

## REVENUE ESTIMATING CONFERENCE

**Tax:** Sales and Use Tax

**Issue:** Vacation Rentals

**Bill Number(s):** Proposed Language

☐ **Entire Bill**

☒ **Partial Bill:** Sections 1 & 2

**Sponsor(s):** N/A

**Month/Year Impact Begins:** Upon becoming Law

**Date of Analysis:** March 6, 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:** The Proposed Language provides the new definition for "Advertising platform" replacing the current subsection 509.013(1) 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, to pay for the rental of a vacation rental located in this state, the advertising platform shall collect and remit taxes as provided in this paragraph.

1. An advertising platform, as defined in s. 509.013, that owns, operates or manages a vacation rental or that is related within the meaning of s. 1504, s. 267(b), or s. 707(b) of the Internal Revenue Code of 1986, to a person that owns, operates, or manages a vacation rental shall collect and remit all taxes due under this section and ss. 125.0104, 125.0108, 205.044, 212.0305, and 212.055 related to the rental.

2. An advertising platform to which subparagraph 1. does not apply shall collect and remit all taxes due from the owner, operator or manager under this section and ss. 125.0104, 125.0108, 205.044, 212.0305, and 212.055 related to the rental. Of the total amount paid by the lessee or rentee, the amount retained by the advertising platform for reservation or payment service is not taxable under this section and ss. 125.0104, 125.0108, 205.044, 212.0305, and 212.055.

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

### Section 3: Methodology (Include Assumptions and Attach Details)

The proposed changes do not appear to provide for planning opportunities that do not currently exist in the market today. The middle estimate shows a zero impact for the proposed language under the assumptions that there will be no business model changes or material changes to the amount collected due to the proposed language.

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However, the tax base is quite large (over \$20 billion), so even small changes at the margins of the industry may generate an impact above the significance level. There are also a variety of organizational structures between the owners, the operators, and the platforms. For these two reasons, it is not possible to quantify what changes, if any, may occur outside of the middle estimate. Therefore, the proposed impact uses a positive indeterminate for the high estimate and a negative indeterminate for the low estimate.

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

### Section 4: Proposed Fiscal Impact

State Impact

	High		Middle		Low	
	Cash	Recurring	Cash	Recurring	Cash	Recurring
2020-21	**	**	0	0	(**)	(**)
2021-22	**	**	0	0	(**)	(**)
2022-23	**	**	0	0	(**)	(**)
2023-24	**	**	0	0	(**)	(**)
2024-25	**	**	0	0	(**)	(**)

**List of affected Trust Funds:** Sales Tax Group

### Section 5: Consensus Estimate (Adopted: 03/10/2020): The Conference adopted the middle estimate.

	GR		Trust		Local/Other		Total	
	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