Loudoun County
VIRGINIA
WHERE TRADITION MEETS INNOVATION

Transient Occupancy Tax (TOT)

VALTA Meeting – October 13, 2023

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What is Transient Occupancy Tax?

- A tax levied on hotels, motels, boarding houses, travel campgrounds, and other facilities offering guest rooms or spaces rented out for continuous occupancy for fewer than 30 consecutive days. *Va. Code §58.1-3819(A)*
- Room or space must be suitable or intended for dwelling, lodging, or sleeping purposes.
- The levied rate is a maximum of 2% tax for most localities, with up to 3% additional to be designated for tourism.
- Held in trust by the lodging operator for the county, city, or town and remitted to the respective locality. The locality keeps their portion and if applicable, sends the State's portion to the Office of the Comptroller.

Additional Transient Occupancy Tax

- Chapter §33.2 of the Code describes when additional TOT should be collected in some jurisdictions for transportation projects. (Northern Virginia, Hampton Roads) *Va. Code §58.1-1743-1744*
- Additional tax is remitted to the State for transportation projects.

Changes to Transient Occupancy Tax Effective in 2021

- Added definitions including "accommodations intermediary" to §58.1-602.
- Required that TOT is imposed on the total price paid by the customer for use or possession of a room or space. *Va. Code §58.1-3819(A).*
- Required accommodations intermediaries to collect and remit TOT.
  - TOT collected on behalf of a hotel was sent to the hotel to be reported to the locality.

Changes to Transient Occupancy Tax Effective in 2022

- Required accommodations intermediaries to remit all TOT collected to the locality, including all collections for traditional hotels.
- Required accommodations intermediaries to submit monthly to each locality a list of property addresses and gross receipts for all accommodations facilitated within a locality.
- Required the Department of Taxation to convene a work group that included industry, state, and local government representatives to make recommendations for improving the efficiency and uniformity of process.

HB 1442 – The Original Legislation

- Addition of §58.1-210.1, but no requirement to start new tax rates on the first day of a quarter.
- Addition of §58.1-3827, including a requirement for the tax assessing official to assess and collect TOT.
- Effective July 1, 2024, allowed accommodations intermediaries to transmit TOT returns and taxes due for all counties through an electronic interface established by the Compensation Board to enable single filing and remittance. TOT collected would be distributed to the applicable locality monthly.

Updates Passed by the 2023 General Assembly:

HB 1442 - Transient Occupancy Tax; administration

Addition of §58.1-210.1 *Publication of Local Transient Occupancy Taxes.*

- Requires the Department of Taxation to publish the current tax rate for TOT for each locality on its website. The tax rate should be furnished by the locality to the Department of Taxation as soon as available, or with at least 30-days notice prior to the effective date of a change.
- A rate change shall only be effective on the first day of the calendar quarter following the quarter in which the rate change is enacted.
- If the required notice is not provided within the 30-day timeframe, the locality cannot apply the new tax rate until 30 days after notification is received.
- If the tax assessing official fails to notify the Department of Taxation without good cause, that person is guilty of nonfeasance in office.

Addition of §58.1-3827. *Administration of Transient Occupancy Tax.*

- The tax assessing officer shall enforce and administer the assessment, and the treasurer shall collect the tax from accommodations intermediaries.
- The tax assessing officer shall provide adequate information to accommodations intermediaries to enable them to identify TOT rates, the applicable jurisdiction, and any discounts, deductions, or exemptions.

Addition of §58.1-3827. *Administration of transient occupancy tax.* (continued)

- Accommodations intermediaries are required to:
  - Collect or pay the TOT by the 20th of the month following the month when the tax becomes effective.
  - Submit a tax return to the locality showing the gross receipts, allowable discounts, deductions, or exemptions, and the tax rate that was applied to the net receipts.
  - Remit taxes due to the treasurer, along with any penalty and interest due.
  - Where applicable the return should also include the number of room nights and room tax rate applied, and total room tax due. If there is any regional transportation tax, that should also be included.

What Has Been Done as a Result of the Legislation?

- Commissioner of Revenue Association created a standard form as a fillable PDF.
- Department of Taxation verified current TOT tax rates with localities and published the rates on the Department website.

Changes by Loudoun County Commissioner of the Revenue

- Ordinance updates to define the room rental as the total price paid for use or possession of the room.
- Ordinance update so all entities offering rental space are required to collect TOT. Previously only those offering space for 4 or more persons were required.
- Updated form to include deductions for rentals made through accommodations intermediaries.
- Require hosts with deductions to provide reports from accommodations intermediaries to substantiate deductions.
- Ordinance update requiring all entities to report and remit TOT monthly by the 20th.

Challenges to the Administration of TOT and Business Tangible Personal Property

- With seven incorporated towns, validating that TOT is reported to the correct jurisdiction.
- Obtaining complete information to verify reporting from some accommodation's intermediaries.
- Educating hosts offering short-term residential rentals about TOT and BPPT reporting requirements.
- Identifying unregistered short-term residential rental businesses.

Looking Forward Into 2024

- No updates yet, but online platforms may continue to push for centralized reporting.
- Review General Assembly bills for any proposed updates that affect local taxes.

Questions or Comments?