



DOOR COUNTY TOURISM ZONE COMMISSION  
 Administrator's Report  
 July 2019

**Compliance: Late Letters Sent**

**2019 "No Reports" - As of 7/11/19:**

- The number of **January 2019** "No Reports": One (1) property remains to report.
- The number of **February 2019** "No Reports": One (1) properties remain to report.
- The number of **March 2019** "No Reports": Five (5) properties remain to report.
- The number of **April 2019** "No reports": Fourteen (14) properties remain to report.
- **Unpaid tax/fees/penalties:** The total outstanding due 7/10/19 is: \$2,918.80 from sixteen (16) permit numbers.

First Notice	Second Notice	Third Notice	ACH REJECT	Attorney	Settlement/ Payment Plan	Collections
\$ 4.45		\$ 5.03	\$ 46.75	\$ 501.22	\$ 169.63	
\$ 8.24		\$ 36.96	\$ 38.64	\$ 98.12	\$ 90.60	
\$ 3.00			\$ 241.76	\$ 43.69	\$ 59.22	
\$ 26.13				\$ 36.64	\$ 592.96	
\$ 330.00					\$ 128.18	
\$ 12.01					\$ 297.90	
\$ 0.60					\$ 56.82	
\$ 30.84						
\$ 59.41						
\$474.68	\$0.00	\$41.99	\$327.15	\$679.67	\$1,395.31	\$0.00
\$ 2,918.80	Total Outstanding					

- **Permits:** As of 7/11/19 – Twenty-one (21) permits were issued – Six (6) were permitted as a result of compliance efforts.
    - Twenty-two (22) permits were issued during the same period of 2018
    - As of 7/11/19 there are 1238 permits
    - Property Type Codes: (50) Hotel/Motel, (51) Resort, (52) Inn, (53) Condo, (54) B&B, (56) Cottage/Cabin/Home, (59) Other.
1. Town of Baileys Harbor (56) – year-round – compliance
  2. Village of Sister Bay (53) – year-round
  3. Town of Sevastopol (56) – year-round – compliance
  4. Town of Gibraltar (53) seasonal – compliance
  5. Town of Nasewaupée (56) – seasonal
  6. Town of Liberty Grove (53) – year-round
  7. Town of Sturgeon Bay (56) – year-round
  8. Town of Egg Harbor (53) – year-round
  9. City of Sturgeon Bay (56) – year-round
  10. Town of Baileys Harbor (56) – year-round
  11. Village of Ephraim (56) – seasonal
  12. Town of Liberty Grove (56) – seasonal
  13. Town of Egg Harbor (56) – seasonal

- 14. Town of Washington (59) – seasonal – compliance
- 15. City of Sturgeon Bay (56) – seasonal
- 16. Town of Gibraltar (56) – year-round – compliance
- 17. Village of Egg Harbor (56) – seasonal – compliance

- 18. Town of Gibraltar (59) – seasonal – compliance
- 19. Town of Gibraltar (56) – seasonal
- 20. Town of Nasewaupée (53)- seasonal
- 21. Town of Sevastopol (56) – year-round

✓**VRBO/ HomeAway/ Vacationrentals.com:** As of 7/3/19 VRBO shows that there are 634 listings – the audit reflects 618 properties which are located in Door County and 16 listings that are not located in Door County for an audit total of 634. All properties are accounted for.

**The following listings are unpermitted on VRBO/Homeaway:**

- Unpermitted Listing #1: #1335047 – no leads on owner (timeshare Rushes)
- Unpermitted Listing #2: #1635434 – Compliance letter sent 7/3/19.
- Unpermitted Listing #3: #1688165 – Compliance letter sent 7/3/19.
- Unpermitted Listing #4: #1695687 – Compliance letter sent 7/3/19.

MUNI		# of VRBO Properties
2	Baileys Harbor	72
6	Clay Banks	4
8	Town of Egg Harbor	65
9	Village of Egg Harbor	47
11	Ephraim	52
12	Gibraltar	89
13	Village of Forestville	0
14	Town of Forestville	0
15	Jacksonport	31
27	Nasewaupée	23
32	Liberty Grove	69
33	Sevastopol	39
34	Sister Bay	45
35	City of Sturgeon Bay	30
36	Town of Sturgeon Bay	22
39	Gardner	9
42	Union	5
46	Washington Island	16
		618
Not in Door County		16
634		VRBO website lists 634 for Door County

MUNI	# of VRBO Properties	50 Hotel/Motel	51 Resort	52 Inn	53 Condo	53 Condo @ commercial 1 property	54 B&B	55/56 Cottage Cabin Homes	59 OTHER	No permit req 30+	Total	Commercial	Non Commercial
2	Baileys Harbor	72	0	0	1	0	0	71	0	0	72	1	71
4	Brussels	0	0	0	0	0	0	0	0	0	0	0	0
6	Clay Banks	4	0	0	0	0	0	4	0	0	4	0	4
8	Town of Egg Harbor	65	0	0	0	29	0	36	0	0	65	29	36
9	Village of Egg Harbor	47	0	1	0	5	0	39	2	0	47	1	46
11	Ephraim	52	0	0	0	0	0	52	0	0	52	0	52
12	Gibraltar	89	1	1	0	20	3	61	0	2	89	6	83
14	Town of Forestville	0	0	0	0	0	0	0	0	0	0	0	0
15	Town of Jacksonport	31	0	0	0	4	1	26	0	0	31	1	30
27	Nasewaupée	23	0	3	0	0	0	20	0	0	23	3	20
32	Liberty Grove	69	0	2	0	3	0	64	0	0	69	2	67
33	Sevastopol	39	0	0	0	0	0	39	0	0	39	0	39
34	Sister Bay	45	0	1	0	13	0	31	0	0	45	1	44
35	City of Sturgeon Bay	30	0	0	0	6	0	21	1	0	30	2	28
36	Town of Sturgeon Bay	22	0	0	0	0	0	22	0	0	22	0	22
39	Gardner	9	0	0	0	0	0	9	0	0	9	0	9
42	Union	5	0	0	0	0	0	5	0	0	5	0	5
46	Washington Island	16	0	0	0	0	0	16	0	0	16	0	16
Totals for Door County			1	8	1	51	33	3	516	3	618	46	572
TOTAL IN DC			Commercial		Non Commercial							618	
			7.44%		92.56%							618	



