 12 on the first page.....(9) _____
10. Local industrial water tax (multiply total sales x 0.50%)..... (10) _____
11. Specified digital products sales..... (11) _____
12. Specified digital products local tax (multiply Line 11 x 2.50%) (12) _____
13. Sales of merchandise through vending machines (13) _____
14. Local tax on merchandise sold through vending machines (multiply Line 13 x 2.25%) (14) _____
15. Total local special rates tax (add Lines 10, 12, and 14). Enter here and on Line 13 on the first page (15) _____

Schedule D- Central Business Improvement District (CBID) Schedule

1. Gross sales less exempt transactions (Page 1, Line 1 minus Line 6) plus net taxable food sales
(Schedule A, Line 1)..... (1) _____
2. Sales of professional services included in Line 1 above (2) _____
3. Sales of lodging provided to transients not included in exempt transactions (3) _____
4. Sales of tickets to sporting events or other live ticketed events not included in exempt transactions..... (4) _____
5. Sales of alcoholic beverages subject to LBD tax not included in exempt transactions (5) _____
6. Sales of newspapers and other publications not included in exempt transactions (6) _____
7. Sales of overnight and long-term parking not included in exempt transactions..... (7) _____
8. Total CBID exempt sales (add Lines 2 - 7) (8) _____
9. Net sales (subtract Line 8 from Line 1)..... (9) _____
10. Central Business Improvement District Fee (multiply Line 9 x 0.50%). Enter here and on Line 14 on the first page..(10) _____

Under penalties of perjury, I declare that I have examined this report, and to the best of my knowledge and belief, it is true, correct, and complete.

Taxpayer's Signature	Date	Title
Tax Preparer's Signature	Preparer's PTIN	Date Telephone
Preparer's Address	City	State ZIP Code
Preparer's Email Address		

Schedule E - For Sellers Located Outside Tennessee Destination Sales Report

A	B	C	D	E	F	G	H	I
City or County Location	State Net Taxable Total	Adjustments	Adjusted Total	Excess of Single Article Tax Base	Energy Fuel Sales	Other Deductions	Local Net Taxable Total	Local Tax
Totals								

Note: If you have additional entries to report, please add additional Schedules as needed. Report total of all sheets on last page.

Schedule F - For Local Occupancy Tax due on Short-term Rentals

A	B	C	D	E	F	G	H
City or County Location	Short-term Rental Unit Receipts	Deductions	Net Rental Receipts	Occupancy Tax Due	Net Room Rental Nights	Total Nightly Fee	Total Due
Totals							

Note: If you have additional entries to report, please add additional Schedules as needed. Report total of all sheets on last page.

Schedule G - Temporary Exemptions

A	B	C	D
City or County Location	Temporary Exemption Type	Exempt Sales Amount	Exempt Sales Amount in Excess of Local Single Article Tax (\$1,600)
Totals			

Note: If you have additional entries to report, please add additional Schedules as needed. Report total of all sheets on last page.

- Schedule G should be used if any of the following temporary exemptions apply:
- Sales Tax Holiday (Last Friday of July to the following Sunday)
 - Gun Safe/Safety Device Sales Tax Holiday (July 1, 2021 to June 30, 2023)
 - Food Sales Tax Holiday (August 1, 2022 to August 31, 2022)
 - Broadband Infrastructure Exemption (July 1, 2022 to June 30, 2025)

Enter total from Schedule G, Column C to Schedule A, Line 10. Any exemption or deduction not listed above should be taken elsewhere on Schedule A. See instructions for additional information.

INSTRUCTIONS: Tennessee Sales and Use Tax Return

These instructions apply to Tennessee's sales and use tax return for periods beginning *on or after July 1, 2022*. The due date for the sales and use tax return is the 20th of the month following the end of the reporting period.

Taxpayers are required to file this return electronically, and should submit online their fully completed return, along with the amount from Line 22, by visiting the Department's website at <https://tntap.tn.gov/eservices>. Alternatively, they may mail the return and payment to the following address. Checks should be made out to the Tennessee Department of Revenue.

