



DOOR COUNTY TOURISM ZONE COMMISSION

Administrator's Report

January 2018

Compliance: Late Letters Sent

- The number of **June 2017** "No Reports" letters sent: Fifty two (52) to owner managed properties as of 8/14/17.
 - As of 1/10/18 – One (1) remains to report – with legal counsel.
- The number of **July 2017** "No Reports" letters sent: Sixty one (61) to owner managed properties as of 9/15/17.
 - As of 11/2/17 - Seven (7) properties remain to report. All have received a final notice which had a deadline of 11/1/17.
 - As of 11/8/17 – Five (5) properties remain to report.
 - As of 12/13/17 – Two (2) properties remain to report.
 - As of 1/10/18 - - One (1) property remains – with legal counsel.
- The number of **August 2017** "No Reports" letters sent: Sixty one (61) to owner managed properties as of 10/17/17.
 - As of 11/1/17 – Twenty seven (27) properties remain to report.
 - As of 11/8/17 – Twenty one (21) properties remain to report.
 - As of 12/13/17 – Nine (9) properties remain to report.
 - As of 1/10/18 – Four (4) remain to report – All have received a compliance letter from legal counsel.
- The number of **September 2017** "No Reports" letters sent: Sixty one (61) to owner managed properties as of 10/17/17.
 - As of 12/13/17 - Twenty (20) remain to report.
 - As of 1/10/18 – Eight (8) remain to report. A final notice with deadline (1/12/18) was mailed 12/28/17.
- The number of **October 2017** "No Reports" letters sent: Forty Five (45) to owner managed properties as of 12/19/17. (With agents there was over 150 properties to report at first run)
 - As of 1/2/18 – a second notice was mailed to twenty one (21) owner managed properties.
 - As of 1/10/17 – there are fourteen (14) properties that remain to report. (two notices have gone out)

Unpaid tax/fees/penalties: The total outstanding due as 1/8/18 is: \$1,689.87 from six (6) permit holders.

First Notice	Second Notice	Third Notice	Attorney	Settlement/ Payment Plan	Collections
\$122.54	\$26.47	\$26.33	\$366.44		
\$4.50	\$25.62		\$68.91		
\$122.65			\$25.13		
			\$25.02		
			\$876.37		
\$ 249.69	\$ 52.09	\$ 26.33	\$ 1,361.87	\$ -	\$ -
\$ 1,689.98	Total Outstanding				

- **Permits:** As of 1/10/18 - *Ten (10) permits have been issued since December reporting –60% were permitted as a result of compliance efforts.*

- 6 permits were issued during the same period of 2017
- As of 1/10/18 there are 1085 permits.

- City of Sturgeon Bay – seasonal - compliance
- Town of Baileys Harbor – year round
- Town of Liberty Grove- year round – compliance
- Town of Washington – seasonal
- Town of Baileys Harbor – year round – compliance
- Village of Egg Harbor – seasonal – compliance
- Town of Liberty Grove – year round - compliance
- Town of Egg Harbor – year round
- Town of Gibraltar – seasonal – compliance
- Town of Egg Harbor – year round

- **Unpermitted Properties:** Eight (8) unpermitted properties that are advertising online without a permit and I have six (6) property owners that have contacted the office regarding permitting as of 1/10/18. Last year at this time I was working on eleven (11) unpermitted properties (January 2017).

- **VRBO/ Homeaway/ Vactionrentals.com :** Currently on VRBO there are 503 listings(505 in December) and Homeaway has 503 (505 in December) as of 1/4/18.

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

- Unpermitted Listing #2: #1177141 (Compliance letter sent)
- Unpermitted Listing #3: #1222367 (Compliance letter sent)

- **Airbnb:** Currently on Airbnb there are 290 (224 last month) rentals listed for Door County. Although when I audit all of the listings we have 276 actual listings for Door County that are active. Currently there are two unpermitted property on Airbnb and one that was active and has since taken the listing down after the receipt of the compliance letter. There has been an increase in listings because DCPM has listed 62 of their properties on Airbnb. Almost half are located in the wrong city/municipality. As of January 4, 2018 the breakdown of listings by municipality for Airbnb is as follows:

