



Hearing Officer's Report (As Amended)

Model Statutes for the Collection and Remittance of Lodging Taxes by Accommodations Intermediaries

I. Procedural Background

In 2004, the Uniformity Committee began a project in response to the then-emerging issue regarding lodging tax collection responsibilities of Internet accommodations intermediaries who book accommodations on a non-exclusive basis for their customers.¹ There are several business models in use. Under most, if not all of them, the intermediary collects and remits tax on the discount price that the intermediary pays to the accommodations provider and not on the retail price that the intermediary charges to the intermediary's customer.

Some intermediaries take the position that tax is not due on the margin between the discount price and the retail price. But some states and localities have determined tax is due on the entire retail price charged by the intermediary to the customer, including the margin.² The original model statute provided a mechanism for the collection and remittance tax on the entire retail price, including the margin.

The model employed the "dual track" method of collecting and remitting tax. The intermediary collected tax on 100% of the retail price it charged to its customer. It then remitted the tax due on the discount rate portion of the price to the provider (which in turn remitted it to the appropriate taxing agency) and remitted the tax due on the margin between the discount rate and the retail price to the appropriate taxing agency. The intermediary was not required to state the margin, the discount rate, or the total amount of tax collected to the customer.

The model also contained safe harbors for intermediaries and providers. Intermediaries were protected from liability on the basis of collecting tax on the room charge at an incorrect rate if

¹ Taxes imposed on or measured by the price of the accommodations go by many different names in the states and localities. Therefore this report will refer to such taxes as "lodging" taxes.

² E.g., *Expedia, Inc. v. City of Columbus*, No. S09A0567 (Ga. June 15 2009); *City of Atlanta v. Hotels.com*, No. S08G0568 (Ga. March 23, 2009); *City of Charleston, S.C. v. Hotels.com, et. al*, C. A. No. 2:06-ev-1646-PMD (D. SC November 5, 2007).

the rate is identical to the rate on the discount room charge. Providers were protected from liability on the basis of an incorrect amount remitted by the intermediary on the margin.

A public hearing was held on the model. The Hearing Officer recommended to the Executive Committee that a Bylaw 7 survey be conducted of affected states. However, the model failed the survey and was not presented to the Commission for a vote. The Executive Committee directed staff to conduct a survey of affected states to determine their concerns over the model. The results of the survey elicited several concerns, such as transparency and concerns with the safe harbor provisions, pointing out possible problems with enforcing compliance. The Executive Committee referred the proposed model to the Uniformity Committee to address these concerns.

The Uniformity Committee appointed a drafting group to revise the model.³ The revised model is made up of two statutory options, the single remittance track and the dual remittance track. The first option, the single track remittance model, requires the accommodations intermediary to collect all taxes due upon the customer's purchase of accommodations, and then remit the entire tax collected to the accommodations provider, who, in turn, remits the entire tax due to the state or local taxing agency. The second option, the dual track remittance model, requires the accommodations intermediary to collect all taxes when a customer purchases an accommodation and remit the portion of the tax due on the discount room charge to the accommodations provider and remit the tax due on the accommodations fee to the state or local tax agency.

The Uniformity Committee recommended favorably to the Executive Committee that the models be referred to public hearing. Several representatives of the hospitality industry wrote to the Executive Committee in support of the recommendation:

International Association of Venue Managers
Arizona Hotel and Lodging Association
Massachusetts Lodging Association
Washington Lodging Association
Marriott International, Inc.
Intercontinental Hotels Group
American Hotel and Lodging Association
California Lodging and Hotel Association
North Carolina Restaurant and Lodging Association
Starwood Hotels
Ohio Hotel and Lodging Association
Maine Innkeepers Association
Tennessee Hospitality Association

The Executive Committee approved the models for public hearing on March 1, 2012. After notice was given, including publication in the National League of Cities' newsletter, a hearing was held by telephone on April 10, 2012.

³ The drafting group consisted of Richard Cram, KS, Nancy Prosser, TX and Stewart Binke, MI.

II. Public Hearing

The Hearing Officer heard comments from several members of the public. John Allan, with Jones, Day, said that having two model statutes—one for single remittance and the other for dual remittance—does not serve the cause of uniformity. For uniformity’s sake, there should be one set of rules, and those rules should be dual remittance. The single remittance model is not practical—it is possible to comply with, but extremely difficult. The dual remittance rule is better for accommodations intermediaries and hotels for compliance purposes.

In the definition of accommodations fee, Mr. Allan said, there is no provision for a separately stated fee and whether that is subject to tax. In some states, court cases and administrative rules have stated that where the fee is separately stated, it is not subject to tax. States should be allowed to pick and choose whether the fee is taxable or not depending on what they are doing currently. In general, the service fee should not be taxable if it is not represented to the customer as part of the room price. For example, a travel agent charging a service fee that is not part of the “room charge.” depending on state law, may or may not be taxable. This distinction should be included in the definition.

Under Collection and Remittance [Section 2(a)], Mr. Allan noted that the language currently requires tax to be separately stated on the invoice. Customers are not always given invoices. Sometimes they are just given a receipt. The provision should be broadened to include “invoice or receipt” or “record given to customer than shows tax was charged”, or language to that effect. Moreover, some states do not require the tax to be separately stated. States should have the option to not requirement separate statement of tax, thereby allowing a state to treat an accommodations intermediaries transaction like any other transaction in that state.

The model, Mr. Allan said, should make clear that tax is due after the occupancy has occurred. He noted that from a financial accounting standpoint, if a customer books a room and then does not cancel by check-in, the hotel may charge a penalty equal to one-night’s stay. Many states do not subject this penalty to tax because it is not for occupancy. Tax should be remitted after the occupancy occurs. New York, in AB 9059, has similar provisions.

Finally, Mr. Allan stated that accommodations intermediaries should be afforded a hold harmless provision like the accommodations providers.

Mitchell Bryk, Starwood Hotels, said that the single remittance option should remain along with the dual remittance options. While the industry prefers the dual remittance option, the proper language should be available to states that choose the single remittance option. Melissa Froelich Flood, Marriott International, Inc., agreed. Mr. Bryk also said that tax should be due when occupancy occurs.