Tennessee Department of Revenue
Andrew Jackson State Office Building
500 Deaderick Street
Nashville, TN 37242

Return - Round to the nearest whole dollar

- Line 1: Enter the amount of all sales. Include: (a) cash sales, (b) credit sales, (c) conditional sales, (d) sales exempt from tax, (e) leases and rentals of tangible personal property, (f) charges for fabricating personal property for consumers, (g) sales of specified digital products, and (h) taxable services.
Exclude: The amount of sales tax collected or accrued.
- Line 2: Enter the cost of all tangible personal property which was purchased from a dealer without the payment of sales or use tax that was not resold, but used and consumed in the conduct of business. Do not enter the cost of items remaining in inventory for resale.
- Line 3: Enter the cost of all tangible personal property purchased or imported from out-of-state, including online purchases, for use and consumption in Tennessee where no Tennessee sales tax was paid to the supplier at time of purchase. Do not include items purchased from out-of-state that are to be resold in the conduct of business.
- Line 4: Enter the fair market value of tangible personal property fabricated, produced, compounded, or severed from the earth for use in Tennessee. In addition, the purchase price or fair market value, whichever is applicable, of all property furnished to, or used by, a contractor when a sales or use tax has not been previously paid must be included.
- Line 5: Add Lines 1 through 4 to determine total sales and purchases for the reporting period.
- Line 6: Enter the exempt transactions from Schedule A, Line 11.
- Line 7: Subtract Line 6 from Line 5 to determine the state net taxable total.
- Line 8: Multiply the amount of non-food and food ingredient sales by **7%** to determine the general state sales tax due.
- Line 9: Multiply the total net taxable sales of food and food ingredients from Schedule A, Line 1 by **4%** to determine the food sales tax due.
- Line 10: Enter the local sales tax due from Schedule B, Line 8.
- Line 11: Add any excess state and/or local tax collected.
- Line 12: Enter the amount of state sales tax on single articles and special tax rates from Schedule C, Line 9. (See instructions for Schedule C.)
- Line 13: Enter the amount of local tax on transactions subject to the special tax rates from Schedule C, Line 15. (See instructions for Schedule C.)

Line 14: Enter the Central Business Improvement District (CBID) fees from Schedule D, Line 10. This fee only applies to certain businesses in downtown Nashville.

Line 15: Multiply the number of prepaid 911 surcharge transactions made by **\$1.50**. Subtract the **2%** administrative fee. Enter the result.

Line 16: Enter the total local occupancy tax due on short-term rentals from Schedule F, Column H.

Line 17: Calculate the total tax and fees due before addition of penalty and interest. Add Lines 8, 9, 10, 11, 12, 13, 14, 15, and 16.

Line 18: Vendor's compensation is allowed for timely filed and timely paid returns of sales tax collected from July 1, 2022 to June 30, 2023. Vendor's compensation is calculated at **2%** of the state tax due from Lines 8, 9, and 12, not to exceed **\$25**. Vendor's compensation does not apply to the local sales tax. Failure to timely file or timely pay the total tax due on the return will result in the loss of the vendor's compensation deduction.

Line 19: If your account has a credit balance from an overpayment on a prior return, enter the amount on this line.

Line 20: If filed late, compute penalty at **5%** of the tax due (Line 17 minus Line 19) for each 30 day period or portion thereof for which the tax is delinquent, up to a maximum of **25%** of the delinquent amount. The minimum penalty is **\$15** for the delinquent filing of a return.

Line 21: Interest is due on any amount of tax that is paid after the statutory due date of the return. The interest rate is determined in accordance with Tenn. Code Ann. § 67-1-801. The current interest rate can be found at www.tn.gov/revenue. If the payment is late, apply the interest rate to the total tax due (Line 17 minus Line 18) x Interest Rate x Number of Days Delinquent divided by 365.25). The interest amount due is recorded on Line 21.

Line 22: Total tax due. When the return is timely filed, deduct Line 18 and 19 from Line 17. On late filed returns, deduct Line 19 from Line 17, and add amounts calculated on Lines 20 and 21.

