

REVENUE ESTIMATING CONFERENCE

Tax: Sales and Use Tax
Issue: Vacation Rentals
Bill Number(s): CS/CS/HB1011

- Entire Bill**
 Partial Bill: Sections 1 & 2

Sponsor(s): Representatives Fischer and La Rosa
Month/Year Impact Begins: Upon becoming Law
Date of Analysis: March 4, 2020

Section 1: Narrative

- a. Current Law:** Advertising platforms are not defined under current law.

Transient Rentals are currently taxable under Section 212.03 F.S.

Excerpted from Paragraph 212.03 (1) (a) F.S.: "It is hereby declared to be the legislative intent that every person is exercising a taxable privilege who engages in the business of renting, leasing, letting, or granting a license to use any living quarters or sleeping or housekeeping accommodations in, from, or a part of, or in connection with any hotel, apartment house, roominghouse, tourist or trailer camp, mobile home park, recreational vehicle park, condominium, or timeshare resort. For the exercise of such taxable privilege, a tax is hereby levied in an amount equal to 6 percent of and on the total rental charged for such living quarters or sleeping or housekeeping accommodations by the person charging or collecting the rental. Such tax shall apply to hotels, apartment houses, roominghouses, tourist or trailer camps, mobile home parks, recreational vehicle parks, condominiums, or timeshare resorts, whether or not these facilities have dining rooms, cafes, or other places where meals or lunches are sold or served to guests."

Excerpted from Subsection 212.03 (2) F.S.: "...The same duties imposed by this chapter upon dealers in tangible personal property respecting the collection and remission of the tax; the making of returns; the keeping of books, records, and accounts; and the compliance with the rules and regulations of the department in the administration of this chapter shall apply to and be binding upon all persons who manage or operate hotels, apartment houses, roominghouses, tourist and trailer camps, and the rental of condominium units, and to all persons who collect or receive such rents on behalf of such owner or lessor taxable under this chapter."

- b. Proposed Change:** CS/CS/HB1011 provides the new definition for "Advertising platform" in newly created subsection 509.013(17) F.S.: "Advertising platform" means a person who:

(a) Provides an online application, software, website, or system through which a vacation rental located in this state is advertised or held out to the public as available to rent for transient occupancy;

(b) Provides or maintains a marketplace for the renting by transient occupancy of a vacation rental; and

(c) Provides a reservation or payment system that facilitates a transaction for the renting by transient occupancy of a vacation rental and for which the person collects or receives, directly or indirectly, a fee in connection with the reservation or payment service provided for such transaction.

Paragraph 212.03 (2) (b) is created: If a guest uses a payment system on or through an advertising platform, as defined in s. 509.013(17), to pay for the rental of a vacation rental located in this state, the advertising platform shall collect and remit all taxes imposed under chapters 125 and 212 on the total rental amount charged by the owner or operator for the use of the vacation rental, according to the provisions of s. 125.0104 and this section. In order to facilitate the remittance of such taxes, the department and counties that have elected to self-administer the taxes imposed under chapter 125 must allow advertising platforms to register, collect, and remit such taxes.

Section 2: Description of Data and Sources

Department of Revenue Annual Sales Tax Files
General Revenue Estimating Conference (1/2020)
2019 Local Government Financial Information (LGFI) Handbook
Market Research
Florida Administrative Code 12A-1.061

Section 3: Methodology (Include Assumptions and Attach Details)

It is unclear in the proposed change whether or not vacation rentals would include all types of transient rental accommodations. Further, it is unclear how much of the businesses currently collecting tax on transient rentals would fall under the definition of an advertising platform. The starting point tax base is the total taxable transient rentals from the 2017 and 2018 annual sales data files. The tax base is grown by the Tourism and Recreation Growth rates from the 1/2020 General Revenue Estimating Conference. There is evidence that some businesses are currently operating in a manner consistent with the proposed changes.

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The bill language indicates that the tax shall be collected on the total rental amount charged by the owner or operator for the use of the vacation rental. It is unknown what other charges might be part of the total amount paid by customers renting transient accommodations. Currently, some portion of transient rentals tax base includes these other charges.

For the State Impact, an adjustment is made to remove the tax base that appears to be operating consistent with the proposed change all estimates reduce the starting tax base by 5% to approximate this activity. The high the high estimate also assumes that 100% of the tax base could fall into the definition of an advertising platform, the middle assumes 90% and the low assumes 50%. The bill language specifically direct the advertising platform to collect and remit taxes on, “the total rental amount charged by the owner or operator for the use of the vacation rental”. The split between the total amount paid by the customer and the amount charged by the owner for the use of the vacation rental is unknown. The high estimate assumes that 10% of the total paid by the customer are tied the amount charged by the owner, and 90% are other charges. The middle assumes that 40% are tied to these other charges and the low assumes 12.5% are tied to these other charges. As these other charges may no longer have the tax collected on them under the bill language this impact is negative to State revenues.

