

DEPARTMENT OF TAXATION

2023 Fiscal Impact Statement

1. **Patron** Joseph P. McNamara

3. **Committee** Passed House and Senate

4. **Title** Transient Occupancy Tax; Administration

2. **Bill Number** HB 1442

House of Origin:

 Introduced

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 X **Enrolled**

5. **Summary/Purpose:**

This bill would require the Department of Taxation ("the Department") to annually publish on its website the current transient occupancy tax rates imposed in each locality. The bill would also require the tax-assessing officer of a county, city, or town to send the Department the information necessary to publish such rates as soon as the rate information is available after request by the Department or within 30 days of a rate change. If the tax-assessing officer fails, without good cause, to furnish this information to the Department on demand, the officer would be guilty of nonfeasance in office.

The bill would also provide that any change in the rate of any local transient occupancy tax would become effective no earlier than the first day of the calendar quarter following the calendar quarter in which the change in such rate is enacted. Failure to provide notice to the Department would require the county, city, or town to apply the preceding effective tax rate until 30 days after notification of such change is provided to the Department.

The bill would require the tax-assessing officer of a locality to administer and enforce the assessment and collection of transient occupancy taxes from accommodations intermediaries and to provide accommodations intermediaries with adequate information to enable identification of transient occupancy tax rates, the applicable jurisdiction, discounts, deductions, or exemptions.

The bill would also require accommodations intermediaries to file a return on or before the twentieth day of the month following the month in which the tax shall become effective showing: (i) gross receipts, discounts, deductions, or exemptions; (ii) the rate applied to the net receipts; and (iii) where applicable, the number of room nights, the room tax rate applied, the total amount of room tax due, and any regional transportation transient occupancy taxes due. The accommodation intermediary shall also remit the total transient occupancy tax due as well as any penalties or interest due to the tax-assessing officer of the locality.

If enacted during the regular session of the 2023 General Assembly, this bill would become effective July 1, 2023.

6. **Budget amendment necessary:** No.

7. Fiscal Impact Estimates are: Not Available. (See Line 8.)

8. Fiscal implications:

Administrative Costs

This bill would have an unknown impact on local administrative costs. The Department of Taxation considers implementation of this bill to be routine and does not require additional funding.

Revenue Impact

This bill may have an unknown impact on local revenues to the extent transient occupancy tax remittances are increased as a result of the simplification measures required by this bill. This bill would have no impact on state revenues.

9. Specific agency or political subdivisions affected:

Department of Taxation ("the Department")
All localities

10. Technical amendment necessary: No.

11. Other comments:

2019 Marketplace Facilitator Legislation

Pursuant to Chapters 815 and 816 of the 2019 *Acts of Assembly*, remote dealers and marketplace facilitators are required to register for collection of the Retail Sales and Use Tax if they conduct or facilitate sales of greater than \$100,000 or numbering at least 200 transactions annually.

2021 Accommodations Intermediaries Legislation

Senate Bill 1398 (2021 Acts of Assembly, Special Session I, Chapter 383) changed the application of transient occupancy taxes to sales of accommodations facilitated by accommodations intermediaries beginning September 1, 2021. The law change required that the taxes due upon a transaction for the sale of transient accommodation facilitated by an intermediary be computed on the total charges for the accommodations charged to the customer, including the accommodations fee collected by an accommodations intermediary.

The intermediary is required to collect the sales tax computed on the whole room charge. When the accommodations are at a hotel, the accommodations intermediary must remit the occupancy taxes collected on the accommodations fee to the appropriate locality and any remaining tax to the hotel, which the hotel then remits to the locality. If the accommodations are not a hotel, the accommodations intermediary must remit the occupancy tax collected on the entire amount of the transaction to the locality.

2022 Accommodations Intermediaries Legislation

House Bill 518 and Senate Bill 651 (2022 Acts of Assembly, Chapters 7 and 640, respectively) changed the process by which transient occupancy taxes are collected from accommodations sales involving accommodations intermediaries, requiring accommodations intermediaries to collect the entire amount of occupancy taxes due and remit them to the locality, regardless of whether the accommodations were a hotel or not.

Transient Occupancy Tax Rate List

The Department currently maintains a list of local occupancy tax rates on its website. The list, however, is not comprehensive due to certain localities choosing not to provide their applicable tax rate to the Department.

Proposal

This bill would require the Department of Taxation to annually publish on its website the current transient occupancy tax rates imposed in each locality. The bill would also require the tax-assessing officer of a county, city, or town to send the Department the information necessary to publish such rates as soon as the rate information is available after request by the Department or within 30 days of a rate change. If the tax-assessing officer fails, without good cause, to furnish this information to the Department on demand, the officer would be guilty of nonfeasance in office.

The bill would also provide that any change in the rate of any local transient occupancy tax would become effective no earlier than the first day of the calendar quarter following the calendar quarter in which the change in such rate is enacted. Failure to provide notice to the Department would require the county, city, or town to apply the preceding effective tax rate until 30 days after notification of such change is provided to the Department.

The bill would require the tax-assessing officer of a locality to administer and enforce the assessment and collection of transient occupancy taxes from accommodations intermediaries and to provide accommodations intermediaries with adequate information to enable identification of transient occupancy tax rates, the applicable jurisdiction, discounts, deductions, or exemptions.

The bill would also require accommodations intermediaries to file a return on or before the 20th day of each month for the preceding calendar month with such return showing: (i) gross receipts, discounts, deductions, or exemptions; (ii) the rate applied to the net receipts; (iii) the total transient occupancy tax due; (iv) any penalties or interest due; and (v) where applicable, the number of room nights, the room tax rate applied, the total amount of room tax due, and any regional transportation transient occupancy taxes due.

If enacted during the regular session of the 2023 General Assembly, this bill would become effective July 1, 2023.

cc: Secretary of Finance