✓ **The following listings are unpermitted on Airbnb:**

- Unpermitted Listing #1: #23008138: NO LEADS TIMESHARE WHOLESALER
- Unpermitted Listing #2: #23709001: NO LEADS TIMESHARE WHOLESALER
- Unpermitted Listing #3: #35384630: Sent email on June 7, 2019 and July 3, 2019
- Unpermitted Listing #4: #35733347 – Rushes timeshare compliance letter sent 7/10/19
- Unpermitted Listing #5: #36277174 – looking for owner.
- Unpermitted Listing #6: #34364786 – still looking for owner of m/v docked at the Yacht Harbor – USCG looking into.
- Unpermitted #7: # 35999204 – Compliance letter sent on 7/3/19 – also on VRBO.
- Unpermitted #8: #36055085- sent email to owner on 7/9/19.
- Unpermitted #9: #36354617 – emailed owner on 7/2/19 and letter sent to owner on 7/3/19 (also on VRBO).
- Unpermitted #10: #36309092- Looking for owner.

✓ **Facebook** – Nothing to report.

✓ **Craigslist** – Two (2) properties are in the compliance process.

✓ **Zillow** – Nothing to report.

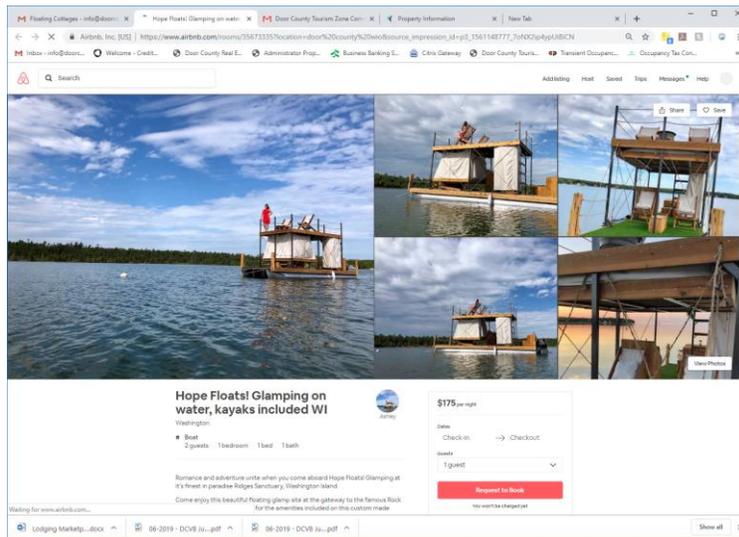
✓ **Local Publications**- Nothing to report.

✓ **TRIPADVISOR/FLIPKEY:** Currently on TripAdvisor there are 44 rentals (66 rentals last month). Flipkey has 65 listings (67 listings last month) for Door County. All are permitted.

✓ **Airbnb floating lodging off Washington Island- Chairman Van Lieshout requested report below:**

On June 21, 2019 I came across an Airbnb listing that appeared to be anchored or moored off Washington Island. I sent the listing to the Chairman, Linda Elmore and Marianna Gibson. On Monday June 24, 2019 Chairman Van Lieshout forwarded the information to the USCG. I also sent the listing to DTACP who in turn said that it was out of their jurisdiction. DTACP representatives sent it on the DNR Warden in the area. All involved had the same safety concerns for this type of lodging.

I contacted the owner of the floating lodging on June 27, 2019 and sent her the permit application for her to complete. She contested that since she is on water and not on land, she is out of the purview of any requirements or permitting. I explained to her that she was offering lodging and required a lodging permit. She went on to say she has a tent and therefore exempt from the requirement of a lodging permit. I held firm that she was much more than a tent; there are bathroom facilities on board, a small galley, a motor, and defined lodging spaces.

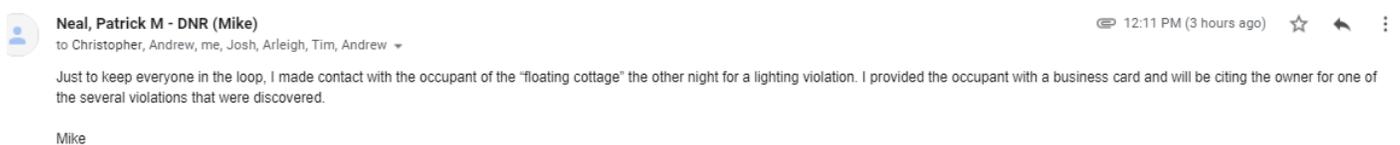


On June 28, 2019 I received the permit application from and permitted the owner for room tax collection.

I spoke with the USCG on July 2, 2019. He had already left the owner a message. We had a lengthy conversation. He explained that they would be taking action, but they were going to first give the owners a chance by offering education and giving them a chance to come into compliance. This is very similar to how we approach compliance as well. At minimum this vessel would need to become a bareboat charter and could be qualified as an illegal passenger vessel. Nonetheless, the USCG is very interested in the operation and others like it. They will continue to keep us in the communication loop.

The USCG asked if we would have the authority to not issue the permit based on safety concerns. I told them that I would look into it and bring it back to the board for discussion.

On 7/8/19 I received an email from the DNR warden:



The information from the USCG certainly raises a lot of concerns about hosts that are using their boats for overnight stays. I forwarded a few other vessels for the USCG to look at.

