

Department of Revenue

Revenue Notice # 12-07: Sales and Use Tax – Lodging Services – Accommodations Intermediary Services

Background

This revenue notice explains the requirements for accommodations intermediaries, as defined in *Minnesota Statutes*, section 297A.61, subd. 47 to register as a retailer to collect, report, and remit sales taxes on their sales of lodging and related services, and the granting of any license to use real property in a specific facility for less than 30 days, including the sale of accommodations intermediary services (hereafter, lodging, or room), as provided under *Minnesota Statutes*, section 297A.61, subd. 3(g)(2). The tax on lodging has been in effect since the enactment of the sales tax in 1967. Legislation passed by the Minnesota Legislature in the 2011 Special Session clarified that taxable lodging services include all amounts charged to the customer (e.g., hotel guest) by an accommodations intermediary for lodging services, as provided in *2011 Minnesota Laws*, 1st Special Session, Article 3.

A. Who is required to collect and remit the tax?

An accommodations intermediary that facilitates the sale of lodging located in Minnesota is required to register as a retailer as provided under *Minnesota Statutes*, section 297A.83, and collect, report, and remit sales tax, regardless of the location of the intermediary or the customer that pays for the room.

Accommodations intermediaries include vacation rental home operators, travel consolidators, tour operators and any other person that facilitates the sale of lodging as well as charges a room charge to the customer. When the person's commission is paid by the accommodations provider, as defined in *Minnesota Statutes*, section 297A.61, subd. 48, (this is typical of travel agencies that facilitate room reservations on behalf of hotels), the commission received by the person is not consideration for "lodging and related services," as provided under *Minnesota Statutes*, section 297A.61, subd. 3(g)(2) and is not subject to sales tax. The accommodations provider is required to collect and remit the tax on the total amount charged to the customer.

1. When exemption certificate is provided:

If an accommodations provider receives a fully completed exemption certificate from an accommodations intermediary, the provider is not required to collect tax from the intermediary. The intermediary is required to collect tax from the customer on the total amount charged and report and remit the tax to the department of revenue (hereafter, DOR or Department). The intermediary is required to separately state the amount of tax charged on the invoice or other similar document, including documents provided by electronic means, to the customer.

2. When exemption certificate is not provided:

If an accommodations intermediary does not provide the accommodations provider with an exemption certificate, the provider is required to collect tax from the intermediary on the discounted room charge paid by the accommodations intermediary to the accommodations provider and to report and remit the tax on the discounted price to the DOR. The intermediary is required to collect tax from the customer, on the total amount charged, including the additional amount the intermediary charges the customer (the difference between the discounted price and the retail price, including any fee for services in connection with lodging), and pay the tax on the discounted amount to the accommodations provider who is required to remit the tax to the DOR. The accommodations intermediary is required to

report and remit the tax collected on the additional amount to the DOR. The intermediary is required to separately state the amount of tax charged on the invoice or other similar document, including documents provided by electronic means, to the customer.

B. When is tax due?

An accommodations intermediary is required to collect, report, and remit the tax, as provided in *Minnesota Statutes*, section 297A.79. If the hotel guest cancels the reservation and the accommodations intermediary refunds the payment to the guest, the intermediary should adjust future tax liabilities depending on the filing status of the taxpayer.

Cancellation fees are not part of the occupancy and thus are not subject to tax. "No show" charges are taxable since the room was held for the customer.

C. Local taxes.

This revenue notice also applies to local sales and lodging taxes administered by DOR. Accommodation intermediaries are required to collect, report, and remit these local taxes in the same manner intermediaries collect, report, and remit the tax imposed under *Minnesota Statutes*, chapter 297A, as explained in this revenue notice.

D. Travel packages.

A travel package is an accommodation bundled with one or more separate components such as air transportation, car rental, or similar items, and which is charged for a single retail price. Accommodations intermediaries may allocate the portion of revenues attributed to taxable room charges that are part of a travel package by reasonable and verifiable standards from the accommodations intermediary's books and records that are kept in the regular course of business.


Examples (a rate of 10% is used for illustration purposes. It includes the sum of all applicable state and local sales and lodging taxes).

The first example deals with a sale for resale by the hotel to the accommodations intermediary, where only the accommodations intermediary is required to collect and remit the tax. The second example deals with two transactions: (1) the accommodations provider is required to collect and remit the tax on the amount charged to the accommodations intermediary; and (2) the accommodations intermediary is required to collect and remit the tax on the difference between the discounted price and the retail price.

- 1. Exemption certificate is furnished.** Accommodations Provider B furnishes a room to a customer who reserves the room through Accommodations Intermediary A. Intermediary A furnishes a fully completed exemption certificate to Provider B. Provider B is not required to collect tax from Intermediary A. Provider B bills Intermediary A for a discount room charge of \$80. Intermediary A charges the customer \$100. A 10% tax applied to the total amount charged to the customer is \$10 (10% X 100). This means that the customer pays a total of \$110.00. The full amount of tax is remitted by Intermediary A to DOR. Intermediary A is required to separately state the \$10 tax on the invoice to the customer.
- 2. Exemption certificate is not furnished.** Accommodations Provider P furnishes a room to a customer. The customer reserves the room through Accommodations Intermediary I. Accommodations Intermediary I does not provide Accommodations Provider P with an exemption certificate. Accommodations Provider P bills Intermediary I for a discount room charge of \$80.00 plus a 10% tax applied to the discount room charge of \$8.00 (10% X \$80.00) for a total of \$88.00.

Intermediary I charges the customer \$100.00 for the room, which includes a \$20.00 accommodations fee. A 10% tax applied to the difference between the discounted price and the retail price is \$2.00 (10% X \$20.00). This tax is paid by the customer to Intermediary I and remitted by Intermediary I to DOR. This means that the customer pays a total of \$110.00. Intermediary I pays Provider P a total of \$88.00 and Provider P reports and remits the \$8.00 of tax to DOR. Intermediary I is required to separately state the \$10 tax, on the invoice to the customer. Intermediary I is required to keep adequate records demonstrating the amount of tax that is attributable to the discounted price, so that DOR can ensure that the correct amount of tax was paid.

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