Schedule A - Exempt Transactions

The law provides for the deduction from gross sales and purchases those items specifically exempt from tax. Schedule A is used to identify these items. Schedule A, Line 1 is also used to identify the total food sales subject to the reduced state tax rate. Any amount claimed as an exemption on Line 6 must be itemized on this schedule.

Line 1: Enter the net total sales of food and food ingredients that are subject to the tax.

Line 2: Include all sales which were made to vendors or other establishments for resale, or for rental or leasing, and sales of items to be used in processing for sale. These transactions must be supported by valid certificates of resale, to be retained in the dealer's files.

Line 3: Enter sales of items paid for with Supplemental Nutrition Assistance Program (SNAP) Benefit Security Cards or EBT cards.

Line 4: Enter all sales to the federal government, the State of Tennessee, its political subdivisions, and sales to qualified nonprofit institutions such as churches, nonprofit schools, hospitals, homes for the aged, and orphanages. Dealers must retain exemption certificates to support exemptions for sales to tax-exempt purchasers.

Line 5: Enter amount of taxable items voluntarily returned by the purchaser which have been included in Gross Sales on this or a previous return and for which full credit is given to the purchaser. Do not include repossessions. Amounts in excess of single article previously reported on Schedule B, Line 4 should be included on this return on Schedule B, Line 2.

Line 6: Enter sales of industrial machinery, research and development machinery, agricultural items, qualified data center items, and material handling and racking systems which have been sold to qualified tax-exempt purchasers. Dealers must retain exemption certificates to support tax-exempt sales to qualified purchasers.

- Line 7: Enter those sales originating in Tennessee where the purchaser takes possession outside of Tennessee for use or consumption outside this state. Also deduct sales of motor vehicles and trailers delivered out-of-state by dealers; sales of motor vehicles and boats removed by non-resident purchasers within three (3) days; and sales of aircraft removed by non-resident purchasers within thirty (30) days. Dealers must retain affidavits to support non-resident removal of vehicles, boats, and aircraft.
- Line 8: Enter that portion of the unpaid principle balances due on tangible personal property repossessed from the customer in excess of \$500. (See instructions for Schedule B, Lines 2 and 6, below.)
- Line 9: Enter deductions not included elsewhere on Schedule A. Include taxable sales subject to special state tax rates such as water and energy fuel sold to qualified manufacturers, aviation fuel and water carrier energy fuel sales reported in Schedule C. Enter amounts related to sales of manufactured homes, trade-in allowances, sales of food paid for with WIC vouchers. Include sales of items specifically exempted by law such as gasoline sales, prescription drugs, prescription mobility enhancing equipment, kerosene dispensed at a blocked pump, and other such items. Do not include trade discounts, or manufacturer's coupons. Include: cash discounts given only when included in gross sales on this or a previous return.
- Line 10: Enter the total amount of sales not subject to tax during the temporary exemption period. Include exempt purchases that would otherwise be subject to use tax. This is the total reported on Schedule G Column C. The temporary exemption list includes the following: Sales Tax Holiday (Last Friday of July to the following Sunday), Gun Safe/Safety Device Sales Tax Holiday (July 1, 2021 to June 30, 2023), Food Sales Tax Holiday (August 1, 2022 to August 31, 2022), and Broadband Infrastructure Exemption (July 1, 2022 to June 30, 2025).

Line 11: Add the amounts appearing on Lines 1 through 10 and enter on this line. This total must also be entered on Line 6 on the first page.

Schedule B - Computation of Local Sales and Use Tax

Use this schedule if local taxable sales do not equal state taxable sales. (This will occur if transactions include energy fuel sales, "single article" sales subject to a maximum local tax, food or food ingredients subject to the state tax rate of **4%**, or other items requiring an adjustment of tax.)

Line 1: Enter the State Net Taxable Total from Line 7 on the Front Page.

Line 2: Add items used and subject to local tax on which state tax only has been paid to supplier. Enter the total amounts from Schedule A, Lines 5 and 8. (See instructions for Schedule B, Line 6.) Also add other deductions taken in Schedule A, for state tax purposes that are not deductible for local tax purposes. Add the amount of food sales from Schedule A, Line 1.