## ✓ Airbnb Registration as a Lodging Marketplace:

Airbnb has registered as a Lodging Marketplace with the WI DOR. All municipalities have been notified (Town board chairs and presidents were included in the email) and directed to refer any Lodging Marketplace that may make contact with them to the Tourism Zone. I only had two (2) responses.

I also reached out to the WI DOR- below is the email that was sent. I also have contacted Representative Kitchen's office to find out the status of LRB2153. His office is now saying that they believe it may not be necessary to move forward with LRB 2153 because of AB251. I explained that AB251 does not have language that implies how room tax payments would

be reported and paid to taxing authorities. His office is awaiting information from the WI DOR as well. As of July 11, 2019, I have had no response from either the WI DOR or Kitchens office.

It also appears from information that Justin from BLIS has received; certain divisions of the Expedia family will be complying with ACT 59 as well. Emails will be at the back of the report.

I have reached out to Attorney Vande Castle as in my notes he had suggested right after ACT 59 was signed into law that we have a "welcome" letter ready to go to Lodging Marketplaces that outline how the process will work for Door County. I resent him what I had written back in 2017 and requested that we work together to get something ready to go out to Lodging Marketplaces and their representatives. Jim Nellen and I have continued to work on this notice letter and hope to get it fine-tuned so that it can be used for the Tourism Zone to send to each Lodging Marketplace as they register and for each municipality to send a similar version to each Lodging Marketplace as they register.

AB251 has the room tax statute trapped in it along with items that everyone around the state supports because it reduces income tax due to excess sales tax revenues. Interestingly, we were contacted by the Village of Lake Delton. They inquired how we are going to handle the changes. My response is at the back of the report. The was response to my reply was immediate and replied saying their attorney and Village Clerk would be in touch.

Also attached to my report is a new report from Dan Bucks, the former director, Montana Revenue Department/Executive Director, Multi State Tax Commission from June 2019. He wrote an in-depth analysis that I shared as we looked at a Voluntary Collections Agreement with Airbnb. One important point to take away from this report is whether it is a voluntary or mandatory collection of tax by Airbnb, "at best these payments are for certain, illusory and unreliable." "Worse yet, Airbnb's secrecy business model impairs the administration if a variety of taxes and thus cause significant, unacceptable losses of revenue at all levels of government."

I particularly like this comment:

"Manatee County Tax Collector Ken Burton compared arguments that Airbnb should collect and remit the local bed tax on behalf of all of its clients in Manatee to the idea of an income tax software manufacturer telling the Internal Revenue Service that it will pay taxes owed by its customers without revealing their identities. He noted that the IRS would not permit such an arrangement and his office cannot, either."

Herald-Tribune, 8/21/2017

Sent: Monday, July 1, 2019 3:31 PM

Subject: Important changes to tax payments for Expedia Collect bookings

If You are a Short-Term Rental, You No Longer Need to Charge Wisconsin Sales and Room Taxes for Expedia Collect Bookings

Dear Partner,

We are writing to remind you of changes to Wisconsin law affecting "lodging marketplaces" facilitating bookings of short-term rentals. Wisconsin Act 59 requires a lodging marketplace to collect any state and local sales tax and remit these taxes on behalf of the owner of a short term rental directly to the Wisconsin Department of Revenue. Additionally, the law requires a lodging marketplace to collect any applicable local room taxes and remit those taxes directly to the applicable municipality.

What do I need to do?

Confirm if your property is a short-term rental as defined by Wisconsin Act 59. If you confirm that your property is a short-term rental, effective August 1, 2019 Expedia will begin collecting and remitting state and local sales taxes and any applicable local room taxes for all Expedia Collect bookings made via the companies listed below. After this date, do not charge these companies any amounts for any of these taxes.

The relevant taxes are:

- \* State sales tax
- \* County sales tax
- \* Baseball stadium district tax
- \* Local room tax

To notify us that your property is a short-term rental, please send a confirmation email to [difax@expedia.com](mailto:difax@expedia.com).

Companies:

Egencia LLC  
Expedia  
Hotels.com, L.P.  
Hotwire, Inc.  
Numinous LLC  
Orbitz, LLC  
Travelscape, LLC

If you have questions regarding the tax requirements for lodging marketplaces or Wisconsin hotel operators, you may contact the Wisconsin Department of Revenue.

Please do not hesitate to contact us about your invoicing to Expedia.

Kind Regards,

Expedia Lodging Support Services

e: [hotelhelp@expedia.com](mailto:hotelhelp@expedia.com)<<mailto:hotelhelp@expedia.com>>

w: Have a question? Contact Us via Expedia PartnerCentral

**Airbnb Registration as a Lodging Marketplace**

Mon, Jul 1, 2019 at 1:36 PM

Door County Tourism Zone &lt;info@doorcountytourismzone.com&gt;

To: david.casey@wisconsin.gov, peter.barca@wisconsin.gov, "Haines, Rebecca L - DOR" &lt;Rebecca.Haines@wisconsin.gov&gt;, nathaniel.weber@wisconsin.gov

Cc: "Rep. Kilchens" &lt;Rep.Kilchens@legis.wisconsin.gov&gt;, Rep. Jacques@legis.wisconsin.gov

Bc: Bill Weddig &lt;bweddig1@gmail.com&gt;, Jim Neilen &lt;jimneilen@townofsevastopol.com&gt;, Josh Van Lieshout - City of Sturgeon Bay &lt;jvanlieshout@sturgeonbaywi.org&gt;, kathleen.maci.schmidt &lt;kvmaci@hotmail.com&gt;, "LeClair, Elizabeth" &lt;srigger@dcwis.com&gt;, "LeClair, Elizabeth" &lt;elizabeth@squareriggerlodge.com&gt;, Mary Horton - Kerber Rose &lt;mary.horton@kerberrose.com&gt;, "Nelson, Bryan" &lt;bryan@theblacksmithinn.com&gt;, "Skare, Dick" &lt;dickskare@gmail.com&gt;, "Skare, Dick" &lt;rskare@townofbrattar.us&gt;, Dianne Lensert &lt;Dianne.Lensert@kerberrose.com&gt;

Good Afternoon,

We were advised this morning that Airbnb has registered as a Lodging Marketplace with the Wisconsin Department of Revenue.