Catherine A. Battin of McDermott, Will and Emery said that it was an undue burden to have two drastically different options. Carl Erdmann of Skadden, Arps, Meagher and Flom agreed, and said it is especially burdensome for smaller accommodations provider and intermediaries.

Mr. Allan, Jones Day, also submitted written comments (see Exhibit A). The Hearing Officer's redlined version of the Model Statutes can be found at Exhibit B. The clean version can be found at Exhibit B-1.

III. Hearing Officer Findings and Recommendations

1. Should the Proposal Contain One Model Statute Option or Two?

The Hearing Officer believes the proposal should consist of two models, a single remittance model and a dual remittance model. At least one state, North Carolina, has implemented the single remittance approach, and other states may choose to implement that approach, too, even though it is not the industry's preferred model. Given that reality, it is important that the MTC have model language for a state to look to in formulating its law. Moreover, presenting one model may result in conflicting goals for a state: while desiring to promote some uniformity in its law, thus relieving some of the administrative burden, its tax policy preference may be different from the model presented. Having two models instead of one allows the MTC to promote uniformity by recommending states rally around one of two options instead of the multitude of options currently extant. While unusual for the MTC to offer alternative uniformity proposals, it is not unprecedented (see, e.g., Principles Governing State Transactional Taxation of Telecommunications—Vendee and Vendor Versions (1993) (repealed July 29, 2010), Communication Transaction Tax Centralized Administration, Proposal I, State Administration of Tax, State Imposition, Proposal II, State Administration of Tax, Local Imposition, and Proposal III, Local Administration of Tax, Local Imposition (currently before the Executive Committee)).

2. Will the Model Statutes Unduly Burden Smaller Providers and Intermediaries?

The Hearing Officer notes that the MTC Executive Committee received several letters in support of the models from associations that likely contain smaller accommodations providers urging that the model be adopted as a uniformity recommendation (e.g., the Maine Innkeepers Association). Given this support, the Hearing Officer doubts the model statutes would impose an undue burden on smaller accommodations providers.

3. Should Statutory Options 1 and 2 Contain a Preliminary Statement That the Statutes Do Not Impose Tax?

It is correct that there is no tax imposition in the model statutes. But a preliminary statement is not necessary or appropriate. These model statutes are not meant to stand alone, but as adjuncts to existing law in states where accommodations fees are taxed. The Hearing Officer does not recommend the amendment.

4. Definitions

a. Option 1, Option 2, Section 1(b). Accommodations Fee.

This definition contains two proposed amendments. The first amendment adds the words "or entity" to the term "person". Because "person" is not defined in the model statute, the

Hearing Officer recommends this amendment. The sentence now reads: “It does not include any commission paid by an accommodations provider to a person or entity for facilitating the sale, use or possession of an accommodation.”

The second amendment excludes separately stated service fees charged to the purchaser. To exclude separately stated accommodations fees in the definition would limit the applicability of the model statute. Some states and localities maintain that these fees are simply a part of the price of the hotel room that covers intermediaries’ cost recovery and profit – i.e., the margin or “mark-up” from the wholesale cost of the room. That these fees might be disclosed to the purchaser should be of no consequence. The Hearing Officer does not recommend the amendment.

b. Option 1, Option 2, Section 1(c). “Accommodations Intermediary”.

This section contains two amendments. The first proposed amendment adds the words “or entity” to the term “person”. Because “person” is not defined in the model statute, the Hearing Officer recommends this amendment. The sentence now reads: “Accommodations intermediary” means any person or entity other than an accommodations provider, that facilitates the sale, use or possession of an accommodation, and charges a room charge to the general public.”

The second proposed amendment deletes the words “of the” after “purchase” and inserts “or” before “possession.” This change corrects a typographical error in the draft. The Hearing Officer recommends the amendment. The sentence now reads: “For purposes of this definition, the term ‘facilitates the sale, use or possession’ means brokering, coordinating or in any other way arranging for the purchase ~~of the~~, sale, use or possession of accommodations by the general public.”

c. Option 1, Option 2, Section 1(d). Accommodations Provider.

The Proposed amendment adds the words “or entity” to the term “person.” Because “person” is not defined in the model statute, the Hearing Officer recommends this amendment. The sentence now reads: “Accommodations Provider” means any person or entity that owns, operates or manages accommodations, and makes them available for sale, use or possession to the general public for compensation.”

d. Option 1, Option 2, Section 1(e). “Discount room charge”.

The proposed amendment inserts the language “excluding any applicable tax” after the term “accommodation.” Because it is not a substantive change, the Hearing Officer recommends the amendment. The sentence now reads: “Discount room charge” means the amount charged by the accommodations provider to the accommodations intermediary for an accommodation excluding any applicable tax.”

e. Option 1, Option 2, Section 1(f). “Room charge”.

The proposed amendment inserts the language “represented to the purchaser as the charge for the room before “before taxes.” With the amendment, the sentence reads “”Room charge” means the full retail price charged for the sale, use or possession of an accommodation, including any accommodation fee, represented to the purchaser as the charge for the room before taxes.”

The Hearing Officer finds that the amendment constitutes a material change to the definition. The amendment could be interpreted to mean that the accommodations fee would not be included in the room charge unless the accommodations intermediary affirmatively represents to the purchaser that it constitutes a portion of the room charge. If the intermediary does not so represent, then the accommodations fee is not part of the room charge. The Hearing Officer does not recommend the amendment.

5. Collection and Remittance

a. Option 1, Option 2, Section 2a. Should the Intermediary be Allowed to Include the Lodging Tax in the Retail Price of the Room Where State Law Allows Sales Tax to be Included in the Retail Price of Goods Sold?

The Hearing Office is understands that some states—Georgia, Iowa and Kansas, for example—do not require the sales tax to be separately stated from the retail price of goods sold.⁴ However, the Hearing Officer was able to find no evidence that these states, or any other state, allow the sales tax to be included with the accommodation purchase price and combined with the lodging tax. Further, the Hearing Officer did not find any state that does not require lodging taxes to be separately stated from the retail price of accommodations purchased by the customer. The Hearing Officer does not recommend the amendment and further does not recommend the amendment referring to the “total” amount of taxes collected.

b. Option 1, Option 2, Section 2a. Should the Phrase “Tax Charged Or” be Inserted before “Collected?”

