



June 12, 2019

Ohio Senate Finance Committee

Dear Members of the Ohio Senate:

The Travel Technology Association represents online travel agents (OTAs) like Orbitz, Expedia, Travelocity, Priceline and many others. Our organization is in strong opposition to provisions in the House version of Sub HB 166 that would apply the state sales and use tax and local hotel occupancy tax to the fees charged by travel agents, both online and throughout Ohio. This provision represents a new tax on services in Ohio and an expansion of the sales and use tax to services as well as applying local occupancy taxes (typically reserved for hotels) to entities that do not operate hotels in your state. We urge the committee to reject this new tax on travel agent service fees.

Further, there are significant technical challenges with the provisions in the House bill that would create a new tax on services. Specifically, the provision in the House bill would require the OTA to determine “fair market value” for each hotel room booked on a nightly basis and calculate, collect and remit taxes on that value. Quite simply, this is an impossible task for online and brick and mortar travel agents and completely unworkable. On any given night, in any hotel, it is possible that each guest paid a different amount. Whether they booked directly on a hotel’s website, booked directly with a discount such as AAA, AARP, government or corporate rate or the countless other discounts that hotels offer guests, is literally impossible to know and calculate. The provisions in the House bill would require the travel agent to collect taxes based on the “fair market value” or the amount the guest would have paid if they booked directly with the hotel. This is unworkable for obvious reasons and should be rejected on technical grounds alone.

With regard to this proposal to apply a new tax on travel agent services and a tax increase on Ohio travel agents, it is critical to understand how travel agents operate and how this tax will harm Ohio’s travel and tourism economy.

Our industry is responsible for booking hundreds of thousands of room nights in Ohio annually. Hotels willingly and enthusiastically partner with my members to help market unsold rooms.

- First, and most importantly, online travel agents do not buy rooms in bulk at wholesale rates and resell them at retail rates. OTAs market unsold inventory but are never responsible for unsold rooms.
- In this environment, the hotel controls the inventory and sets the price.
- The terms wholesale and retail have no meaning in the travel agency arena.
- There is only one room rate and that is what the hotel requires to allow a guest in the room on a given night.
- Sales and Use and Occupancy Taxes on hotel rooms in Ohio are based on the amount the hotel requires to allow someone to occupy a room on a given night. That is the basis for the calculation of the tax.
- Applying the sales and use tax and local hotel occupancy taxes to the service fees charged by travel agents would be a double tax for Ohio travel agents, who already pay income tax on fee revenue.
- OTAs do not operate hotels. Online travel agents are just that, travel agents. They connect travelers with hotels and charge the traveler a service fee for the service they provide (the ability to search for, compare and book a hotel room).

In the context of the question of whether the proper taxes are being collected and remitted, there is no loophole. The tax is based on the rate that the hotel sets. The hotel provides the good or service, in this case, the hotel room, to the traveler. Online travel agents do not operate hotels or have control of inventory nor do they set the price that the consumer pays for the room. The hotels can remove their rooms from OTA sites in real time, at any time. When a consumer books a hotel room via a travel agent (online or in Ohio), the amount they pay includes the room rate, all applicable taxes on the room rate and a service fee charged by the travel agent. The provision in the House bill would apply the sale and use tax and local occupancy tax to the fees charged by travel agents.

The tax is and should be based on the rate the hotel charges for the room. As is the case of AAA discounts or AARP discounts, the tax paid is based on the discounted room rate that is set and agreed to by the hotel. When a traveler benefits from a discounted room rate, the state collects less tax revenue on that room because the room rate (the basis for the tax) is lower. In the OTA environment, hotels reduce the room rate to be more competitive. The tax paid by the traveler and collected by the OTA is based on that discounted room rate. So claims made by the hotel lobby that the state is getting less

tax revenue on rooms booked via travel agents may be accurate, but it is because the basis for the tax (the room rate) is lower in that environment.

The House version of Sub HB 166 proposes to expand the state sales and use tax and local hotel occupancy taxes to services by taxing the service fees that travel agents charge their clients. This will not only not generate any significant revenue, it could have a detrimental impact on your travel and tourism economy. These new taxes on service fees provide a disincentive for travel agents, both online and in Ohio to steer travelers to Ohio destinations. 40% of visitors to OTA sites do so without a destination in mind. OTAs can steer travelers to or from a state based on marketing, advertising and promotions.

Ohio rooms will become more expensive and less competitive with neighboring states. If enacted, the taxes imposed on OTA fees will be taken into consideration during the next negotiation with Ohio hotels. Like all new taxes, the cost of these new taxes will ultimately be passed on to the consumer in the form of higher cost of the room.

On average 25% of rooms booked via OTAs are in-state bookings, so this is a new tax on Ohioans staying in Ohio.

Independent hotels will suffer as a result of these new taxes. As OTAs steer travelers to other states, Ohio's independent hotels will see a drop in visibility and fewer bookings as a result.

Leisure travelers are hyper sensitive to price. Priceline found that when a room rate is increased by 1%, bookings drop 2%. Neighboring states that don't impose such taxes will stand to benefit at Ohio's expense.

In conclusion, this new tax is bad for Ohio and Ohio's travel and tourism economy. The technical issues of asking a travel agent to determine "fair market value" or the "amount the consumer would have paid had they booked directly with the hotel" is completely unworkable under any scenario. Hotel pricing is dynamic. Hotels have dozens or hundreds of rates available depending on how and when and where the traveler books.

Unlike most new taxes on services, taxing OTA and Ohio travel agent fees is unique. If an Ohio service provider is taxed \$1, the state gets \$1. With this proposed new tax on travel agents, the opportunity cost of losing a traveler to another state is significant. Travelers spend money on goods and services while in the state, far beyond the hotel room. What Ohio's travel and tourism economy will lose, including the negative impact

on many small businesses that benefit from travelers, will far outpace any revenue gained by taxing travel agent fees. There is a widely-recognized multiplier effect in travel economics. The goal should be to grow travel and tourism, not reduce it by taxing it.

The opportunity cost of this tax is high. It's not about raising revenue. It's not about closing a loophole that doesn't exist. It's not about leveling any playing field. It's simply an expansion of the state sales and use tax and local hotel occupancy tax to services fees of travel agents and a disincentive for travel agents, both online and in Ohio to steer people to Ohio hotels. I urge you to reject this provision in the Senate and ensure that the new tax on travel agent services is rejected in conference committee and .

Thank you.

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