1-3-18

Airbnb Listings

by Municipality

MUNI		# of Airbnb Properties		
2	Baileys Harbor	24		
6	Clay Banks	2		
8	Town of Egg Harbor	33		
9	Village of Egg Harbor	26		
11	Ephraim	18		
12	Gibraltar	21		
14	Town of Forestville	0		
15	Town of Jacksonport	7		
27	Nasewaupee	7		
32	Liberty Grove	45		
33	Sevastopol	14		
34	Sister Bay	11		
35	City of Sturgeon Bay	36		
36	Town of Sturgeon Bay	10		
39	Gardner	8		
42	Union	2		
46	Washington Island	12	276	TOTAL IN DC
	NOT IN DOOR COUNTY	14		
			290	listings total when you search Door County

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

- Unpermitted Listing #1: # 21578526 (compliance letter sent 11/29/17) - listing deactivated 12/3/17 but still pursuing.
- Unpermitted Listing #2: #14180661 – compliance letter sent 1/2/18
- Unpermitted Listing #3: #22534319 – compliance letter sent 1/3/18

- **TRIPADVISOR/FLIPKEY:** Currently on TripAdvisor there are 42 rentals (47 in December).
- **Flipkey:** There are 41 listings (43 December) for Door County. All are permitted.

Other news:

- **Talking points regarding WI ACT 59- legislation:** I have the talking points completed. But before distributing them and/or using them, I would like feedback as to if anything should be omitted or added. Please refer to the back of the report for the talking points.
- **WDOR Registration of Lodging Marketplaces:**
- As of 1/10/18 the following entities have registered with the WDOR as lodging marketplaces -Please refer to the back of the report for the registration list.
- **There was also a Common Questions article published on 1/10/2018 by the WDOR.**
- Please refer to the back of the report for the Common Questions from the WDOR.
 - Concerns:
 - It seems very straight forward except for nexus and the real estate company information.
 - The WH&LA published a FAQ's in which they say the **property management companies would not need to register as a Lodging Marketplace as they are not an unaffiliated 3rd party.**
 - However, the WDOR says that **real estate companies that provided a website used by clients to offer short term rentals has nexus in WI and collects payments for the rentals from the occupants. It goes on to say that the real estate company is providing a platform used by an unaffiliated 3rd party to offer short term rentals.** The real estate company must register for a lodging marketplace license, a Wisconsin seller's permit and municipal requirements may apply. (Unaffiliated Third Party in other bills relating to lodging means a person that is not owned or controlled, directly or indirectly, by the same interests.). This point will need further clarification.
 - The issue of nexus with Wisconsin – The Common Questions state:
 - If the marketplace you are working with is not on this list, review your agreement with the marketplace. If the agreement does not state that the marketplace will collect the tax, ask the marketplace if it will be collecting the tax.
 - If the marketplace is required to collect tax on short-term residential lodging (e.g., has nexus with Wisconsin), the marketplace must collect tax from the occupant, forward the tax to the appropriate taxing authority, and notify the owner of the short-term residential lodging that the marketplace has collected and forwarded the taxes. **If the marketplace does not collect the tax, you are responsible for collecting and remitting the tax.**
 - The AH&LA detail in their white paper regarding Airbnb Voluntary Collection Agreements: **Airbnb's contacts with many states appear sufficient constitutionally to require it to collect, file and pay state taxes. The case for Airbnb having nexus with states is substantial:**
 1. Airbnb's business and earnings in the United States are fully dependent on its affiliation with local lodging operators,⁵
 2. Airbnb, by its own statements on its website, contracts with photographers, translators and other providers who provide services in support of lodging within the states,⁶ and
 3. Airbnb is serving as a negotiating agent for its lodging operators and occupants for tax agreements in most states.