The Hearing Officer understands that the purpose of this language is a technical amendment to make the statutory language more precise with respect to taxes that are collected from the purchaser. The Hearing Officer further understands that there are instances where a tax may be charged, but not collected from the purchaser. The Hearing Officer recommends the amendment.

c. Option 1, Option 2, Section 2a. Should the Model Statutes Provide for Means of Stating Tax to the Customer Other Than By Invoice?

The Hearing Officer understands that not all intermediaries issue “invoices” to purchasers of accommodations. Some intermediaries issue receipts, rather than an invoice. The State of New York has addressed this issue (AB 9059) with the language “on a sales slip, invoice, receipt or other statement of the price given to the purchaser prior to the purchaser’s

⁴ GAC 560-12-11, Iowa Rule 701 212.1 (423), Kansas Reg. 92-19-61a(d).

completion of his or her occupancy.” The Hearing Officer recommends this amendment and further recommends the amendment delete the phrase “on the invoice.”

With the recommended amendments, Section 2(a) now reads: “An accommodations intermediary shall be responsible for the collection of tax imposed by [cite to applicable code section(s)] on the room charge and shall be required to separately state ~~on the invoice~~ to the purchaser of the accommodation the specific total amount of taxes collected on a sales slip, invoice, receipt or other statement of the price given to the purchaser prior to the purchaser’s completion of his or her occupancy.”

d. Option 1, Section 2(c) (Provider), Option 2, Section 2(b) (Intermediary). Should the Tax Accrue to the State or Local Tax Agency When the Period of Occupancy Ends?

The purpose of this provision is solely to state the responsibility of an accommodations provider or intermediary to remit tax to the appropriate state or local tax agency. It is not a statement of when the tax accrues or when it is due. When the tax accrues or is due is a matter of state or local law. The Hearing Officer does not recommend the amendment.

e. Option 1, Section 2(b), Option 2, Section 2(c). Should the Language “Discount Room Charge” be Deleted?

This language represents a contractual arrangement between the accommodations provider and the accommodations intermediary, and does not pertain to taxes. The Hearing Officer recommends the amendment. The sections now read:

An accommodations intermediary shall report to the accommodations provider the room charge and remit to the accommodations provider ~~the discount room charge and~~ the tax due and collected on the room charge.

6. Section 3. Safe Harbor

a. Option 1, Section 3(b), Option 2, Section 3(b).

The amendment deletes the language “the difference between the room charge and the discounted room charge” and substitutes “accommodations fee.” The Hearing Office finds the amendment makes the statutory meaning clearer, and recommends the amendment. For purposes of consistency in tense, the Hearing Officer further recommends that “was” be substituted for “is” and for stylistic purposes, further recommends that the term “properly” be deleted. Option 1, Section 3(b) now reads: “No assessment shall be made against an accommodations provider for any tax due on an accommodations fee that ~~was~~ is not ~~properly~~ remitted to the accommodations provider by the accommodations intermediary.”

With respect to Option 2, Section 3(b), the Hearing Officer finds that the clarity of this provision could benefit further with the addition of the language “that was not remitted to

the accommodations provider by the accommodations intermediary.” The Hearing Officer recommends the amendment. With the two amendments, the sentence in Option 2, Section 3(b) now reads: “No assessment shall be made against an accommodations provider for any tax due on an ~~the difference between the room charge and the discounted room charge accommodations fee that is~~ was not remitted to the accommodations provider by the accommodations intermediary.”

b. Option 2. Should “Hold Harmless” Protection be Included in the Model Statute for Accommodations Intermediaries?

While Statute Option 2 contains protections for the provider against tax due on the accommodations fee, no similar protection is afforded to the accommodations intermediary for tax due on the discount room charge. The Hearing Officer recommends the amendment. However, the Hearing officer finds that the amendment would benefit from the addition of the language “if the intermediary collected tax and remitted it to the accommodations provider.” With the Hearing Officer’s amendment, the amendment reads:

(c) No assessment shall be made against an accommodations intermediary for tax due on the discount room charge if the intermediary collected the tax and remitted it to the accommodations provider. An assessment for unpaid tax associated with the discount room charge paid to an accommodations provider may only be pursued against the accommodations provider.

7. Miscellaneous Amendments

Capitalizations.

The proposed amendments insert an initial capitalization of accommodations intermediaries, accommodations providers, discount room charge and room charge. Because these are a matter of style rather than substance, the Hearing Officer does not recommend the amendments.

The Hearing Officer recommends that the Model Statutes for the Collection and Remittance of Lodging Taxes by Accommodations Intermediaries Statute Option 1 and Statute Option 2 be considered for adoption by the Commission. If the Executive Committee adopts this recommendation, the models will be subject to a By-law 7 survey of the States before they may be placed on the Commission’s agenda.⁵

⁵ Commission bylaw 7(g) states: Any recommendation for action submitted by the Executive Committee to the Commission relating to uniform or compatible tax laws, regulations or administrative practices, regardless of whether such matters required hearings, shall be circulated to the members by the Executive Director for not less than 30 days to determine if the affected members will consider adoption of the recommendation within their respective jurisdictions. The survey of the members shall include, as specified by the Executive Committee, the time period and manner in which the members are requested to consider adoption of the item. The results of the survey of the members shall be reported to the Chairman, who shall determine if a majority of the members affected by the recommended item have agreed to consider its adoption. If a majority have agreed, the Chairman shall direct the consideration of the item at the next regular meeting of the Commission, with proper notice provided according to

Respectfully submitted,

Roxanne Bland
Hearing Officer
May 2, 2012

Bylaw 4. If a majority of affected members have not agreed to consider adoption of the item, the Chairman shall refer the recommendation for Commission action back to the Executive Committee for further consideration.

