



OHIO LEGISLATIVE SERVICE COMMISSION

Bill Analysis

Mackenzie Damon

H.B. 571

132nd General Assembly
(As Introduced)

Reps. Greenspan, Scherer, Arndt, Lipps, Kick, Rezabek, Hoops, Boggs, Green

BILL SUMMARY

- Requires a "hotel intermediary" – generally, a person, other than a hotel or a commissioned agent selling or arranging for lodging – to collect and remit sales and use and lodging taxes based on the full price paid to the intermediary.
 - Specifies that a person is not a hotel intermediary if the person charges a customer for the service of arranging a hotel reservation but separately lists that charge on the customer's bill or invoice.
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CONTENT AND OPERATION

Hotel intermediary sales and use tax

Under continuing law, state, county, and transit authority sales and use taxes apply to hotel stays of less than 30 consecutive days. For the purposes of those taxes, a hotel includes any place having at least five rooms available for sleeping accommodations. Generally, the taxes are collected from a customer at the time the customer pays for the room and are remitted to the state by the hotelier. The bill prescribes a method by which sales and use taxes are collected and remitted when the customer arranges for the hotel stay through a "hotel intermediary."

The bill requires a hotel intermediary to collect sales or use taxes from a customer based on the full advertised price paid by the customer to the intermediary.¹ Under current law, sales and use tax is based on the "total amount of consideration . . . for which . . . [the lodging] services are sold."

¹ R.C. 5739.01(B)(2) and (H)(5).

A hotel intermediary is defined as a person that enters into arrangements to sell hotel reservations. "Hotel intermediary" does not include a hotel or a person receiving a commission from a hotel to arrange a reservation (e.g., travel agent). In addition, a person is not considered a hotel intermediary if the person charges a customer for arranging a reservation but separately lists that charge on the customer's bill or invoice.²

Local lodging taxes

The bill similarly modifies the law authorizing lodging taxes to be levied by local subdivisions. Under continuing law, counties, townships, municipal corporations, convention facilities authorities, and lake facilities authorities have limited authority to levy "lodging" or "bed" taxes on hotel stays. The local lodging taxes apply to the same hotel transactions the state, county, and transit authority sales and use taxes apply 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.

Similar to the bill's change to sales and use taxes on lodging, 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.³

Under continuing law, local subdivisions each adopt a resolution or ordinance that specifies the details of the tax in their jurisdiction. The Sixth Circuit Court of Appeals has found in two separate cases that, based on the wording of the ordinances at issue, the local subdivisions' lodging taxes did not apply to hotel intermediaries. The bill effectively reverses the results of these decisions on a prospective basis.⁴

Application date

The bill's changes apply on and after January 1, 2019.⁵

HISTORY

ACTION	DATE
Introduced H0571-I-132.docx/ks	03-22-18

² R.C. 5739.01(SSS).

³ R.C. 351.021, 353.06, 5739.081(A), and 5739.09.

⁴ See *City of Columbus v. Hotels.com, L.P.*, 693 F.3d 642, 650-51 (6th Cir. 2012) and *Hamilton County Ohio v. Hotels.com, L.P.*, 2013 U.S. Dist. LEXIS 124507 (6th Cir. 2013).

⁵ Section 3.