Respectfully Submitted,

Kim Roberts
Administrator

Removed Properties 12/15/17 to 1/10/18

Municipality	Permit #	Removed	Lodging Name	Lodging Address	Owner	Reason for Removal
Liberty Grove	32-56-0433-08	12/20/17	Wagon Trail #1	1076 Wagon Trail	Emily Gransky	Sold. Repermitted under Dobrowski #1831
Village of Sister Bay	34-53-1093-02	12/20/17	Orchard 3B	10632 N Highland Rd	Ursula Youngwith	No longer renting.
Town of Egg Harbor	08-53-1040-00	1/2/18	Moore's Affordable Condos	7643 Hillside	Doris Moore	Sold her two units.
Town of Baileys Harbor	02-56-1776-00	1/4/18	Blue on Roo	7571 S Kangaroo Lake Drive	Alex and Anne Tretinyak	Repermitted through Avalara MyLodge Tax. #1829

State of Wisconsin
Department of Revenue


Lodging Marketplace License Common Questions

1. What is a lodging marketplace?
2. I am offering short-term lodging in Wisconsin. Who is responsible for collecting and paying sales tax?
3. Is short-term lodging subject to county and stadium tax?
4. What about local room taxes?
5. How do I know if the marketplace I am working with is collecting tax on my behalf?
6. What is nexus?
7. What is the occasional sales exemption?
8. Is the lodging marketplace license the same as the seller's permit?
9. If I know an individual is renting their home and is not collecting and remitting sales tax, what should I do?

1. What is a lodging marketplace?

A lodging marketplace is a person or business that (1) provides a platform used by an unaffiliated 3rd party to offer the short-term rental of a residential dwelling for a fee, for fewer than 29 consecutive days, and (2) collects the consideration for the rental from the occupant.

If the lodging marketplace has nexus with Wisconsin, the lodging marketplace must:

- Register for a lodging marketplace license ( Form S-231).
- Register for a Wisconsin seller's permit with the Department of Revenue (DOR) if the marketplace does not have a Wisconsin seller's permit.
- Collect Wisconsin sales and use taxes from the occupant and forward to DOR.
- Contact each Wisconsin municipality in which it makes short-term rentals to determine if additional registration is required.
- Collect applicable Wisconsin municipal room taxes from the occupant and forward to the municipality.
- Notify the owner of a short-term rental that taxes were collected and forwarded the appropriate taxing authorities.

2. I am offering short-term lodging in Wisconsin. Who is responsible for collecting and paying sales tax?

Homeowners or other individuals who make rooms or lodging available to the public for periods less than one month are responsible for collecting and paying sales tax on sales of short-term lodging in Wisconsin. This includes the short-term rental of a home, room, apartment, cabin, inn, motel, or any other building in which accommodations are made available to the public. "One month" means a calendar month or 30 days, whichever is less, counting the first day of the rental and not counting the last day of rental.

However, if you offer to rent short-term lodging on a lodging marketplace website, the lodging marketplace may be required to collect the tax and forward it to the appropriate taxing agency. If the lodging marketplace collects the tax, you do not need to collect the tax on those sales.

See examples below.

3. Is short-term lodging subject to county and stadium tax?

Short-term lodging is subject to the 5% Wisconsin sales and use tax. It may also be subject to the following taxes administered by the Wisconsin Department of Revenue:

- County sales tax
- Baseball stadium district tax
- Local exposition room tax
- Premier resort area tax

4. Am I required to collect local room taxes?

Contact the local municipality in which you offer short-term lodging to determine if additional registration requirements apply.

5. How do I know if the marketplace I am working with is collecting tax on my behalf?

See Lodging Marketplace License for the list of marketplaces who have registered with us for a lodging marketplace license.

If the marketplace you are working with is not on this list, review your agreement with the marketplace. If the agreement does not state that the marketplace will collect the tax, ask the marketplace if it will be collecting the tax.

If the marketplace is required to collect tax on short-term residential lodging (e.g., has nexus with Wisconsin), the marketplace must collect tax from the occupant, forward the tax to the appropriate taxing authority, and notify the owner of the short-term residential lodging that the marketplace has collected and forwarded the taxes. If the marketplace does not collect the tax, you are responsible for collecting and remitting the tax.

6. What is nexus?

Nexus, for Wisconsin sales and use tax purposes, is the connection between a seller and Wisconsin that requires the seller to collect tax on sales made in Wisconsin. Examples of activities that create nexus in Wisconsin include, but are not limited to:

- Having physical presence in Wisconsin (e.g., employees or property)
- Delivering products into Wisconsin in company-owned vehicles
- Selling, servicing, repairing, or installing products in Wisconsin
- Performing construction activities or other services in Wisconsin


See nexus (e.g., engaged in business) provisions at sec. 77.51(13g), Wis. Stats.