JONES DAY

1420 PEACHTREE STREET, N.E. • SUITE 800 • ATLANTA, GEORGIA 30309.3053
TELEPHONE: +1.404.581.3939 • FACSIMILE: +1.404.581.8330

Direct Number: (404) 581-8012
jmallan@JonesDay.com

JP004380
347447-640021

April 12, 2012

VIA EMAIL & UPS

Roxanne Bland, Esq.
Multistate Tax Commission
444 North Capitol Street, N.W.
Suite 425
Washington, DC 20001-1538

Re: Model Statutes for the Collection and Remittance of Lodging Taxes by Accommodations Intermediaries

Dear Ms. Bland:

In connection with the Multistate Tax Commission's ("MTC") hearing and invitation for comments ¹ on a proposed *Model Statutes for the Collection and Remittance of Lodging Taxes by Accommodations Intermediaries* (the "Model Statute"), I am attaching a document illustrating several proposed revisions to the Model Statute. For the reasons which follow, the proposed revisions to the Model Statute (the "Proposed Revisions") will aid the MTC in its efforts to establish uniform laws, and will assist taxpayers in compliance with the Model Statute if it is adopted.

The Proposed Revisions eliminate "Option 1" from the Model Statute. Providing two options in the Model Statute does not promote uniformity, which runs against the goals of the Multistate Tax Compact. In addition, Option 1 is not practical for accommodations intermediaries who will have trouble complying with the single-remittance model. While larger hotel chains may be capable of handling the additional compliance required under Option 1, many (if not most) smaller chains and independent hotels will find compliance difficult. Significant systems changes will need to be undertaken by both online travel companies ("OTCs") and hotels to comply with the requirements of Option 1. We urge the MTC to contact the North Carolina Department of Revenue to discuss that state's experience with the adoption of the single-remittance model.

With respect to "Option 2," a statement of purpose has been added to the Model Statute to clarify the MTC's policy that it does not advocate for additional taxes. In addition, the definition of *Accommodations fee* has been modified to clarify that such fee does not include any separately stated amount for services. Many states do not tax services that are separately stated to consumers, and this language confirms the general tax treatment of separately stated service fees. We understand from at least one hotel and several OTCs that Option 2 as currently drafted

¹ The proposed revisions to the Model Statute are attached hereto as Exhibit 1.

ATI-2513427v1

ALKHOBAR • ATLANTA • BEIJING • BOSTON • BRUSSELS • CHICAGO • CLEVELAND • COLUMBUS • DALLAS • DUBAI
FRANKFURT • HONG KONG • HOUSTON • IRVINE • JEDDAH • LONDON • LOS ANGELES • MADRID • MEXICO CITY
MILAN • MOSCOW • MUNICH • NEW DELHI • NEW YORK • PARIS • PITTSBURGH • RIYADH • SAN DIEGO
SAN FRANCISCO • SÃO PAULO • SHANGHAI • SILICON VALLEY • SINGAPORE • SYDNEY • TAIPEI • TOKYO • WASHINGTON

JONES DAY

Roxanne Bland, Esq.
April 12, 2012
Page 2

is not clear on this point. Similarly, the Proposed Revisions clarify that the term *Room charge* is the amount “represented to the purchase as the charge for the room.” In other words, the Room charge includes only the amount represented to consumers as the charge for the room and does not include any separately stated service fees.

The Proposed Revisions also offer an amendment to the *Collection and Remittance* provision in Option 2. First, not every state requires the separate statement of tax, so this provision has been revised to acknowledge that it applies only where state law requires the separate statement of tax. Accommodations intermediaries should be treated no differently than any other provider of taxable services under state law. Second, the revised language of this provision closely follows that of Section 1111 of the New York Tax law (as amended) indicating that a separate statement of tax may appear on different types of forms issued to consumers prior to their completion of occupancy, such as sales slips, receipts, and invoices. Third, a proposed modification, which is consistent with recently enacted legislation by the State of New York, provides that any applicable tax is remitted “with respect to the period in which the occupancy ends.”

Finally, the *Safe Harbor* provision protects Accommodations providers from assessments of tax due on the Accommodations fee. A similar provision should be added to protect Accommodations intermediaries from assessments of tax due on the Discount room charge.

Should you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink that reads "John M. Allan". The signature is written in a cursive style with a horizontal line extending to the right.

John M. Allan

Attachments

**Model Statutes for the Collection and Remittance of Lodging Taxes
by Accommodations Intermediaries**

4/10/12 Draft

Public Hearing

~~Statute Option 1: Remittance to the State or Local Tax Agency by the Accommodations Provider and the Intermediary~~

1. Purpose. – This model statute does not impose a tax and does not make a recommendation on the tax policy issue of whether a state or other jurisdiction should impose a sales tax, occupation tax or other tax on travel-related services provided by Accommodations intermediaries to customers. This model statute is meant solely to provide a compliance methodology for those jurisdictions that choose to impose such a tax on services provided to customers by Accommodations intermediaries.

12. Definitions.—

~~(a) “Accommodation” means a hotel room, a motel room, a residence, a cottage or similar transient lodging facility for occupancy [insert appropriate time period].~~

~~(b) “Accommodations fee” means any fee, by whatever name called, charged by an accommodations intermediary to the purchaser of the accommodation for facilitating the sale, use or possession of an accommodation and is a portion of the room charge. It does not include any commission paid by an accommodations provider to a person for facilitating the sale, use or possession of an accommodation.~~

~~(c) “Accommodations intermediary” means any person, other than an accommodations provider, that facilitates the sale, use or possession of an accommodation, and charges a room charge to the general public. For purposes of this definition, the term “facilitates the sale, use or possession” means brokering, coordinating or in any other way arranging for the purchase of the sale, use or possession of accommodations by the general public.~~

~~(d) “Accommodations provider” means any person that owns, operates or manages accommodations, and makes them available for sale, use or possession to the general public for compensation.~~

~~(e) “Discount room charge” means the amount charged by the accommodations provider to the accommodations intermediary for an accommodation.~~

~~(f) “Room charge” means the full retail price charged for the sale, use or possession of an accommodation, including any accommodation fee, before taxes.~~

~~(g) A “travel package” means an accommodation bundled with one or more separate components such as air transportation, car rental or similar items and charged for a single retail price.~~

~~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 and shall be required to separately state on the invoice to the purchaser of the accommodation the specific amount of taxes collected.~~