We are looking for some assistance in navigating this change on behalf of our member municipalities.

Could you assist with the following questions?

- 1) Will Airbnb be directed to work with the Door County Tourism Zone Commission as an established Tourism Zone Commission under state statute by the Wisconsin Department of Revenue?
  - Pursuant to Wisconsin Statutes '66.0615 and Wisconsin Statutes '66.0301, the following municipalities of Door County, Wisconsin formed a Tourism Zone Commission for the purpose of promoting and developing tourism:

- Baileys Harbor
- Brussels
- Clay Banks
- Egg Harbor –Town
- Egg Harbor – Village
- Ephraim
- Gibraltar
- Forestville – Village
- Forestville – Town
- Jacksonport
- Liberty Grove
- Nasewauppee
- Sevastopol
- Sister Bay
- Sturgeon Bay – City
- Sturgeon Bay – Town
- Gardner
- Union
- Washington Island

- 2) Will Airbnb (or any other Lodging Marketplace) be supplying a list of property addresses/local permit number and amount paid for each property address with room tax payments?
  - a. The room tax collection process only works if a municipality or taxing authority has the ability to identify and reconcile room tax payments received from Lodging Marketplaces. Payments must be connected to a specific property address or local permit number which would in turn validate the municipal location of the property. By doing so, we can verify the room tax collected in a municipality can be returned to the municipality in which it was collected as required by Statute.
- 3) When will Airbnb begin collecting local room tax?

Please advise accordingly. In effort to reiterate our concerns regarding the issues with the mechanics of room tax collection by Lodging Marketplaces and the consequences that may not be foreseen or understood, I have attached our leave behind testimony on AB251 along with supporting documentation.

Sincerely,

Kim Roberts

Administrator  
Door County Tourism Zone Commission  
P.O. Box 55  
10568 Country Walk Lane Unit 102  
Sister Bay WI 54234  
920.854.6200

[www.doorcountytourismzone.com](http://www.doorcountytourismzone.com)  
[info@doorcountytourismzone.com](mailto:info@doorcountytourismzone.com)

Office hours: Monday - Friday 8 AM -4 PM



**Do you use a special software for Room Tax Collection**

5 messages

Door County Tourism Zone &lt;info@doorcountytourismzone.com&gt;

Wed, Jul 10, 2019 at 12:37 PM

To: kim@lakedeflon.org

Cc: Josh Van Lieshout - City of Sturgeon Bay &lt;jvanlieshout@sturgeonbaywi.org&gt;

Kimberly,

The change in state statute is certainly going to pose some serious issues for all Wisconsin municipalities in regards to room tax collection and distribution. We do have software in place to administer room tax, but honestly programming isn't going to resolve the issues with the legislation.

The legislation lacks language to directly define how lodging marketplaces shall remit and pay taxing authorities/municipalities. Typically, Lodging Marketplaces will remit an aggregate check with no information to verify payments. One of our many concerns is that without any information to verify payments, we will not be able to distribute room tax back to the municipality in which it was collected. If you don't already know, Lodging Marketplaces locate properties via zip code. Municipal boundaries don't line up with zip code boundaries. If Lodging Marketplaces remit based on zip code, all Wisconsin municipalities stand to receive incorrect room tax payments. The room tax collection process only works if a municipality or taxing authority has the ability to identify and reconcile room tax payments received from Lodging Marketplaces. Payments must be connected to a specific property address or local permit number which would in turn validate the municipal location of the property.

I'm not sure if your area pools their room tax revenue like some areas in the State, but if your village counts on their room tax revenue like our individual municipalities, there is great cause for concern. Room tax for our municipalities is not fun money; it is key to their operating budgets. We have been working on this issue for almost two years. We have sought correcting legislation with the assistance from our local representatives at the State level, without much success. Unfortunately, other areas in the state didn't see the issues Door County perceived with the legislation.

To return to your question, we are still sorting out how to handle the changes. Part of the unknown is what we will get from the Lodging Marketplaces. These questions remained unanswered from the WI DOR and our state representatives. So our plan is to put the Lodging Marketplaces on notice that we will not accept an aggregate check without documentation that allows us to verify the payments for each property address or online listing identification number.

Could we continue to keep the lines of communication open? I'd like to hear how things are developing in your area and if you'd like I'll keep you updated as well. Additionally, if your Village understands the issues and is as concerned as we are, perhaps we are stronger together and can work towards correcting legislation. In the end, we really feel that municipalities should have the choice and not be forced to have Lodging Marketplaces collect room tax; it's not a process that can be outsourced.

This is the software company we work with, they built our room tax software for us and are working with us to handle programming as needs arise.

<https://baylakesis.com/products/room-tax-software/>

Some good resources to understand what we may be dealing with in trying to get the information required from Lodging Marketplaces to verify payments in order to guarantee fair and equitable room tax distribution:

<https://www.ahla.com/press-release/report-states-localities-lose-money-sweetheart-short-term-rental-tax-deals>

[https://www.ahla.com/sites/default/files/Airbnb\\_Tax\\_Agreement\\_Report\\_0.pdf](https://www.ahla.com/sites/default/files/Airbnb_Tax_Agreement_Report_0.pdf)

<https://www.wired.com/story/inside-airbnbs-guerrilla-war-against-local-governments/>

I have attached my last testimony and the supporting documentation I left behind for the Ways and Means Committee from early June.

