



OHIO HOTEL & LODGING ASSOCIATION
692 N. HIGH ST. SUITE 212
COLUMBUS OH 43215-1564
P: (614) 461-6462

FROM: Joe Savarise, Executive Director, Ohio Hotel & Lodging Association
TO: Senate Finance: General Government & Agency Review Subcommittee
DATE: May 23, 2017
RE: Sub. House Bill 49 – Interested Party

Chairman Jordan, Vice Chair O'Brien, and members of Senate Finance: General Government & Agency Review Subcommittee, thank you for the opportunity to permit me to add my voice in favor of efforts to support Ohio's communities, our travel economy, and tax parity for entities selling hotel accommodations in Ohio, in the form of Online Travel Company Tax Parity.

I'm Joe Savarise, Executive Director for the Ohio Hotel and Lodging Association (OHLA). Ohio is home to nearly 1,500 licensed and active hotel properties providing more than 131,000 rooms to guests across the state. We employ more than 35,000 people directly and 93,000 hotel-related jobs, produce nearly \$800 million in employee wages and are an integral part of Ohio's vital travel economy. With more than 26 million room nights sold in Ohio annually, hotels have a \$25.5 billion total economic impact in our state, and support \$3.4 billion in taxes.

I stand before you to express support for the simple fix for Online Travel Company (OTC) tax parity as a vital step in eliminating ambiguity in Ohio's tax code as it relates to OTCs. Ohio's travel economy businesses and leaders support the widely-held belief that the intent of the law is to require business to remit taxes based on the total amount for hotel lodging as advertised by the intermediary and paid by the consumer, just as businesses in other sectors must.

NATIONAL PERSPECTIVE

Governments across the country have come to the conclusion that this unfair difference in tax remittance needs to be addressed. In fact, the National Council of State Legislatures issued guidance in 2014 which stated: *"To ensure full collection of taxes that are due and to promote equity and fairness in the tax code, states should consider requiring online travel companies to remit taxes based on the rental price paid by the user."*

The Supreme Court of Georgia in 2009 upheld a permanent injunction requiring Expedia to collect and remit occupancy taxes on the full room rate. The court reasoned that occupancy taxes:

"...do not contemplate taxing the transaction between Expedia, or any other intermediary such as a traditional travel agent, and the hotel. The facts also show that Expedia is not the end-consumer, is not a member of the public at large, and it is not the occupant of the hotel room. Therefore, the wholesale rate which Expedia, a non-occupant, pays for the room cannot be the rate on which the tax is based."
[Expedia, Inc. v. City of Columbus]

In another example, the United States District Court for the Northern District of Illinois ruled in 2011 that local occupancy tax ordinances covered online travel companies:

"[T]he legislature intended to tax the amount customers pay to occupy a hotel room in Rosemont... There is no dispute, however, that [the OTCs] do not obtain the right to occupy any room at any time during a transaction and their customers do so only after paying [the OTCs]. Because the record establishes that [the OTCs'] customers cannot occupy hotel rooms in Rosemont unless they pay the full amount [the OTCs] charge, [the OTCs'] fees and mark-ups are part of the rental rate subject to Tax." [Village of Rosemont v. Priceline.com]

Most recently, the Colorado Supreme Court ruled that OTCs owed millions in hotel room taxes. On April 24 of this year, the court stated online booking companies failed to remit the right amount of lodging tax, because they sell hotel rooms to consumers:

"Although the OTCs maintain that even in merchant-model transactions they do not sell, or furnish for consideration, a right to occupy or use the hotel rooms in question, no matter what terminology they may choose to use in describing their transactions, as a functional matter that is precisely what they do." [City and County of Denver v. Expedia Inc.]

Places where state-level action to address OTC tax parity has occurred in recent years include:

- | | |
|--------------------------|------------------------|
| 1) Georgia (2009) | 5) Oregon (2013) |
| 2) New York (2010) | 6) Wyoming (2015) |
| 1) North Carolina (2011) | 7) Hawaii (2015) |
| 2) South Carolina (2011) | 8) Rhode Island (2015) |
| 3) D.C. (2011) | 9) Maryland (2016) |
| 4) Montana (2012) | 10) Indiana (2016) |

We believe that Ohio's proposal is an even simpler, more straightforward approach. Tax fairness requires modernization of our code to reflect the new realities of e-commerce.

Thank you.

