

Model State Statute for Tax on Travel Intermediaries Facilitation Fees

DRAFT—FOR DISCUSSION PURPOSES ONLY

1. Definitions.—

(a) A “travel intermediary” is defined as an entity that acts independently of hotel operators, and who facilitates the reservation of hotel rooms without acquiring ownership or possessory interest in the hotel rooms.

(b) A “hotel operator” is defined as a person or entity that operates a hotel, motel, inn, bed and breakfast, tourist camp, or other similar facility housing transients by:

- (i) Owning a hotel or managing the day-to-day operations of the hotel, and
- (ii) Physically furnishing hotel accommodations to the general public.

(c) A “facilitation fee” is defined as the charge for the service of facilitating hotel room reservations by a travel intermediary for any room, lodging, or accommodation furnished to transients by any hotel, inn, tourist court, tourist camp, tourist cabin, motel, or any similar facility in which rooms, lodgings or accommodations are furnished to transients. A facilitation fee shall not include any amount required to be paid by the travel intermediary to the hotel operator in furnishing accommodations.

2. Imposition of Tax.—

(a) For purposes of this Act, a facilitation fee charged by a travel intermediary for the facilitation of reservations shall be sourced to the location indicated by an address for the purchaser of the services that is available from the business records of the travel intermediary.

(b) The gross receipts from the facilitation fees subject to tax shall be that portion of the total charge to any customer of the travel intermediary that is retained by the travel intermediary.

(c) The rate of tax shall be ___% of the gross receipts from the facilitation fees.

(d) The travel intermediary shall not be required to separately state or otherwise disclose the facilitation fee, or the amount of tax imposed on the facilitation fee, on any customer invoice or customer receipt so long as it can provide such information from its books and records to the [state taxing authority].

(e) The travel intermediary shall not be required to disclose to its customer the amount paid by the travel intermediary to the hotel operator, including any taxes charged by the hotel operator. The travel intermediary shall represent to its customer that the charge by the travel intermediary includes taxes charged by the hotel operator.

(f) A local jurisdiction may impose a gross receipts tax at a rate of up to ___% of the facilitation fee, but may not impose any other taxes on the facilitation fee. Except as to rate, any local tax existing as of the date of adoption of this section, or enacted after the date of adoption of this section, shall correspond to the provisions of this section.

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