Additionally, on pages 15-17 of our annual report, there is some more detailed information on our efforts in the last two years. Here is the link:

<http://doorcountytourismzone.com/uploads/ckfiles/files/ZONE-FINAL-Annual-Meeting-Presentation-2018.pdf>

In closing, for Door County, transparency and equitable distribution of room tax is essential and a key part of our room tax model. You can take a look at our website and see that we are very data driven <http://doorcountytourismzone.com/reporting/room-tax-reporting>. Data is key to us for a few reasons: It helps us verify room tax collection and distribution from a compliance and enforcement standpoint, it is a very effective tool in measuring the effectiveness of room tax in its use for marketing of the area and finally, our statistical lodging data has helped with businesses with business plan development/ bringing in developers to the area. We stand to lose all of our data with this legislation as it stands.

Sincerely,

→BY PROPERTY REPORT:

May 2019					
Type	Revenue	Units	Units Filled	%	ADR
Hotel/Motel (50)	\$1,167,959.98	32,829	11,232	34.21%	\$103.99
Resort (51)	\$1,931,229.88	48,437	15,061	31.09%	\$128.23
Inn (52)	\$236,139.11	6,581	1,810	27.94%	\$130.46
<b>Total Commercial</b>	<b>\$3,335,328.97</b>	<b>87,847</b>	<b>28,103</b>	<b>31.99%</b>	<b>\$118.68</b>
Condo (53)	\$319,646.90	6,790	2,477	36.48%	\$129.05
Bed & Breakfast (54)	\$176,663.44	3,260	761	23.34%	\$232.15
Cottage/House/Cabin (55/56)	\$906,317.89	20,635	4,248	20.59%	\$213.35
Other (59)	\$19,081.66	1,064	162	15.23%	\$117.79
<b>Total Non-Commercial</b>	<b>\$1,421,709.89</b>	<b>31,749</b>	<b>7,648</b>	<b>24.09%</b>	<b>\$185.89</b>
<b>TOTALS</b>	<b>\$ 4,757,038.86</b>	<b>119,596</b>	<b>35,751</b>	<b>29.89%</b>	<b>\$133.06</b>

May 2018					
Type	Revenue	Units	Units Filled	%	ADR
Hotel/Motel	\$1,039,741.69	29547	10355	35.05%	\$100.41
Resort	\$1,877,665.93	47014	15970	33.97%	\$117.57
Inn	\$229,819.40	6572	1836	27.94%	\$125.17
<b>Total Commercial</b>	<b>\$3,147,227.02</b>	<b>83,133</b>	<b>28,161</b>	<b>33.87%</b>	<b>\$111.76</b>
Condo	\$319,426.81	6885	2669	38.77%	\$119.68
Bed & Breakfast	\$197,980.09	3265	893	27.35%	\$221.70
Cottage/House/Cabin (56)	\$741,125.57	19,845	3,690	18.59%	\$200.85
Other	\$20,274.57	1,024	183	17.87%	\$110.79
<b>Total Non-Commercial</b>	<b>\$1,278,807.04</b>	<b>31,019</b>	<b>7,435</b>	<b>23.97%</b>	<b>\$172.00</b>
<b>TOTALS</b>	<b>\$4,426,034.06</b>	<b>114,152</b>	<b>35,596</b>	<b>31.18%</b>	<b>\$124.34</b>

Analysis \* these are at month end reports not year end re-run comparison

Type	Diff YOY \$	DIFF UNITS	DIFF FILLED	DIFF	DIFF ADR
Hotel/Motel (50)	\$128,218.29	3,282	877	-0.84%	\$3.58
Resort (51)	\$53,563.95	1,423	-909	-2.88%	\$10.66
Inn (52)	\$6,319.71	9	-26	0.00%	\$5.29
<b>Total Commercial</b>	<b>\$188,101.95</b>	<b>4714</b>	<b>-58</b>	<b>-1.88%</b>	<b>\$6.92</b>
Condo (53)	\$220.09	-95	-192	-2.29%	\$9.37
Bed & Breakfast (54)	(\$21,316.65)	-5	-132	-4.01%	\$10.45
Cottage/House/Cabin (55/56)	\$165,192.32	790	558	2.00%	\$12.50
Other (59)	(\$1,192.91)	40	-21	-2.64%	\$7.00
<b>Total Non-Commercial</b>	<b>\$142,902.85</b>	<b>730</b>	<b>213</b>	<b>0.12%</b>	<b>\$13.89</b>
<b>TOTALS</b>	<b>\$ 331,004.80</b>	<b>5,444</b>	<b>155</b>	<b>-1.29%</b>	<b>\$8.72</b>

→REMOVED PROPERTIES 6/13/19 TO 7/10/19

Municipality	Permit #	Removed	Lodging Name	Lodging Address	Owner	Reason for Removal
Town of Gibraltar	12-56-1833-00	6/14/19	Country Farm House	3687 Gibraltar Rd	Ripley Properties LLC	Partner assumed 100% ownership of house 6/11/19. In the process of re-permitting partners with a new permit number.
Town of Gibraltar	12-53-1034-00	6/14/19	Northhaven Rohde - Unit 29007	3693 Northhaven	Kevin Rhode	Property sold.
Town of Liberty Grove	32-53-1904-00	6/26/19	Hideaway Condos, The	1744 Hillside Dr #402 & #403	Bruce Peissing - BLB LLC	No longer renting.
Town of Liberty Grove	32-56-1130-00	6/27/19	Country Garden Cottage	1763 CTH ZZ	Terry Lindenberg	No longer renting.
Village of Egg Harbor	09-56-1232-16	7/3/19	Bluffwod House	8142 Chateau	Murphy	New owner permitted #2165
Town of Washington	46-56-1064-00	7/8/19	Bauer #132	1025 Range Line	Melanie Bauer	No longer renting.
Town of Washington	46-56-1878-11	7/10/19	Carries Cottage #110	1075 Airport Road	Carrie Dewey	No longer renting.