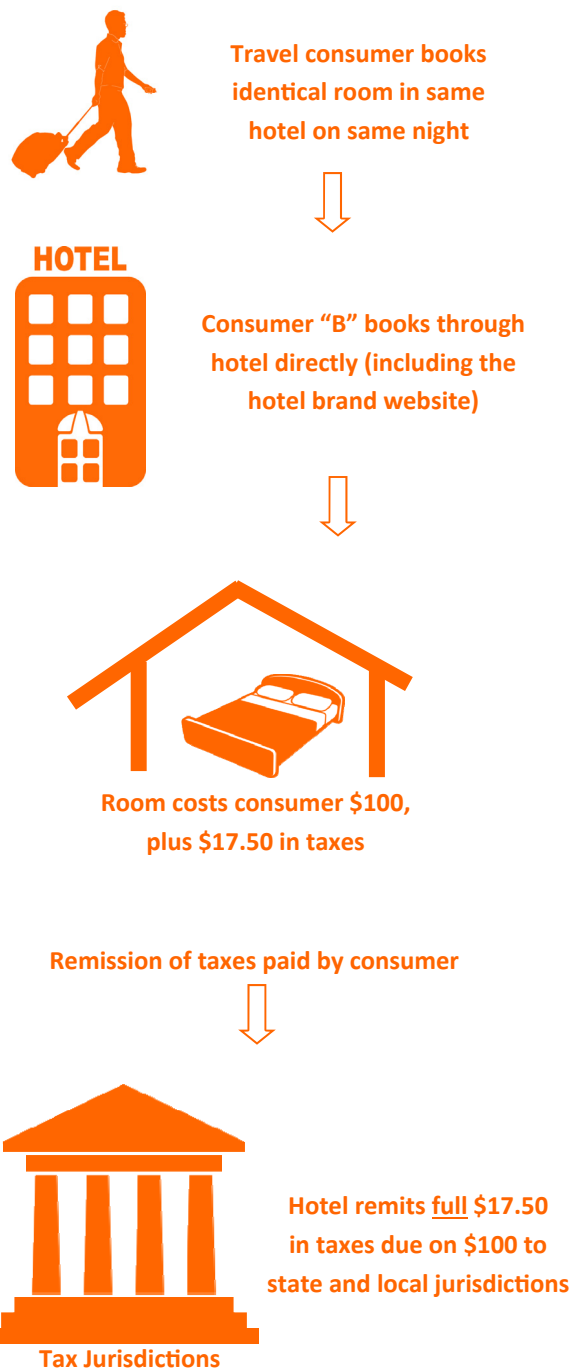
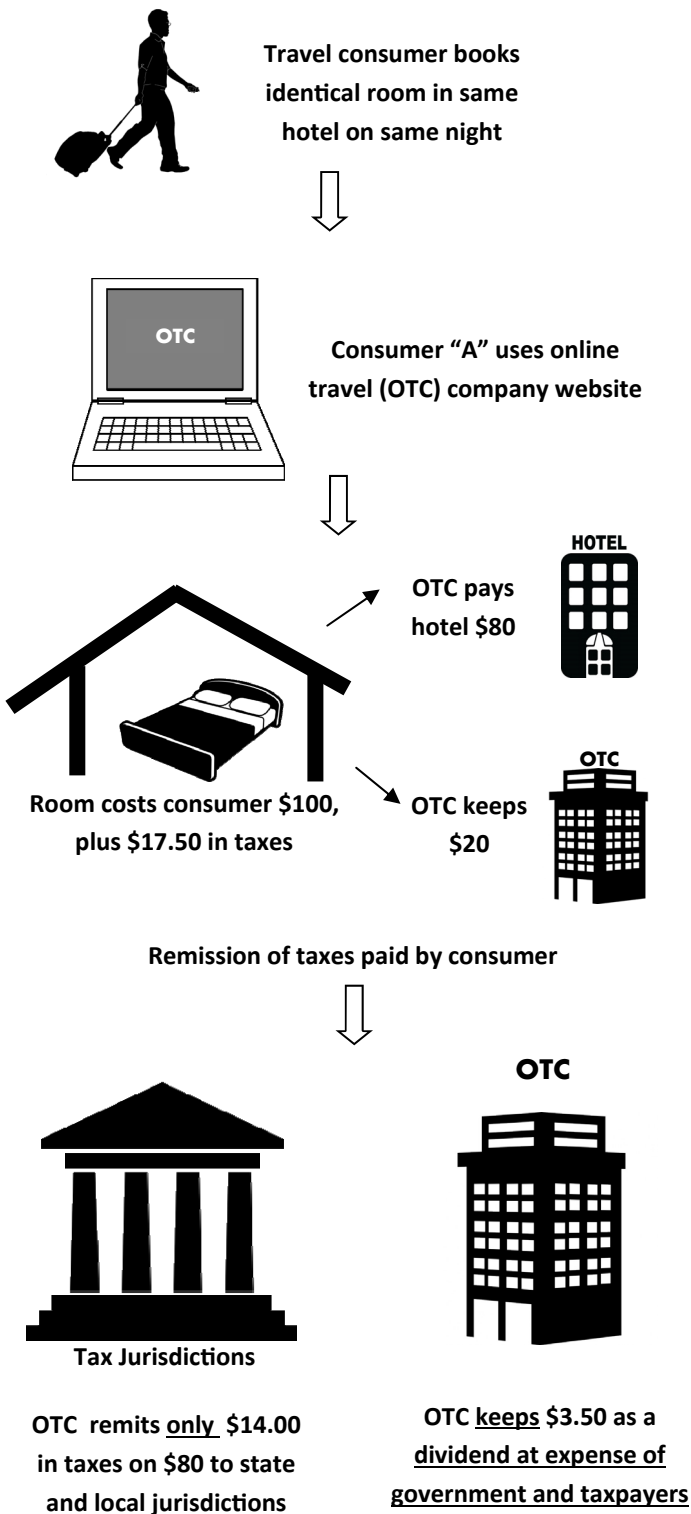
Seeking support of an amendment to do the following:

