



TaxNewsFlash

United States



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KPMG report: Tax updates for facilitators of accommodations (New Hampshire, Virginia)

Recent updates about the tax treatment of facilitators of accommodations includes developments from New Hampshire and Virginia.

New Hampshire

New Hampshire is one of five states without a general sales and use tax. However, the state's meals and rooms tax are imposed on sales of meals, accommodations, and rental cars.

Recently enacted House Bill 15 imposes a meals and rooms tax collection and remittance obligation on rental facilitators and room facilitators effective October 1, 2021.

- A rental facilitator is "any person having any right, access, ability, or authority to offer, reserve, book, arrange for, remarket, distribute, broker, resell, coordinate, or otherwise facilitate rental of a motor vehicle to a renter, whether directly or indirectly, through an Internet transaction or any other means whatsoever."
- A room facilitator is "any person having any right, access, ability, or authority to offer, reserve, book, arrange for, remarket, distribute, broker, resell, coordinate, or otherwise facilitate occupancy to an occupant, whether directly or indirectly, through an Internet transaction or any other means whatsoever."

The meals and rooms tax is imposed on the full retail price paid by a customer, including any fee or other charge required to be paid to the rental facilitator or room facilitator, but excludes "amounts paid by an operator to a travel agent as commission or compensation for the travel agent's services."

Virginia

The Department of Taxation issued guidance regarding recently enacted legislation (Senate Bill 1398) that imposes a sales and use tax collection and remittance obligation on accommodations intermediaries beginning September 1, 2021.

The legislation also imposes a similar obligation on accommodations intermediaries for purposes of local transient occupancy taxes. An “accommodations intermediary” is defined as “any person other than an accommodations provider that facilitates the sale of an accommodation, charges a room charge to the customer, and charges an accommodations fee to the customer, which fee it retains as compensation for facilitating the sale.”

The guidance provides that:

- An accommodations intermediary is deemed a dealer and must collect tax “based on the total charges or the total price paid for the use or possession of transient lodgings, including any fees charged by accommodations intermediaries for the facilitation of transactions for the provision of transient accommodations.”
- For transactions involving hotels, an accommodations intermediary must remit to the Department the applicable sales tax based on the accommodations fee (defined as the room charge less the discount room charge, if any). Any tax collected and not remitted to the Department must be remitted to the hotel, which must then remit such tax.
- An accommodations intermediary may be required to register and collect sales and use tax as a marketplace facilitator. While waivers may be available to a marketplace facilitator, such waivers may not be available to accommodations intermediaries under the recent law change.

The guidance also includes information on invoicing requirements and provides examples of transactions between accommodations intermediaries and operators of accommodations.

Read an [August 2021 report](#) prepared by KPMG LLP

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