

**MODEL STATUTE ON THE TAX COLLECTION RESPONSIBILITIES OF  
ACCOMMODATIONS INTERMEDIARIES**

**DRAFT 5/7/09—Referred to Public Hearing**

**MTC Executive Committee**

1. Definitions.—

- (a) “Accommodations” means one or more individual sleeping rooms or suites for transient overnight lodging.
- (b) “Accommodations provider” means any person or entity that furnishes accommodations for periods of [less than thirty days <sup>\*\*\*alternative language\*\*\*</sup> thirty days or less] to the general public for compensation. The term “furnishes” includes the sale of use or possession, or the sale of the right to use or possess.
- (c) “Accommodations intermediary” means any person or entity, other than an accommodations provider, that facilitates the sale of an accommodation and charges a room charge to the customer. For purposes of this definition, the term “facilitates the sale” includes brokering, coordinating, or in any other way arranging for the purchase of, or the right to use accommodations by a customer.

- (d) “Accommodations fee” means the room charge less the discount room charge, if any, provided that for purposes of this Act the accommodations fee shall not be less than zero.
- (e) “Room charge” means the full retail price charged to the customer for the use of the accommodations, including any accommodations fee before taxes.
- (f) “Discount room charge” means the amount charged by the accommodations provider to the accommodations intermediary for furnishing accommodation.
- (g) “Unrelated accommodations intermediary” means an accommodations intermediary that is not part of a controlled group of corporations, as defined in I.R.C. Section 1563(a), that includes the accommodations provider.

2. Collection and Remittance.—

- (a) An accommodations intermediary shall be responsible for the collection of tax imposed by [cite to applicable code section(s)] on the room charge

but shall not be required to separately state on the invoice the specific amount of taxes collected.

- (b) An accommodations intermediary shall remit to the accommodations provider the tax collected on the discount room charge.
- (c) An accommodations intermediary shall remit to the [state or local tax agency] the tax(es) collected on the accommodations fee.
- (d) An accommodations provider shall collect and remit to the [state or local tax agency] the tax(es) imposed on the discount room charge.

3. Safe Harbor.—

- (a) No assessment shall be made against an accommodations intermediary on the basis of an incorrect remittance of tax on the room charge if the tax rate applied to the room charge by an accommodations intermediary in collecting and remitting such tax is identical to the rate applied to the discount room charge by the accommodations provider.
- (b) No assessment shall be made against an accommodations provider on the basis of an incorrect remittance of tax on the accommodations fee by an unrelated accommodations intermediary.

**Optional:**

Example:

Accommodations Provider (Provider) furnishes a one night accommodation to a guest who booked the accommodations through Accommodations Intermediary (Intermediary). The Provider bills the Intermediary for a discount room charge of \$80.00. The price at which the Intermediary facilitates the sale of a one-night accommodations to the customer is \$100.00, which includes a \$20.00 accommodations fee. The 5% tax applied to the discount room charge is \$4.00 and applied to the accommodation fee is \$1.00. The total price charged to the customer, including tax, is \$105.00, which is the sum of the discount room charge, the accommodations fee and the \$5.00 tax (\$100 room charge + [5% tax rate x \$100.00 room charge] = \$105.00 price to customer).

Intermediary remits \$4.00 tax (5% tax rate x \$80.00 discount room charge) to the Provider and a \$1.00 tax (5% tax rate x \$20.00 accommodations fee) to [the state or local tax agency]. Provider remits the \$4.00 tax to the [state or local tax agency].

\$80.00		Discount room charge
\$20.00		Accommodations fee
	\$100.00	Room charge
\$4.00		Tax on discount room charge remitted by intermediary to provider, and by provider to [state or local government] = (5% x \$80.00)
\$1.00		Tax on accommodations fee remitted by intermediary to [state or local government] = (5% x \$20.00)
	\$5.00	Total tax on room charge
\$105.00		Price to customer including tax charged by Provider and Intermediary