~~(b) An accommodations intermediary shall report to the accommodations provider the room charge and remit to the accommodations provider the discount room charge and the tax due and collected on the room charge.~~

~~(c) An accommodations provider shall collect and remit to the [state or local tax agency] the tax due on the room charge.~~

~~(d) The room charge that is part of a travel package may be determined by the accommodation intermediary by reasonable and verifiable standards from the accommodation intermediary’s books and records that are kept in the regular course of business including, but not limited to, non-tax purposes.~~

~~3. Safe Harbor.—~~

~~(a) The [state or local tax agency] may waive otherwise applicable penalty [and interest] if an [accommodations intermediary or accommodations provider] applies an incorrect tax rate to the room charge. This waiver only applies for [insert appropriate time period] after any tax rate change.~~

~~(b) No assessment shall be made against an accommodations provider for any tax due on the difference between the room charge and the discounted room charge that is not properly remitted to the accommodations provider by the accommodations intermediary. An assessment for unpaid tax associated with the intermediary’s accommodation fee may only be pursued against an accommodations intermediary. If the accommodations intermediary provides sufficient evidence that tax due was properly remitted to the accommodations provider, the accommodations provider shall be held liable for the tax due but not remitted.~~

~~4. No Inference.—~~

~~This [model statute] imposes no tax liability and is only intended to provide guidance relating to the proper tax collection and remittance responsibilities of accommodations intermediaries. As such, no inference shall be drawn relating to the tax liability of any purchaser of accommodations under applicable law.~~

Optional example:

~~Accommodations Provider (Provider) furnishes a one-night accommodation to a purchaser who booked the accommodations through Accommodations Intermediary (Intermediary). The Provider bills the Intermediary for a discount room charge of \$80.00. The room charge is \$100.00, which includes a \$20.00 accommodations fee. A 5% tax applied to the discount room charge is \$4.00 and applied to the accommodations fee is \$1.00. The total price charged to the purchaser, 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 purchaser.)~~

~~Intermediary remits \$5.00 tax [(5% tax rate x \$80.00 discount room charge = \$4.00 tax) + (5% tax rate x \$20.00 accommodations fee = \$1.00)] to the Provider. Provider remits the \$5.00 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 = (5% x \$80.00)
\$1.00		Tax on accommodations fee remitted by Intermediary to Provider = (5% x \$20.00)
	\$5.00	Total tax on room charge remitted by Provider to [state or local tax agency]
\$105.00		Price of accommodations to purchaser including tax charged by Provider and Intermediary

~~Statute Option 2: Remittance to the State or Local Tax Agency by the Accommodations Provider and the Intermediary~~

~~1. Definitions.—~~

~~(a) “Accommodation” means a hotel room, a motel room, a residence, a cottage or similar transient lodging facility for occupancy [insert appropriate time period].~~

~~(b) “Accommodations fee” means any fee, by whatever name called, charged by an accommodations intermediary to the purchaser of the accommodation for facilitating the sale, use or possession of an accommodation and is a portion of the room charge. It does not include any commission paid by an accommodations provider to a person or entity for facilitating the sale, use or possession of an accommodation and does not include any separately stated amounts for services charged to the purchaser.~~

(c) “Accommodations intermediary” means any person or entity, other than an accommodations provider, that facilitates the sale, use or possession of an accommodation, and charges a room charge to the general public. For purposes of this definition, the term “facilitates the sale, use or possession” means brokering, coordinating or in any other way arranging for the purchase ~~of the~~, sale, use or possession of accommodations by the general public.

(d) “Accommodations provider means any person or entity that owns, operates or manages accommodations, and makes them available for sale, use or possession to the general public for compensation.

(e) “Discount room charge” means the amount charged by the accommodations provider to the accommodations intermediary for an accommodation excluding any applicable tax.

(f) “Room charge” means the full retail price charged for the sale, use or possession of an accommodation, including any accommodation fee, represented to the purchaser as the charge for the room before taxes.

(g) A “travel package” means an accommodation bundled with one or more separate components such as air transportation, car rental or similar items and charged for a single retail price.

23. Collection and Remittance.—

(a) ~~An accommodations~~If required by applicable law, an Accommodations intermediary shall be responsible for the collection of tax imposed by [cite to applicable code section(s)] on the ~~room~~Room charge and shall be required to separately state ~~on the invoice~~ to the purchaser of the ~~accommodation~~Accommodation the ~~specific~~total amount of ~~taxes~~tax charged or collected on a sales slip, invoice, receipt, or other statement of the price given to the purchaser prior to the purchaser’s completion of his or her occupancy.

(b) An ~~accommodations~~Accommodations intermediary shall remit to the [state or local tax agency] the tax due and collected on the ~~accommodations fee~~Accommodations fee with respect to the period in which the occupancy ends.

(c) An ~~accommodations~~Accommodations intermediary shall remit to the ~~accommodations~~Accommodations provider the ~~discount room charge and~~ tax due and collected on the ~~discount~~Discount room charge.

(d) An ~~accommodations~~Accommodations provider shall collect and remit to the [state or local tax agency] the tax due on the ~~discount~~Discount room charge.

(e) The ~~room~~Room charge that is part of a travel package may be determined by the ~~accommodations~~Accommodations intermediary by reasonable and verifiable standards from the ~~accommodations~~Accommodations intermediary’s books and records that are kept in the regular course of business including, but not limited to, non-tax purposes.

34. Safe Harbor.—

(a) The [state or local tax agency] may waive otherwise applicable penalty [and interest] if an [~~accommodations~~Accommodations intermediary or ~~accommodations~~Accommodations provider] applies an incorrect tax rate to the ~~room~~Room charge. This waiver only applies for [insert appropriate time period] after any tax rate change.

(b) No assessment shall be made against an ~~accommodations~~Accommodations provider for any tax due on the ~~difference between the room charge and the discounted room charge~~Accommodations fee. An assessment for unpaid tax associated with the Accommodations intermediary's ~~accommodation~~Accommodations fee may only be pursued against an ~~accommodations~~Accommodations intermediary.

