

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

DRAFT—FOR DISCUSSION PURPOSES ONLY

1. Definitions.—
 - (a) “Accommodations” means a building or structure containing 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 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 amount shall not be less than the discount room charge.
- (e) “Room charge” means the full retail price charged to the customer for the use of the accommodations, including any accommodations fee.
- (f) “Discount room charge” means the amount paid by the accommodations intermediary to the accommodations provider in furnishing accommodations to the customer.
- (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.

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