- 1) Responding to Sixth Circuit Court of Appeals (September 10, 2012)

A hotel intermediary is a person, other than a hotel, a person paid a commission by the hotel (i.e., a travel agent), or a person that separately itemizes its service fee, that arranges for hotel lodging.

- 2) Specifies that, for the purposes of the sales and use tax on hotel lodging, the "price" on the basis of which a hotel intermediary must collect and remit the tax is the total amount paid by the customer for the hotel lodging, as advertised by the intermediary. A hotel intermediary is a person, other than a hotel, a person paid a commission by the hotel (i.e., a travel agent), or a person that separately itemizes its service fee, that arranges for hotel lodging. Absolves a hotel of liability for unpaid sales or use tax related to lodging arranged through a hotel intermediary.
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Out-of-state online travel companies (OTCs) remit less taxes than others selling the same room in the same hotel on the same night -- and cost Ohio, its communities, and taxpayers in the process.



In both scenarios, the consumer pays the exact same amount, \$117.50, for the room, but only the hotel remits tax based on this amount. OTCs remit tax on a lower rate, and the state and communities are deprived of critical revenue.


Online Booking Examples --


Same hotel reservation costs consumer an identical amount for room and taxes
in same hotel on same night

Sign in

Secure booking — only takes 2 minutes!

Book online or call 1-800-391-5807

 Sign in to earn 515 Expedia+ points

 Great choice! You chose the cheapest room at SpringHill Suites Columbus OSU. Don't wait, book now!

Room 1: 2 Adults, 1 King Bed and 1 Double Sofa Bed, Non-smoking


✔ Breakfast included ✔ Free parking ✔ Free internet


Contact name*


Country code*

Mobile phone number*

Text me my confirmation. Standard rates may apply.

Special/Accessibility requests (optional) 



SpringHill Suites Columbus OSU 

★ ★ ★

[Show map](#)

1 Room: Studio, 1 King Bed with Sofa bed


Check-in: Sat, May 20
Check-out: Sun, May 21
1-night stay

No surprises! Here's a breakdown of your price:

Room 1: 2 Adults	avg./night
1 Night	\$219.01
Taxes & Fees	\$38.32



Trip Total: **\$257.33**

Rates are quoted in US dollars.



SpringHill Suites Columbus OSU

1421 Olentangy River Road Columbus, OH 43212 USA

+1-614-297-9912  


Reservation Step 1 of 3

Review Reservation Details

1. Your selection

SpringHill Suites Columbus OSU

1421 Olentangy River Road Columbus, OH 43212 USA



Check in: Saturday, May 20, 2017

Check out: Sunday, May 21, 2017

Room(s): 1


Guest(s) per room: 1

Room type(s): Studio, 1 King, Sofa bed

[Edit](#) - [Room details](#)

3. Summary of Charges

1 room(s) for 1 night(s)	Prices in USD
Saturday, May 20, 2017	219.00
Total cash rate	219.00
Total taxes and fees	38.33
Total for stay in hotel's currency	257.33 USD

 Our best rate. Guaranteed.