Line 3: Add Lines 1 and 2.

Line 4: Enter the total of the amounts in excess of the local option maximum on each single article of tangible personal property sold or purchased for use which have not been deducted elsewhere.

Line 5: Enter energy fuel sales taxed at the full state rate. Do not include sales subject to reduced rates or water carrier energy fuel included in Schedule A, Line 9.

Line 6: Enter other qualified local tax deduction amounts not reported on Lines 4 and 5. Include taxable sales of specified digital products subject to 2.50% local tax rate and sales of merchandise made through vending machines. A deduction may be taken on this line to receive credit of a portion of the local option tax previously paid on repossessed tangible personal property.

Line 7: Deduct the total of the entries on Lines 4, 5, and 6 from the amount on Line 3. This becomes the base for the local option tax.

Line 8: Determine the local sales tax due. Multiply the amount on Schedule B, Line 7 by the applicable local tax rate. Enter the result on this line and on Line 10 on the first page.

Schedule C - State Single Article Tax and Special Rates

- Line 1: Enter the total sales from **\$1,600** through **\$3,200** on the sales price of all single articles sold.
- Line 2: Multiply the amount on Schedule C, Line 1 by **2.75%** and enter the result.
- Line 3: Enter taxable amount of sales of industrial water subject to the reduced state tax rate of 1% and the local tax rate of ½ of **1% (.005)** sold to qualified manufacturers. Manufacturers that did not pay tax to their suppliers must enter purchases of water subject to the reduced industrial tax rates.
- Line 4: Enter **1%** of Line 3.
- Line 5: Enter taxable amount of sales of industrial energy fuel subject to the reduced state tax rate of **1.5%** sold to qualified manufacturers. Manufacturers that did not pay tax to their suppliers must enter purchases of energy fuel subject to the reduced industrial tax rate.
- Line 6: Enter **1.5%** of Line 5.
- Line 7: Calculate state aviation fuel tax. Enter amount of sales and purchases for use on Lines A and B in dollars and gallons. Multiply the dollar amounts by **4.25%**.
- Line 8: Calculate the water carrier energy fuel tax. Enter amount of sales and purchases for use Lines A and B in dollars and gallons. Multiply the dollar amounts by **7.00%**.
- Line 9: Enter the total state tax from Lines 2, 4, 6, 7, and 8. Enter here and on Line 12 on the first page.
- Line 10: Calculate the local sales tax on sales of industrial water. Multiply the total industrial water sales on Line 3 by **0.50%**.
- Line 11: Enter the total sales and purchases for use of specified digital products during the reporting period.
- Line 12: Calculate the local tax on sales of specified digital products. Multiply Line 11 by **2.50%**.
- Line 13: Enter the total sales of merchandise made through vending machines.
- Line 14: Calculate the local tax on sales of merchandise made through vending machines. Multiply Line 13 by **2.25%**.
- Line 15: Enter the local tax from Lines 10, 12, and 14. Enter here and on Line 13 on the first page.

Schedule D – Central Business Improvement District (CBID) Fee

To be completed only by certain businesses in downtown Nashville that are subject to the CBID fee.

- Line 1: Enter Gross Sales from Line 1, subtract Exempt Transactions from Line 6, and add total Net Taxable Food Sales from Schedule A, Line 1.
- Line 2: Enter sales of professional services to the extent any such professional services are included in Line 1 of this schedule (included in Gross Sales and not deducted as Exempt Transactions).
- Line 3: Enter net sales taxable amount of overnight lodging. (Be sure to exclude sales tax exempt overnight lodging sales deducted on Line 1 of this schedule.)
- Line 4: Enter net sales taxable amount of tickets to sporting events or other live ticketed events. (Be sure to exclude sales tax exempt ticket sales for such events deducted on Line 1 of this schedule.)
- Line 5: Enter net sales taxable amount of alcoholic beverages subject to the liquor-by-the-drink tax. (Be sure to exclude sales tax exempt alcoholic beverage sales deducted on Line 1 of this schedule.)
- Line 6: Enter net sales taxable amount of publications. (Be sure to exclude sales tax exempt sales of newspapers and other publications deducted on Line 1 of this schedule.)
- Line 7: Enter net sales taxable amount of overnight and long-term parking. (Be sure to exclude sales tax exempt overnight and long-term parking sales deducted on Line 1 of this schedule.)
- Line 8: Calculate the total CBID exempt sales. Add Lines 2 through 7.
- Line 9: Net sales subject to the CBID fee. Subtract Line 8 from Line 1.
- Line 10: CBID Fee - Multiply the amount on Line 9 by **0.50%**. Enter here and on Line 14 of the first page.