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# REPORT:

## STATES AND LOCALITIES ARE LOSING MONEY ON AIRBNB'S TAX DEALS

### Airbnb's "voluntary" tax agreements are short-changing state and local governments by millions of dollars in tax revenue

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#### Airbnb's "Voluntary" Tax Payments are Uncertain, Illusory and Unreliable

Airbnb regularly takes credit for having produced certain amounts of revenue for various states and cities—often the numbers run into millions of dollars. It does not, however, produce a comprehensive annual report for amounts submitted to all states and localities with which it has agreements. Regardless of the amounts, what we know is that at best the payments Airbnb is taking credit for are uncertain, illusory and unreliable. Worse yet, Airbnb's secrecy business model impairs the administration of a variety of taxes and thus causes significant, unacceptable losses of revenue at all levels of government.

#### State And Localities Are Losing Millions Of Dollars In Tax Revenue From Airbnb's "Voluntary Agreements"

The "Median State" table below presents a comprehensive view of the impact the Airbnb tax agency agreements and Airbnb's 1099 reporting practices have on major federal, state and local tax revenues. **Because it is based on the midpoint of actual data from every state and DC, the table is more representative of all states than any single state.**

The table's results are for a model state with median levels of: population, urban/rural shares of that population, and tax rates. The taxes include state sales tax on lodging, local lodging taxes, federal income taxes from this state, state income tax, and local property taxes.

This table can be used to estimate revenue losses for states and the nation overall. **For example, after adjusting for different tax systems among the states, the "median state" revenue loss of \$32.45 million in 2018 translates into a total national loss of federal, state, and local revenues of \$1.64 billion in 2018 and \$3.48 billion over the 2013-2018 period.**

Median State Example: Revenue Impact of Airbnb Agreements and 1099 Reporting (millions of dollars)							
Category	2013	2014	2015	2016	2017	2018	Cumulative
State Sales Tax Loss	(0.44)	(0.88)	(1.61)	(4.69)	(8.90)	(12.46)	(28.98)
Airbnb Payments	0	0	0	4.83	9.18	12.85	26.85
Net Sales Tax Impact	(0.44)	(0.88)	(1.61)	0.14	0.28	0.39	(2.12)
Local Lodging Tax Loss	(0.73)	(1.46)	(2.60)	(7.80)	(14.82)	(20.75)	(48.17)
Airbnb Payments	0	0	(2.68)	8.04	15.28	21.39	47.39
Net Lodging Tax Impact	(0.73)	(1.46)	0.08	0.24	0.46	0.64	(0.78)
Federal Income Tax Loss	0	0	(1.06)	(3.17)	(6.03)	(8.44)	(18.70)
State Income Tax Loss	0	0	(0.30)	(0.90)	(1.71)	(2.40)	(5.31)
Total Income Tax Loss	0	0	(1.36)	(4.08)	(7.74)	(10.84)	(24.02)
Property Tax Loss	(0.38)	(0.97)	(2.08)	(7.39)	(15.09)	(22.64)	(48.56)
Total Revenue Loss	(1.55)	(3.32)	(4.97)	(11.08)	(22.20)	(32.45)	(75.47)

Notes: Median state population of 4.6 million, and median urban population of 74% of total state population; Airbnb earnings data for 2016 from March 2017 CBRE report scaled to median state size.; Growth rates used to estimate other years estimated from hotelappraisers.com study, April 2018; State Airbnb agreement assumed to start in 2016; Local Airbnb agreements assumed to start in 2015 and are in place in all localities; Median sales tax is 6%, median lodging tax is 13.5%, middle-income federal tax rate is 17.6% and state tax rate is 5%, median property tax rate differentials are 0.575% (2013), 0.585% (2014), 0.594% (2015), 0.625% (2016), 0.659% (2017 & 2018); Federal income tax loss is for income earned by lodging operators within a state only; Income tax losses attributable to reduced compliance behavior due to secrecy of income beginning in 2015; Property tax losses caused by property appraisers unable to identify short-term rental properties. Totals may not add due to rounding.

**These nationwide estimates are a measure of the revenue damage done by Airbnb's agreements as aided by tax agencies signing them—damage that may be expanding as agencies extend Airbnb agreements to other lodging marketplaces.** They are solid estimates based on mid-point data carefully analyzed. Even if cut arbitrarily and unjustifiably by a third, the losses still top \$1 billion for 2018 and \$2.3 billion over five years. If Airbnb criticizes these numbers, the reply is simple: End the secrecy. Release the data to tax agencies—the earnings, the records behind the payments, the identity and location of the lodging facilities, and more so that actual losses can be calculated. Launching criticisms from behind a wall of secrecy that hides relevant evidence is not credible or reasonable.

## **THE FACTS:**

**Airbnb has fueled its rapid growth since 2014 by offering commercial-style lodging operations using entire homes and apartments converted from residential use to transient lodging—operations that often violate local housing and zoning policies.** To prevent any of these illegal rentals from being closed, Airbnb works to keep the identity and location of its lodging operations secret from public officials. That secrecy has also encouraged operators to avoid collecting sales and lodging taxes and paying income taxes and has shielded them from commercial property tax assessments.

**Airbnb hardened the shield of secrecy for its lodging operators by offering to make payments, ostensibly for lodging and sales taxes, in return for highly questionable, special treatment by tax agencies—including being allowed to keep their lodging operators secret from all public authorities.** Unlike other taxpayers, Airbnb is also not accountable for the payments made under the agreements. Airbnb has secured such agreements in over 35 states and several hundred localities.

**The terms of the Airbnb agreements not only create uncertainty about the payments made, but they are also illusory because while they create a false impression of revenues gained, they also facilitate revenues lost.** The secrecy provisions of the agreements contribute to suppressing property taxes in a majority of states and, in conjunction with Airbnb's 1099 reporting practices, also decreases federal, state and local income tax compliance and revenues. While Airbnb's business model creates these revenue losses everywhere, the states or localities that have signed the Airbnb agreements guarantee that they will experience the full force of these losses.

