Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

Bill: H.B. 150 of the 131st G.A.

Date: June 8, 2015

Status: As Introduced

Sponsor: Reps. Grossman and Scherer

Local Impact Statement Procedure Required: No

Contents: Requires hotel intermediaries to collect and remit applicable sales, use, and lodging taxes on the full amount paid for hotel lodging by their customers

State Fiscal Highlights

STATE FUND	FY 2016	FY 2017	FUTURE YEARS
General Revenue Fund			
Revenues	Potential gain	Potential gain	Potential gain
Expenditures	- 0 -	- 0 -	- 0 -

Note: The state fiscal year is July 1 through June 30. For example, FY 2016 is July 1, 2015 – June 30, 2016.

- By requiring hotel intermediaries (online travel companies) to collect sales or use taxes based on the full advertised price paid by the customer to intermediary, the bill potentially increases revenue from the sales and use tax. Currently, certain hotel intermediaries remit sales taxes calculated on an amount that is less than the customer payment.
- State sales tax receipts are deposited in the GRF. Any increase in GRF tax receipts would also increase the amount distributed to the Local Government Fund (LGF) and Public Library Fund (PLF) as these local funds receive distributions from GRF tax receipts.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2015	FY 2016	FUTURE YEARS
Counties, municipalities, townships, and public libraries (LGF and PLF)			
Revenues	Potential gain from LGF and PLF distributions	Potential gain from LGF and PLF distributions	Potential gain from LGF and PLF distributions
Expenditures	- 0 -	- 0 -	- 0 -
Counties and Transit Authorities			
Revenues	Potential gain from increases in local sales taxes	Potential gain from increases in local sales taxes	Potential gain from increases in local sales taxes
Expenditures	- 0 -	- 0 -	- 0 -
Counties, municipalities, and townships			
Revenues	Potential gain from lodging taxes	Potential gain from lodging taxes	Potential gain from lodging taxes
Expenditures	- 0 -	- 0 -	- 0 -

Note: For most local governments, the fiscal year is the calendar year. The school district fiscal year is July 1 through June 30.

- By requiring hotel intermediaries (online travel companies) to collect sales or use taxes from a customer based on the full advertised price paid by the customer to the intermediary, the bill potentially increases revenue from local county permissive and transit authority sales taxes. Those taxes share the same base as the state sales and use tax.
- The tax collection requirements in the bill also apply to lodging taxes, and this potentially increases revenues from those local taxes.
- Receipts from the state sales tax are deposited in the GRF. A share of GRF tax revenues is distributed under permanent law to the LGF and PLF. Thus, any increase to GRF tax receipts would also increase the amount distributed to the LGF and PLF.

Detailed Fiscal Analysis

Sales and use tax

The bill requires a hotel intermediary, generally defined in the bill as a person that enters into arrangements to sell hotel reservations,[1] to collect sales or use taxes from a customer based on the full advertised price paid by the customer to the intermediary. Currently, certain hotel intermediaries base their tax remittance on a portion of the full price paid by customers, which would imply that state and local governments receive less in sales and use taxes[2] when a room is booked through an intermediary than when sold directly by a hotel, even if customers pay the same total retail price.

Under current law, the tax is based on the portion of the price that represents amounts paid for the hotel stay. The full price charged by an intermediary may include charges other than charges for the stay. If the intermediary fails to collect or remit the taxes on the basis of this full price, the bill absolves the hotel of personal liability for the unpaid part of the tax. The bill requires a hotel intermediary that furnishes lodging in Ohio hotels to register with the Tax Commissioner to collect and remit use tax by specifying that such an intermediary is presumed to have "substantial nexus" with Ohio, thus requiring them to collect and remit use tax from Ohio customers.

Local lodging taxes

The bill modifies the liability for, and collection of, lodging taxes levied by local subdivisions. Current law permits counties, townships, municipal corporations, convention facilities authorities, and lake facilities authorities to levy "lodging" or "bed" taxes on hotel stays. Local lodging taxes apply to the same hotel transactions the sales and use tax applies to, except that a county lodging tax can be applied to hotels with fewer than five rooms and to separate cabin-type accommodations spread among several structures. Similarly to sales taxes, the bill requires a hotel intermediary to collect lodging taxes from a customer on the basis of the advertised price paid by the customer to the intermediary. Also, the bill expressly imposes personal liability for uncollected or unremitted lodging tax on the person required to collect or remit that tax. The bill explicitly authorizes a subdivision levying the lodging tax to assess such a person for uncollected or unremitted lodging tax. Current law does not explicitly impose such liability.

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[1] The bill excludes travel agents from the definition of hotel intermediary.

[2] State and local governments may receive 15% to 20% less than should be remitted otherwise, according to a statement of a proponent of the bill to House Ways and Means on May 19, 2015.

Hotel intermediary tax invoice

The bill requires a hotel intermediary to provide an invoice to a customer showing the price upon which sales or use and lodging taxes are based, and the amount of such taxes collected by the intermediary. The bill also specifies that the intermediary must deliver this invoice to the customer before the completion of the hotel stay.

Fiscal impact

By clarifying how hotel intermediaries (and online travel companies) must calculate and remit sales and use and lodging taxes, the bill potentially increases tax revenues that are due, but may otherwise not be remitted by those firms. The amount of the additional remittances is uncertain, but may be several millions of dollars per year.

In testimony on May 19, 2015, in House Ways and Means committee, the Ohio Hotel and Lodging Association pegged additional tax remittances at $10 million. By comparison, lodging taxes collected by counties, municipalities, and townships totaled $150.4 million in 2012. State, county, and transit authorities' sales and use taxes remitted by hotels, motels, and inns, were about $129 million in FY 2014.

Receipts from the state sales and use tax are deposited into the GRF. Under permanent law, a portion of GRF tax receipts is subsequently transferred to the Local Government Fund (LGF) and the Public Library Fund (PLF), with each local fund receiving 1.66% of GRF tax revenue. Local county permissive and transit authority sales taxes share the same tax base as the state sales tax, and are approximately 24.5% of state sales tax revenues. Increased bed tax revenues would benefit counties, townships, municipal corporations, convention facilities authorities, and lake facilities authorities that levy lodging or bed taxes on hotel stays.

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