(c) No assessment shall be made against an Accommodations intermediary for tax due on the Discount room charge. An assessment for unpaid tax associated with the Discount room charge paid to an Accommodations provider may only be pursued against the Accommodations provider.

45. No Inference.—

This [model statute] imposes no tax liability and is only intended to provide guidance relating to the proper tax collection and remittance responsibilities of ~~accommodations~~Accommodations intermediaries. As such, no inference shall be drawn relating to the tax liability of any purchaser of ~~accommodations~~Accommodations under applicable law.

Optional Example:

Accommodations Provider (Provider) furnishes a one night ~~accommodation~~Accommodation to purchaser, who booked the accommodations through an Accommodations ~~Intermediary~~intermediary (Intermediary). The room charge is \$100.00, which includes a \$20.00 ~~accommodations~~Accommodations fee. The Provider ~~bills~~charges the Intermediary a ~~discount~~Discount room charge of \$80.00. A 5% tax applied to the ~~discount~~Discount room charge is \$4.00 and applied to the ~~accommodations~~Accommodations fee is \$1.00. The total price charged to the purchaser, including tax, is \$105.00, which is the sum of the ~~discount~~Discount room charge, the ~~accommodations~~Accommodations fee and the \$5.00 tax (\$100.00 room charge + [5% tax rate x \$100.00 room charge] = \$105.00 price to purchaser).

Intermediary remits \$4.00 tax (5% tax rate x \$80.00 ~~discount~~Discount room charge) to the Provider and a \$1.00 tax (5% tax rate x \$20.00 ~~accommodations~~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 <u>fee</u>

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



Model Statutes for the Collection and Remittance of Lodging Taxes by Accommodations Intermediaries

Statute Option 1: Remittance to the State or Local Tax Agency by the Accommodations Provider

1. Definitions.—

(a) “Accommodation” means a hotel room, a motel room, a residence, a cottage or similar transient lodging facility for occupancy [insert appropriate time period].

(b) “Accommodations fee” means any fee, by whatever name called, charged by an accommodations intermediary to the purchaser of the accommodation for facilitating the sale, use or possession of an accommodation and is a portion of the room charge. It does not include any commission paid by an accommodations provider to a person or entity for facilitating the sale, use or possession of an accommodation.

(c) “Accommodations intermediary” means any person or entity, other than an accommodations provider, that facilitates the sale, use or possession of an accommodation, and charges a room charge to the general public. For purposes of this definition, the term “facilitates the sale, use or possession” means brokering, coordinating or in any other way arranging for the purchase, ~~of the~~ sale, use or possession of accommodations by the general public.

(d) “Accommodations provider” means any person or entity that owns, operates or manages accommodations, and makes them available for sale, use or possession to the general public for compensation.

(e) “Discount room charge” means the amount charged by the accommodations provider to the accommodations intermediary for an accommodation excluding any applicable tax.

(f) “Room charge” means the full retail price charged for the sale, use or possession of an accommodation, including any accommodation fee, before taxes.

(g) A “travel package” means an accommodation bundled with one or more separate components such as air transportation, car rental or similar items and charged for a single retail price.

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 and shall be required to separately state ~~on the invoice~~ to the purchaser of the accommodation the specific amount of tax charged or collected on a sales slip, invoice, receipt or other statement of the price given to the purchaser prior to the purchaser's completion of his or her occupancy.

(b) An accommodations intermediary shall report to the accommodations provider the room charge and remit to the accommodations provider ~~the discount room charge and~~ the tax due and collected on the room charge.

(c) An accommodations provider shall collect and remit to the [state or local tax agency] the tax due on the room charge.

(d) The room charge that is part of a travel package may be determined by the accommodation intermediary by reasonable and verifiable standards from the accommodation intermediary's books and records that are kept in the regular course of business including, but not limited to, non-tax purposes.

3. Safe Harbor.—

(a) The [state or local tax agency] may waive otherwise applicable penalty [and interest] if an [accommodations intermediary or accommodations provider] applies an incorrect tax rate to the room charge. This waiver only applies for [insert appropriate time period] after any tax rate change.

(b) No assessment shall be made against an accommodations provider for any tax due on ~~an the difference between the room charge and the discounted room charge accommodations fee~~ that ~~was is~~ not ~~properly~~ remitted to the accommodations provider by the accommodations intermediary. An assessment for unpaid tax associated with the intermediary's accommodation fee may only be pursued against an accommodations intermediary. If the accommodations intermediary provides sufficient evidence that tax due was properly remitted to the accommodations provider, the accommodations provider shall be held liable for the tax due but not remitted.

4. No Inference.—

This [model statute] imposes no tax liability and is only intended to provide guidance relating to the proper tax collection and remittance responsibilities of accommodations intermediaries. As such, no inference shall be drawn relating to the tax liability of any purchaser of accommodations under applicable law.

Optional example:

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

Intermediary remits \$5.00 tax [$(5\% \text{ tax rate} \times \$80.00 \text{ discount room charge} = \$4.00 \text{ tax}) + (5\% \text{ tax rate} \times \$20.00 \text{ accommodations fee} = \$1.00)$] to the Provider. Provider remits the \$5.00 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 = $(5\% \times \$80.00)$
\$1.00		Tax on accommodations fee remitted by Intermediary to Provider = $(5\% \times \$20.00)$
	\$5.00	Total tax on room charge remitted by Provider to [state or local tax agency]

\$105.00		Price of accommodations to purchaser including tax charged by Provider and Intermediary
----------	--	---

Statute Option 2: Remittance to the State or Local Tax Agency by the Accommodations Provider and the Intermediary

1. Definitions.—

(a) “Accommodation” means a hotel room, a motel room, a residence, a cottage or similar transient lodging facility for occupancy [insert appropriate time period].

(b) “Accommodations fee” means any fee, by whatever name called, charged by an accommodations intermediary to the purchaser of the accommodation for facilitating the sale, use or possession of an accommodation and is a portion of the room charge. It does not include any commission paid by an accommodations provider to a person or entity for facilitating the sale, use or possession of an accommodation.