**Only a sliver of Airbnb's activities represents new or increased tourist visits (two to four percent at most) to a state or city.**<sup>1</sup> Most Airbnb revenue is simply a diversion of lodging stays from traditional lodging sources, which generally collect and pay lodging taxes through a more transparent and documented tax collection process. Thus, whatever money Airbnb collects and sends to a tax agency under an agreement does not result in any significant net gain in lodging tax revenue.

**An overwhelming share of Airbnb's tax payments only make up for the lost revenue caused by Airbnb recruiting short-term rental operators who typically do not comply with sales and lodging taxes** and whose identities Airbnb keeps hidden from public agencies at the outset of the booking process. In the best-case scenario, states or cities that enter collection agreements may receive payments from Airbnb that cover sales and lodging tax revenue losses caused by Airbnb's business model in the first place.

The choice of the word "may" here is deliberate, because whether the amount of these payments equal what is actually due is uncertain under the agreements. However, even in the best-case regarding sales and lodging taxes, total governmental revenue—federal, state and local—would decline because Airbnb's secrecy shield and 1099 income reporting practices decrease revenues below what the law requires from Airbnb lodging operators for income taxes—federal, state, and local—and for property taxes where commercial property rates are higher than residential rates.

**Airbnb is not accountable for its payments because its agreements typically specify that tax agencies cannot audit the full books and records of Airbnb.** These agreements allow Airbnb to only provide anonymous data on the transactions—data that hides the name and location of the lodging operator. These unprecedented and highly irregular restrictions on tax audits make it virtually impossible to verify the accuracy of Airbnb's payments.

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<sup>1</sup> See Josh Bivens, "The economic costs and benefits of Airbnb," Economic Policy Institute, for a review of the literature on this subject. His analysis concludes that 96% to 98% of the spending related to Airbnb lodging would have occurred even if Airbnb did not exist. Travelers would have stayed at traditional lodging sources instead. His analysis refuted an Airbnb commissioned study that implausibly assumed, without evidence, that travelers using Airbnb took all their trips only because Airbnb existed.

Manatee County, Florida, Tax Collector Ken Burton described these anonymous data audits well when he compared them to:

. . . an income tax software manufacturer telling the IRS it will pay taxes owed by its customers without revealing their identities. He noted that the IRS would not permit such an arrangement and his office cannot, either.<sup>2</sup>

**These audit restrictions effectively transfer the power to determine what taxes will be paid from the tax agency to Airbnb.** That, in turn, creates substantial uncertainty as to whether Airbnb payments equal the right amount of tax. Airbnb can issue all the press releases it wishes about the payments it has sent to states and localities. However, those press releases cannot guarantee that what it paid equals what the law requires.

**On average, states tax commercial property—such as entire homes rented out through Airbnb— are 64 percent more heavily than residential property.**<sup>3</sup> These practices vary widely among the states. However, over thirty states have

effective rates for commercial property that range from 10 percent to 300 percent more than residential property. If tax assessors do not know that a residence has been converted into a short-term rental, they will continue to apply the lower residential rates to the property. In states or localities where Airbnb agreements exist, the secrecy provisions make it virtually impossible for property tax assessors to identify those short-term rentals that should be reclassified from residential to commercial property and taxed accordingly.

**The result is a nationwide property tax revenue impact estimated at \$763 million in 2018 and \$1.636 billion in the five-year period from 2013 through 2018.**<sup>4</sup> This large effect is not surprising given that property taxes are the largest revenue source for local governments. However, the impact is not uniform around the nation because of the wide variation among the states in property tax practices.<sup>5</sup> Overall, the property tax loss caused by the Airbnb agreements is nearly half of the total estimated national revenue loss for all taxes and easily overwhelms the small net revenues from Airbnb's collection of sales and lodging taxes.

**The damage to property taxes is likely greater than the estimated five-year \$1.636 billion revenue loss.** As Airbnb lodging facilities gain market share from traditional lodging sources, the assessed value of those traditional lodging facilities either declines or slows its growth. So, the property tax losses from the traditional lodging sector are also not being recouped by appropriate commercial taxation of full-time Airbnb rentals. The amount of property tax revenue foregone or lost from downward pressure on traditional lodging values is difficult to measure. However, this additional factor underscores the conservative nature of the property tax estimate.

**The importance of this property tax issue has often been overlooked in discussions of the public impact of the increase in short-term lodging rentals.** Both individual state studies and a national review are certainly overdue. Governments that have signed Airbnb agreements and that also tax commercial property at higher effective rates than residential property should place a high priority on determining how these agreements affect their property tax revenues. Unfortunately, that is huge challenge because the secrecy provisions of the agreements make it exceedingly difficult to identify properties now taxed as residences when they should be commercial property.

“Manatee County Tax Collector Ken Burton compared arguments that Airbnb should collect and remit the local bed tax on behalf of all of its clients in Manatee to the idea of an income tax software manufacturer telling the Internal Revenue Service that it will pay taxes owed by its customers without revealing their identities. He noted that the IRS would not permit such an arrangement and his office cannot, either.”

Herald-Tribune, 8/21/2017

<sup>2</sup> Quoted in Dale White, “Manatee seeks individual compliance with resort taxes,” *Saratoga Herald-Tribune*, August 21, 2017.

<sup>3</sup> Lincoln Institute of Land Policy and Minnesota Center for Fiscal Excellence, “50-State Property Tax Comparison Study: For Taxes Paid in 2018,” April 2018, p 34.

<sup>4</sup> Depending on state and local budgeting laws, the property tax revenue impact can arise, in the short-term, as either a revenue loss or a tax increase shifted to other property taxpayers. The report assumes that the impact translates into a loss for simplicity purposes and because, overtime, legal or political limits on raising property tax rates converts these impacts into chronic losses. In the either case, the dollar amount of the impact is the same whether its effect is taken out of government budgets or the budgets of other taxpayers

<sup>5</sup> The median state example uses, as it should, the average differential in tax rates between residential and commercial properties. That results in the property tax impact being the largest in the median state case for all types of taxes. However, when converting the median state example to a nationwide estimate, accounting for states with either no differential or a partial differential reduces the national property tax impact to a level slightly below the total federal and state income tax impact.