The local impact is broken into two pieces. The first piece shows the potential positive impact that might come from providers that are currently operating consistent with the proposed changes, but not collecting Local Tourist Development Taxes (TDT) for some of the self-administering counties. The effective local TDT rate, and the self-administering counties share of transient rental base were calculated based on information underlying the LGFI Handbook. The share of businesses that are operating consistently with the proposed changes is assumed to 5% for the high, middle, and low. It is unclear how much of these businesses are already collecting and remitting the Local TDT. The high estimate assumes 80% are currently collecting. The middle assumes 85% and the low assumes 95%.

The second piece of the local impact shows the potential negative impact consistent with the state level impact, but using the local TDT effective rate and self-administering split. The Section 4 Local Impact below is the sum of the positive and negative local impacts.

Sections 1 & 2 of the bill are effective upon becoming law, and the estimate assumes July 1, 2020 for the effective date. If the bill is effective before that date there may fiscal impact for the current fiscal year. The first year cash values are equal to eleven month of the recurring due to a lag to collections.

Section 4: Proposed Fiscal Impact

State Impact

	High		Middle		Low	
	Cash	Recurring	Cash	Recurring	Cash	Recurring
2020-21	\$(1,075.4 M)	\$(1,173.2 M)	\$(430.2 M)	\$(469.3 M)	\$(74.9 M)	\$(81.7 M)
2021-22	\$(1,215.4 M)	\$(1,215.4 M)	\$(486.2 M)	\$(486.2 M)	\$(84.7 M)	\$(84.7 M)
2022-23	\$(1,259.2 M)	\$(1,259.2 M)	\$(503.7 M)	\$(503.7 M)	\$(87.7 M)	\$(87.7 M)
2023-24	\$(1,305.8 M)	\$(1,305.8 M)	\$(522.3 M)	\$(522.3 M)	\$(91.0 M)	\$(91.0 M)
2024-25	\$(1,356.7 M)	\$(1,356.7 M)	\$(542.7 M)	\$(542.7 M)	\$(94.5 M)	\$(94.5 M)

Local Impact

	High		Middle		Low	
	Cash	Recurring	Cash	Recurring	Cash	Recurring
2020-21	\$(924.5 M)	\$(1,008.6 M)	\$(366.0 M)	\$(399.3 M)	\$(62.6 M)	\$(68.3 M)
2021-22	\$(1,044.9 M)	\$(1,044.9 M)	\$(413.6 M)	\$(413.6 M)	\$(70.8 M)	\$(70.8 M)
2022-23	\$(1,082.5 M)	\$(1,082.5 M)	\$(428.5 M)	\$(428.5 M)	\$(73.3 M)	\$(73.3 M)
2023-24	\$(1,122.5 M)	\$(1,122.5 M)	\$(444.4 M)	\$(444.4 M)	\$(76.0 M)	\$(76.0 M)
2024-25	\$(1,166.3 M)	\$(1,166.3 M)	\$(461.7 M)	\$(461.7 M)	\$(79.0 M)	\$(79.0 M)

List of affected Trust Funds: Sales tax Group

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Section 5: Consensus Estimate (Adopted: 03/06/2020): The Conference adopted an adjusted middle impact as an at least a number. The Conference made adjustments to the current tax base, advertising platforms and owner charges assumptions as well as ramping up the cash impact starting at 20% in FY 2020-21, increasing by 20% each fiscal year. There is a negative indeterminate impact on the current fiscal year (FY 2019-20).

State Sales Tax:

	GR		Trust		Revenue Sharing		Local Half Cent	
	Cash	Recurring	Cash	Recurring	Cash	Recurring	Cash	Recurring
2020-21	(100.2)	(546.6)	(Insignificant)	(0.1)	(3.4)	(18.4)	(9.6)	(52.4)
2021-22	(226.6)	(566.3)	(Insignificant)	(0.1)	(7.6)	(19.0)	(21.7)	(54.3)
2022-23	(352.0)	(586.6)	(Insignificant)	(0.1)	(11.8)	(19.7)	(33.8)	(56.2)
2023-24	(486.8)	(608.3)	(Insignificant)	(0.1)	(16.4)	(20.4)	(46.7)	(58.3)
2024-25	(632.1)	(632.1)	(0.1)	(0.1)	(21.2)	(21.2)	(60.6)	(60.6)

