

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.