Schedule E – For Sellers Located Outside Tennessee Destination Sales Report

Beginning October 1, 2019, this schedule is to be completed for all sales that originate from a business located outside of Tennessee and sold to a destination inside Tennessee. Sales must be reported using the tax rate applicable to the delivery destination. Report all your sales made by location on Schedule E, columns B through I, and bring total sales over to Lines 1 through 8 on Schedule B.

Schedule F – Local Occupancy Tax on Short-term Rentals

Beginning January 1, 2021, this schedule is to be completed by all short-term rental unit marketplaces for all short-term rentals of residential units rented through the marketplace. Do not report rentals of hotel rooms or bed and breakfast homestays rented through the marketplace. Rentals must be reported using the tax rate applicable to the rental unit location.

Column A: Enter the city or county location of the rental unit. List the city when a short-term rental unit is located within the city limits and county when the rental unit is located in an unincorporated area of the county.

Column B: Enter the amount of gross short-term rental receipts for the city or county identified in Column A. List the location and receipts for the location only once. Where the receipts are subject to the city and county occupancy tax, the total of the two occupancy tax rates will apply. For example, if a short-term rental unit is located in City A, which is within County B, report the rental receipts for that unit under the City A jurisdiction. The tax rate for City A will include the total of both the City A and County B tax rates, if both rates are applicable. If a short-term rental unit is located in an unincorporated portion of County B, report the rental receipts for that unit under the County B jurisdiction.

Column C: Enter the total deductible and/or excludable receipts. This includes rooms rented for more than 30 continuous days and rooms rented by local, state, and federal government agencies.

Column D: Calculate the taxable rental receipts. Subtract Column C from Column B.

Column E: Calculate the occupancy tax due. Multiply Column D by the applicable local tax rate.

Column F: This line is applicable only to rooms rented in the city of Memphis or in Nashville/Davidson County. Enter the net rooms rented per night. "Net rooms rented per night" is the total number of rooms rented per night less the number of nightly rentals not subject to the tax, e.g., number of rooms rented for more than 30 days.

Column G: Calculate the nightly occupancy fee for rooms rented in Memphis and Nashville/Davidson County. Memphis: **\$2** per room; Nashville/Davidson County: **\$2.50** per room.

Column H: Calculate the total tax due. Add Column E and Column G.

Enter total from Column H to Line 16 on first page.

Schedule G – Temporary Exemptions

Beginning July 1, 2022, this schedule is to be completed by any taxpayer who is claiming any of the following temporary exemptions:

- Sales Tax Holiday (Last Friday in July to the following Sunday)
- Gun Safe/Safety Device Sales Tax Holiday (July 1, 2021 to June 30, 2023)
- Food Sales Tax Holiday (August 1, 2022 to August 31, 2022)
- Broadband Infrastructure Exemption (July 1, 2022 to June 30, 2025)

Column A: If the taxpayer is an in-state taxpayer, the city or county location will be the Location ID where the sale took place. If the taxpayer is located out-of-state, enter the situs of the location where the item was shipped.

Column B: Enter one of the temporary exemptions you are claiming from the list above. If you have multiple temporary exemptions or multiple locations to report, make each temporary exemption or location a separate entry.

Column C: Enter the temporary exempt amount for each entry. Enter the total from Schedule G, Column C to Schedule A, Line 10.

Column D: If applicable, enter the total temporary exempt amount in excess of the local option maximum (\$1,600) on each single article of tangible personal property sold or purchased for use.