	Local Option		Total Local		Total	
	Cash	Recurring	Cash	Recurring	Cash	Recurring
2020-21	(16.5)	(90.0)	(29.5)	(160.8)	(129.7)	(707.5)
2021-22	(37.3)	(93.3)	(66.6)	(166.6)	(293.2)	(733.0)
2022-23	(58.0)	(96.6)	(103.6)	(172.6)	(455.6)	(759.3)
2023-24	(80.2)	(100.2)	(143.2)	(179.0)	(630.0)	(787.4)
2024-25	(104.1)	(104.1)	(185.9)	(185.9)	(818.1)	(818.1)

Self-administered Tourist Development Tax:

	GR		Trust		Revenue Sharing		Local Half Cent	
	Cash	Recurring	Cash	Recurring	Cash	Recurring	Cash	Recurring
2020-21	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
2021-22	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
2022-23	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
2023-24	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
2024-25	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

	Local Option		Total Local		Total	
	Cash	Recurring	Cash	Recurring	Cash	Recurring
2020-21	(113.2)	(617.5)	(113.2)	(617.5)	(113.2)	(617.5)
2021-22	(255.9)	(639.7)	(255.9)	(639.7)	(255.9)	(639.7)
2022-23	(397.6)	(662.7)	(397.6)	(662.7)	(397.6)	(662.7)
2023-24	(549.8)	(687.2)	(549.8)	(687.2)	(549.8)	(687.2)
2024-25	(714.0)	(714.0)	(714.0)	(714.0)	(714.0)	(714.0)

	A	B	C	D	E	F	G
1	Transient Rental data						
2		Years	Taxable	Sales Tax collections			
3		2017	\$ 19,471,005,266	\$ 1,348,226,282			
4		2018	\$ 21,037,583,367	\$ 1,456,664,418			
5		CY to FY	\$ 20,254,294,316	\$ 1,402,445,350			
6							
7	Tourism and Rec Growth rates (1/20 GR)						
8		2018-19	5.3%				
9		2019-20	3.4%				
10		2020 -21	3.7%				
11		2021-22	3.6%				
12		2022-23	3.6%				
13		2023-24	3.7%				
14		2024-25	3.9%				
15							
16	Taxable Transient Rental Base Grown into Forecast period (\$M)						
17		2018-19	\$ 21,327.8				
18		2019-20	\$ 22,052.9				
19		2020 -21	\$ 22,868.9				
20		2021-22	\$ 23,692.2				
21		2022-23	\$ 24,545.1				
22		2023-24	\$ 25,453.2				
23		2024-25	\$ 26,445.9				
24							
25	Percent of Current Tax Base Already Operating Consistent w/ Proposed Change						
26		High	Middle	Low			
27		5%	10%	5%			
28							
29	Percent of Remaining Tax Base That could Qualify as an Advertising Platform						
30		High	Middle	Low			
31	Ad Platform	100%	100%	50%			
32	Other Trans. Rental Providers	0%	0%	50%			
33							
34	Amount Charged by the Owner for Use of the Vacation Rental as a Percent of Total Amount Paid by Customer						
35		High	Middle	Low			
36	Other Charges	90%	50%	12.5%			
37	Amount Received by the Owner for Use of the Rental	10%	50%	88%			
38							
39	Impact						
40		High		Middle		Low	
41	Year	Cash	Recurring	Cash	Recurring	Cash	Recurring
42	2020-21	\$ (1,075.4 M)	\$ (1,173.2 M)	\$ (113.2 M)	\$ (617.5 M)	\$ (74.9 M)	\$ (81.7 M)
43	2021-22	\$ (1,215.4 M)	\$ (1,215.4 M)	\$ (255.9 M)	\$ (639.7 M)	\$ (84.7 M)	\$ (84.7 M)
44	2022-23	\$ (1,259.2 M)	\$ (1,259.2 M)	\$ (397.6 M)	\$ (662.7 M)	\$ (87.7 M)	\$ (87.7 M)
45	2023-24	\$ (1,305.8 M)	\$ (1,305.8 M)	\$ (549.8 M)	\$ (687.2 M)	\$ (91.0 M)	\$ (91.0 M)
46	2024-25	\$ (1,356.7 M)	\$ (1,356.7 M)	\$ (714.0 M)	\$ (714.0 M)	\$ (94.5 M)	\$ (94.5 M)