(c) “Accommodations intermediary” means any person or entity, other than an accommodations provider, that facilitates the sale, use or possession of an accommodation, and charges a room charge to the general public. For purposes of this definition, the term “facilitates the sale, use or possession” means brokering, coordinating or in any other way arranging for the purchase, ~~of the~~ sale, use or possession of accommodations by the general public.

(d) “Accommodations provider” means any person or entity that owns, operates or manages accommodations, and makes them available for sale, use or possession to the general public for compensation.

(e) “Discount room charge” means the amount charged by the accommodations provider to the accommodations intermediary for an accommodation excluding any applicable tax.

(f) “Room charge” means the full retail price charged for the sale, use or possession of an accommodation, including any accommodation fee, before taxes.

(g) A “travel package” means an accommodation bundled with one or more separate components such as air transportation, car rental or similar items and charged for a single retail price.

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 and shall be required to separately state ~~on the invoice~~ to the purchaser of the accommodation the specific amount of tax charged or collected on a sales slip, invoice, receipt or other statement of the price given to the purchaser prior to the purchaser’s completion of his or her occupancy.

(b) An accommodations intermediary shall remit to the [state or local tax agency] the tax due and collected on the accommodations fee.

(c) An accommodations intermediary shall remit to the accommodations provider the ~~discount room charge and~~ tax due and collected on the discount room charge.

(d) An accommodations provider shall collect and remit to the [state or local tax agency] the tax due on the discount room charge.

(e) The room charge that is part of a travel package may be determined by the accommodations intermediary by reasonable and verifiable standards from the accommodations intermediary's books and records that are kept in the regular course of business including, but not limited to, non-tax purposes.

3. Safe Harbor.—

(a) The [state or local tax agency] may waive otherwise applicable penalty [and interest] if an [accommodations intermediary or accommodations provider] applies an incorrect tax rate to the room charge. This waiver only applies for [insert appropriate time period] after any tax rate change.

(b) No assessment shall be made against an accommodations provider for any tax due on ~~an~~ the difference between the room charge and the discounted room charge—accommodations fee that was not remitted to the accommodations provider by the accommodations intermediary. An assessment for unpaid tax

associated with the intermediary's accommodation fee may only be pursued against an accommodations intermediary.

(c) No assessment shall be made against an accommodations intermediary for tax due on the discount room charge if the intermediary collected the tax and remitted it to the accommodations provider. An assessment for unpaid tax associated with the discount room charge paid to an accommodations provider may only be pursued against the accommodations provider.

4. No Inference.—

This [model statute] imposes no tax liability and is only intended to provide guidance relating to the proper tax collection and remittance responsibilities of accommodations intermediaries. As such, no inference shall be drawn relating to the tax liability of any purchaser of accommodations under applicable law.

Optional Example:

Accommodations Provider (Provider) furnishes a one night accommodation to purchaser, who booked the accommodations through an Accommodations Intermediary (Intermediary). The room charge is \$100.00, which includes a \$20.00 accommodations fee. The Provider bills the Intermediary a discount room charge of \$80.00. A 5% tax applied to the discount room charge is \$4.00 and applied to the accommodations fee is \$1.00. The total price charged to the purchaser,

including tax, is \$105.00, which is the sum of the discount room charge, the accommodations fee and the \$5.00 tax ($\$100.00 \text{ room charge} + [5\% \text{ tax rate} \times \$100.00 \text{ room charge}] = \105.00 price to purchaser).

Intermediary remits \$4.00 tax ($5\% \text{ tax rate} \times \$80.00 \text{ discount room charge}$) to the Provider and a \$1.00 tax ($5\% \text{ tax rate} \times \$20.00 \text{ accommodations fee}$) 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 tax agency] = $(5\% \times \$80.00)$
\$1.00		Tax on accommodations fee remitted by intermediary to [state or local tax agency] = $(5\% \times \$20.00)$
	\$5.00	Total tax on room charge
\$105.00		Price to purchaser including tax charged by Provider and intermediary



Model Statutes for the Collection and Remittance of Lodging Taxes by Accommodations Intermediaries

Statute Option 1: Remittance to the State or Local Tax Agency by the Accommodations Provider

1. Definitions.—

(a) “Accommodation” means a hotel room, a motel room, a residence, a cottage or similar transient lodging facility for occupancy [insert appropriate time period].

(b) “Accommodations fee” means any fee, by whatever name called, charged by an accommodations intermediary to the purchaser of the accommodation for facilitating the sale, use or possession of an accommodation and is a portion of the room charge. It does not include any commission paid by an accommodations provider to a person or entity for facilitating the sale, use or possession of an accommodation.

(c) “Accommodations intermediary” means any person or entity, other than an accommodations provider, that facilitates the sale, use or possession of an accommodation, and charges a room charge to the general public. For purposes of this definition, the term “facilitates the sale, use or possession” means brokering, coordinating or in any other way arranging for the purchase sale, use or possession of accommodations by the general public.

(d) “Accommodations provider” means any person or entity that owns, operates or manages accommodations, and makes them available for sale, use or possession to the general public for compensation.

(e) “Discount room charge” means the amount charged by the accommodations provider to the accommodations intermediary for an accommodation excluding any applicable lodging tax.

(f) “Room charge” means the full retail price charged for the sale, use or possession of an accommodation, including any accommodation fee, before taxes.

(g) A “travel package” means an accommodation bundled with one or more separate components such as air transportation, car rental or similar items and charged for a single retail price.

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 and shall be required to separately state to the purchaser of the accommodation the specific amount of tax charged or collected on a sales slip, invoice, receipt or other statement of the price given to the purchaser prior to the purchaser's completion of his or her occupancy.

(b) An accommodations intermediary shall report to the accommodations provider the room charge and remit to the accommodations provider the tax due and collected on the room charge.

(c) An accommodations provider shall collect and remit to the [state or local tax agency] the tax due on the room charge.

(d) The room charge that is part of a travel package may be determined by the accommodation intermediary by reasonable and verifiable standards from the accommodation intermediary's books and records that are kept in the regular course of business including, but not limited to, non-tax purposes.

3. Safe Harbor.—

(a) The [state or local tax agency] may waive otherwise applicable penalty [and interest] if an [accommodations intermediary or accommodations provider] applies an incorrect tax rate to the room charge. This waiver only applies for [insert appropriate time period] after any tax rate change.