**The potential income tax losses arise, in the first instance, from Airbnb's practice of supplying 1099 income reports to only those lodging operators earning more than \$20,000 a year.** Airbnb is allowed to do so under special rules that apply to the 1099-K documents that it provides. However, some electronic marketplaces—most notably Lyft—voluntarily provide their participants with 1099 reports for all those earning only \$600 or more. The CBRE study found that in 2016 the average annual earnings for all Airbnb lodging operators was \$13,674.<sup>6</sup> Thus, a significant majority of Airbnb operators likely do not receive a 1099 report. The IRS has determined that when taxpayers do not receive 1099 or comparable reports, the rates of voluntary tax compliance fall by 56 percent, from 93 percent compliant to only 37 percent.<sup>7</sup> That impact is across the board for all income taxes—federal, state, and local—except for those taxpayers in Massachusetts and Vermont.<sup>8</sup>

**The 56 percent reduction in voluntary income tax compliance for Airbnb rental earnings yields a nationwide combined income tax revenue loss estimate of \$735 million in 2018—\$599 million in federal income tax losses and \$136 million in state losses. Over the five-year, 2013-2018 period, the total income tax losses are estimated at \$1.628 billion—\$1.327 billion federal and \$301 million state.**

**The Airbnb agreements likely decrease the level of income tax compliance below 37 percent.** Because of the growing awareness that these agreements keep secret from state tax agencies not simply their earnings but also the very existence of their lodging business, lodging operators are even more likely to fail to report their lodging rental income on their tax returns. Beyond simply the absence of 1099 reports, the impact of this active shielding of businesses from the tax agencies has not been measured. However, it is reasonable to assume that the more hidden an economic activity is, the less likely it will be voluntarily reported on income tax returns.

**Airbnb could readily remedy the problem of lost income tax revenues by simply reinstating the approach it used before tax year 2015 and that is still followed by Lyft and other online sellers** of voluntarily providing 1099 income reports for all its lodging operators that earn more than \$600 in rental income.<sup>9</sup> The alternative course is for states to adopt laws mandating a \$600 reporting threshold as Massachusetts and Vermont have already done.

**A third problem with the perceived revenue gains from Airbnb agreements, is that the payments received under those agreements are unreliable in the sense that, unlike true tax payments, the governments cannot depend on the continuing level or even existence of the payments.** This conclusion arises from both the restrictions on audits cited above and the cancellation clauses contained within the agreements.<sup>10</sup> These provisions convert the Airbnb payments from being considered taxes into a discretionary or optional contract payment.

**The agreements give Airbnb the right to cancel on short notice—thirty to ninety days—and cease the payments for any reason even though its economic activity in the jurisdiction continues.** Also, the audit restrictions in the agreement grant Airbnb the ability to reduce future payments regardless of what was actually collected from lodging guests or the level of lodging receipts attained. The definition of “taxes” does not allow taxpayers discretion to cancel or artificially reduce payments even though economic activity continues forward at the same or higher pace. If the economic activity continues, taxes need to be filed and paid in accordance with the law and not at the whim of the payor. In short, these provisions make the payments optional, instead of mandatory. Thus, the Airbnb payments likely do not qualify as taxes under governmental accounting rules.

**There are real fiscal consequences that arise from these payments not qualifying as taxes. If the payments are subject to Airbnb's discretion and cancellation, they should be excluded from tax revenues for budgeting purposes.** They should also be excluded from taxes in the governments' official accounting statements. That, in turn, can

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<sup>6</sup> CBRE, *Supra* at note 4, Table 1, p. 5.

<sup>7</sup> Internal Revenue Service, “Federal Tax Compliance Research: Tax Gap Estimates for Tax Years 2008-2010,” at <https://www.irs.gov/pub/irs-soi/p1415.pdf>. See Chart 1 at 12.

<sup>8</sup> Massachusetts and Vermont have enacted relatively new state laws that require 1099 reports to be provided to everyone earning more than \$500 a year, thus eliminating the impact of the federal 1099-K rules.

<sup>9</sup> Airbnb stopped reporting to operators earning more than \$600 when it began actively pursuing its secrecy agreements with tax agencies. Unknown if Airbnb decided sending tax agencies required copies of 1099s with lodging operator names and earnings would undercut secrecy of VCAs.

<sup>10</sup> The first report noted that the audit restrictions were one factor in disqualifying the Airbnb agreements from being treated as tax settlement agreements. However, that report did not note the impact of the cancellation clause on these issues. Both features of the Airbnb agreements disqualify (a) the agreements from being considered tax agreements, and (b) the payments from being considered taxes.

affect the credit rating of these governments. Finally, calculations of bonding capacity also cannot consider these payments to be taxes. The notion that payments cancellable on a few weeks or months' notice might be pledged as backing for repayment of long-term bonds is questionable if not foolish. For all these purposes the Airbnb payments should be accounted for as some type of optional contract payments that are less reliable than tax revenues.

**Independent auditors should review the accounting, budgeting and bonding treatment given to Airbnb payments against governmental accounting standards. Those auditors should advise state and local governments of any corrective actions those governments need to make.** More generally, elected officials should reevaluate the wisdom of accepting at face value breezy statements from a fast-growing, public relations-savvy company that says, "We want to pay taxes."<sup>11</sup> If those statements sound too good to be true, that just might be the case.

## Conclusion

Airbnb's "voluntary" tax agreements, when all relevant tax sources are considered, lose more public revenue than they gain from Airbnb's payments, and the more Airbnb grows, the more federal, state and local revenue is lost.

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<sup>11</sup> Chris Lehane of Airbnb quote in Martineau, *Supra* at note 17.