	A	B	C	D	E	F	G	H	I	J	
1	Taxable Transient Rental Base Grown into Forecast period (\$M)										
2		2018-19	\$ 21,327.8								
3		2019-20	\$ 22,052.9								
4		2020 -21	\$ 22,868.9								
5		2021-22	\$ 23,692.2								
6		2022-23	\$ 24,545.1								
7		2023-24	\$ 25,453.2								
8		2024-25	\$ 26,445.9								
9											
10	Self Administering Local Government Effective Local TDT Rate							5.2%			
11	Self Administering Local Government Share of Transient Rental Base							99.5%			
12											
13											
14	Positive Local Impact Analysis										
15											
16	Percent of Current Tax Base Already Operating Consistent w/ Proposed Change										
17		High	Middle	Low							
18		5%	10%	5%							
19											
20	% Currently Operating Consistent w/ Proposed Change already Collecting Local TDT Either at Platform or Owner Level										
21		High	Middle	Low							
22	Currently Collecting TDT	80%	100%	95%							
23	Not Currently Collecting TDT	20%	0%	5%							
24											
25	Positive Impact										
26		High		Middle		Low					
27	Year	Cash	Recurring	Cash	Recurring	Cash	Recurring				
28	2020-21	\$ 10.9 M	\$ 11.9 M	\$ -	\$ -	\$ 2.6 M	\$ 2.8 M				
29	2021-22	\$ 12.3 M	\$ 12.3 M	\$ -	\$ -	\$ 2.9 M	\$ 2.9 M				
30	2022-23	\$ 12.7 M	\$ 12.7 M	\$ -	\$ -	\$ 3.0 M	\$ 3.0 M				
31	2023-24	\$ 13.2 M	\$ 13.2 M	\$ -	\$ -	\$ 3.1 M	\$ 3.1 M				
32	2024-25	\$ 13.7 M	\$ 13.7 M	\$ -	\$ -	\$ 3.2 M	\$ 3.2 M				
33											
34											

	A	B	C	D	E	F	G	H	I	J
35	Negative Local Impact Analysis									
36										
37	Percent of Current Tax Base Already Operating Consistent w/ Proposed Change									
38		High	Middle	Low						
39		5%	10%	5%						
40										
41	Percent of Remaining Tax Base That could Qualify as an Advertising Platform									
42		High	Middle	Low						
43	Ad Platform	100%	100%	50%						
44	Other Trans. Rental Providers	0%	0%	50%						
45										
46	Amount Charged by the Owner for Use of the Vacation Rental as a Percent of Total Amount Paid by Customer									
47		High	Middle	Low						
48	Other Charges	90%	50%	13%						
49	Amount Received by the Owner for Use of the Rental	10%	50%	88%						
50										
51	Negative Impact									
52		High		Middle		Low				
53	Year	Cash	Recurring	Cash	Recurring	Cash	Recurring			
54	2020-21	\$ (935.4 M)	\$ (1,020.4 M)	\$ (492.3 M)	\$ (537.1 M)	\$ (65.2 M)	\$ (71.1 M)			
55	2021-22	\$ (1,057.2 M)	\$ (1,057.2 M)	\$ (556.4 M)	\$ (556.4 M)	\$ (73.7 M)	\$ (73.7 M)			
56	2022-23	\$ (1,095.2 M)	\$ (1,095.2 M)	\$ (576.4 M)	\$ (576.4 M)	\$ (76.3 M)	\$ (76.3 M)			
57	2023-24	\$ (1,135.7 M)	\$ (1,135.7 M)	\$ (597.8 M)	\$ (597.8 M)	\$ (79.1 M)	\$ (79.1 M)			
58	2024-25	\$ (1,180.0 M)	\$ (1,180.0 M)	\$ (621.1 M)	\$ (621.1 M)	\$ (82.2 M)	\$ (82.2 M)			
59										
60										
61	Total Local Impact									
62		High		Middle		Low				
63	Year	Cash	Recurring	Cash	Recurring	Cash	Recurring			
64	2020-21	\$ (924.5 M)	\$ (1,008.6 M)	\$ (98.5 M)	\$ (537.1 M)	\$ (62.6 M)	\$ (68.3 M)			
65	2021-22	\$ (1,044.9 M)	\$ (1,044.9 M)	\$ (222.6 M)	\$ (556.4 M)	\$ (70.8 M)	\$ (70.8 M)			
66	2022-23	\$ (1,082.5 M)	\$ (1,082.5 M)	\$ (345.9 M)	\$ (576.4 M)	\$ (73.3 M)	\$ (73.3 M)			
67	2023-24	\$ (1,122.5 M)	\$ (1,122.5 M)	\$ (478.2 M)	\$ (597.8 M)	\$ (76.0 M)	\$ (76.0 M)			
68	2024-25	\$ (1,166.3 M)	\$ (1,166.3 M)	\$ (621.1 M)	\$ (621.1 M)	\$ (79.0 M)	\$ (79.0 M)			