(b) No assessment shall be made against an accommodations provider for any tax due on an accommodations fee that was not remitted to the accommodations provider by the accommodations intermediary. An assessment for unpaid tax associated with the intermediary's accommodation fee may only be pursued against an accommodations intermediary. If the accommodations intermediary provides sufficient evidence that tax due was properly remitted to the accommodations provider, the accommodations provider shall be held liable for the tax due but not remitted.

4. No Inference.—

This [model statute] imposes no tax liability and is only intended to provide guidance relating to the proper tax collection and remittance responsibilities of accommodations intermediaries. As such, no inference shall be drawn relating to the tax liability of any purchaser of accommodations under applicable law.

Optional example:

Accommodations Provider (Provider) furnishes a one-night accommodation to a purchaser who booked the accommodations through Accommodations Intermediary (Intermediary). The Provider bills the Intermediary for a discount room charge of \$80.00. The room charge is \$100.00, which includes a \$20.00 accommodations fee. A 5% tax applied to the discount room charge is \$4.00 and applied to the accommodations fee is \$1.00. The total price charged to the purchaser, 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 purchaser.)

Intermediary remits \$5.00 tax [(5% tax rate x \$80.00 discount room charge = \$4.00 tax) + (5% tax rate x \$20.00 accommodations fee = \$1.00)] to the Provider. Provider remits the \$5.00 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 = (5% x \$80.00)
\$1.00		Tax on accommodations fee remitted by Intermediary to Provider = (5% x \$20.00)
	\$5.00	Total tax on room charge remitted by Provider to [state or local tax agency]
\$105.00		Price of accommodations to purchaser including tax charged by Provider and Intermediary

Statute Option 2: Remittance to the State or Local Tax Agency by the Accommodations Provider and the Intermediary

1. Definitions.—

(a) “Accommodation” means a hotel room, a motel room, a residence, a cottage or similar transient lodging facility for occupancy [insert appropriate time period].

(b) “Accommodations fee” means any fee, by whatever name called, charged by an accommodations intermediary to the purchaser of the accommodation for facilitating the sale, use or possession of an accommodation and is a portion of the room charge. It does not include any commission paid by an accommodations provider to a person or entity for facilitating the sale, use or possession of an accommodation.

(c) “Accommodations intermediary” means any person or entity, other than an accommodations provider, that facilitates the sale, use or possession of an accommodation, and charges a room charge to the general public. For purposes of this definition, the term “facilitates the sale, use or possession” means brokering, coordinating or in any other way arranging purchase of the sale, use or possession of accommodations by the general public.

(d) “Accommodations provider” means any person or entity that owns, operates or manages accommodations, and makes them available for sale, use or possession to the general public for compensation.

(e) “Discount room charge” means the amount charged by the accommodations provider to the accommodations intermediary for an accommodation excluding any applicable lodging tax.

(f) “Room charge” means the full retail price charged for the sale, use or possession of an accommodation, including any accommodation fee, before taxes.

(g) A “travel package” means an accommodation bundled with one or more separate components such as air transportation, car rental or similar items and charged for a single retail price.

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 and shall be required to separately state to the purchaser of the accommodation the specific amount of tax charged or collected on a sales slip, invoice, receipt or other statement of the price given to the purchaser prior to the purchaser’s completion of his or her occupancy.

(b) An accommodations intermediary shall remit to the [state or local tax agency] the tax due and collected on the accommodations fee.

(c) An accommodations intermediary shall remit to the accommodations provider the tax due and collected on the discount room charge.

(d) An accommodations provider shall collect and remit to the [state or local tax agency] the tax due on the discount room charge.

(e) The room charge that is part of a travel package may be determined by the accommodations intermediary by reasonable and verifiable standards from the accommodations intermediary's books and records that are kept in the regular course of business including, but not limited to, non-tax purposes.

3. Safe Harbor.—

(a) The [state or local tax agency] may waive otherwise applicable penalty [and interest] if an [accommodations intermediary or accommodations provider] applies an incorrect tax rate to the room charge. This waiver only applies for [insert appropriate time period] after any tax rate change.

(b) No assessment shall be made against an accommodations provider for any tax due on an accommodations fee that is not remitted to the accommodations provider by the accommodations intermediary. An assessment for unpaid tax associated with the intermediary's accommodation fee may only be pursued against an accommodations intermediary.

(c) No assessment shall be made against an accommodations intermediary for tax due on the discount room charge if the intermediary collected the tax and remitted it to the accommodations provider. An assessment for unpaid tax associated with the discount room charge paid to an accommodations provider may only be pursued against the accommodations provider.

4. No Inference.—

This [model statute] imposes no tax liability and is only intended to provide guidance relating to the proper tax collection and remittance responsibilities of accommodations intermediaries. As such, no inference shall be drawn relating to the tax liability of any purchaser of accommodations under applicable law.

Optional Example:

Accommodations Provider (Provider) furnishes a one night accommodation to purchaser, who booked the accommodations through an Accommodations Intermediary (Intermediary). The room charge is \$100.00, which includes a \$20.00 accommodations fee. The Provider bills the Intermediary a discount room charge of \$80.00. A 5% tax applied to the discount room charge is \$4.00 and applied to the accommodations fee is \$1.00. The total price charged to the purchaser, including tax, is \$105.00, which is the sum of the discount room charge, the accommodations fee

and the \$5.00 tax ($\$100.00 \text{ room charge} + [5\% \text{ tax rate} \times \$100.00 \text{ room charge}] = \105.00 price to purchaser).

Intermediary remits \$4.00 tax ($5\% \text{ tax rate} \times \$80.00 \text{ discount room charge}$) to the Provider and a \$1.00 tax ($5\% \text{ tax rate} \times \$20.00 \text{ accommodations fee}$) 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 tax agency] = $(5\% \times \$80.00)$
\$1.00		Tax on accommodations fee remitted by intermediary to [state or local tax agency] = $(5\% \times \$20.00)$
	\$5.00	Total tax on room charge
\$105.00		Price to purchaser including tax charged by Provider and intermediary