7. What is the occasional sale exemption?


Starting with sales made in 2018, you are not required to hold a seller's permit if your taxable sales are less than \$2,000 in a calendar year. Prior to 2018, a \$1,000 threshold applied.

If a seller holds or is required to hold a seller's permit, its sales do not qualify as exempt occasional sales (with an exception for persons who hold a seller's permit solely for bingo sales).

8. Is the marketplace lodging license the same as the seller's permit?

No. The license is for a person providing a platform used by others to offer short-term residential lodging. The permit is for a person making taxable sales in Wisconsin. If you are required to register for a  lodging marketplace license, you must also have a Wisconsin seller's permit. You may register for a Wisconsin seller's permit at tap.revenue.wi.gov/btr.

9. If I know an individual is renting their home and is not collecting and remitting sales tax, what should I do?

Complete  Form P-626, Wisconsin Tax Information Referral Form. You may email, mail or fax the form to us. More information is available at <https://www.revenue.wi.gov/Pages/FAQS/ise-fraud.aspx>.

Examples

Home-owner sells lodging using third-party website. Jane purchases a cabin in Door County. She rents out the cabin for a 14-day period using a third-party's website. The occupant pay Jane \$2,200 for lodging.

Does Jane need to apply for a lodging marketplace license?

No. Jane does not need to apply for a marketplace license because she does not provide a platform through which others offer short-term residential lodging. However, Jane is selling taxable lodging. If the third-party website does not collect the taxes from the occupant, Jane must register for a seller's permit and remit applicable taxes to the Wisconsin Department of Revenue.

Jane should contact her municipality to determine if local municipal room tax or additional registration requirements apply.

Home-owner sells lodging using own website. During 2018, John plans to rent his home each weekend of home football games. He plans to advertise the weekend rentals on his website.

Does John need to apply for a lodging marketplace license?

No. John does not need a lodging marketplace license. He does not provide a platform used by an unaffiliated third party to offer short-term residential lodging. If John's sales of short-term lodging qualify for the occasional sales exemption (do not exceed \$2,000 for the calendar year), he is not required to hold a seller's permit. He should contact the municipality to determine municipal requirements.

Real estate company. A real estate company provides a website used by clients to offer short-term residential lodging. The real estate company has nexus in Wisconsin and collects payment for the rentals from the occupants.

Does the real estate company need to apply for a lodging marketplace license?

Yes. The real estate company is providing a platform used by an unaffiliated third party to offer short-term residential rentals. The real estate company must register for a lodging marketplace license and a Wisconsin seller's permit to collect applicable taxes. Municipal requirements may also apply.

January 10, 2018

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State of Wisconsin Department of Revenue

Lodging Marketplace License

Who must register for a lodging marketplace license?

An entity that (1) provides a platform through which others offer to rent short-term residential lodging and (2) collects consideration from the occupant for the rental, must register with the Wisconsin Department of Revenue (DOR) for a lodging marketplace license if the entity has nexus with Wisconsin.

If you are required to apply for a lodging marketplace license, you must:

- Complete the lodging marketplace application, [Form S-231](#).
- Register for a Wisconsin seller's permit with the department if you do not have one.
- Collect Wisconsin sales and use taxes from the occupant and forward to DOR.
- Contact each Wisconsin municipality in which you make short-term rentals to determine if additional registration is required.
- Collect applicable Wisconsin municipal room taxes from the occupant and forward to the municipality.
- Notify the owner of a short-term rental that you have collected and forwarded the tax.

Resources	Common Questions
<p>Application for lodging marketplace license Form S-231</p> <p>List of active licenses</p> <p>Articles</p> <ul style="list-style-type: none"> • Home owners providing short-term lodging • Lodging marketplace license <p>Examples</p> <p>Municipal clerk directory</p> <p>Publication 219 Hotels, Motels and Other Lodging Providers</p>	<p>Owners</p> <ul style="list-style-type: none"> • What is a lodging marketplace? • How do I know if the marketplace I am working with is collecting tax on my behalf? • What is the occasional sales exemption? <p>General</p> <ul style="list-style-type: none"> • Is short-term lodging subject to county and stadium tax? • What about local room taxes? <p>More questions...</p>

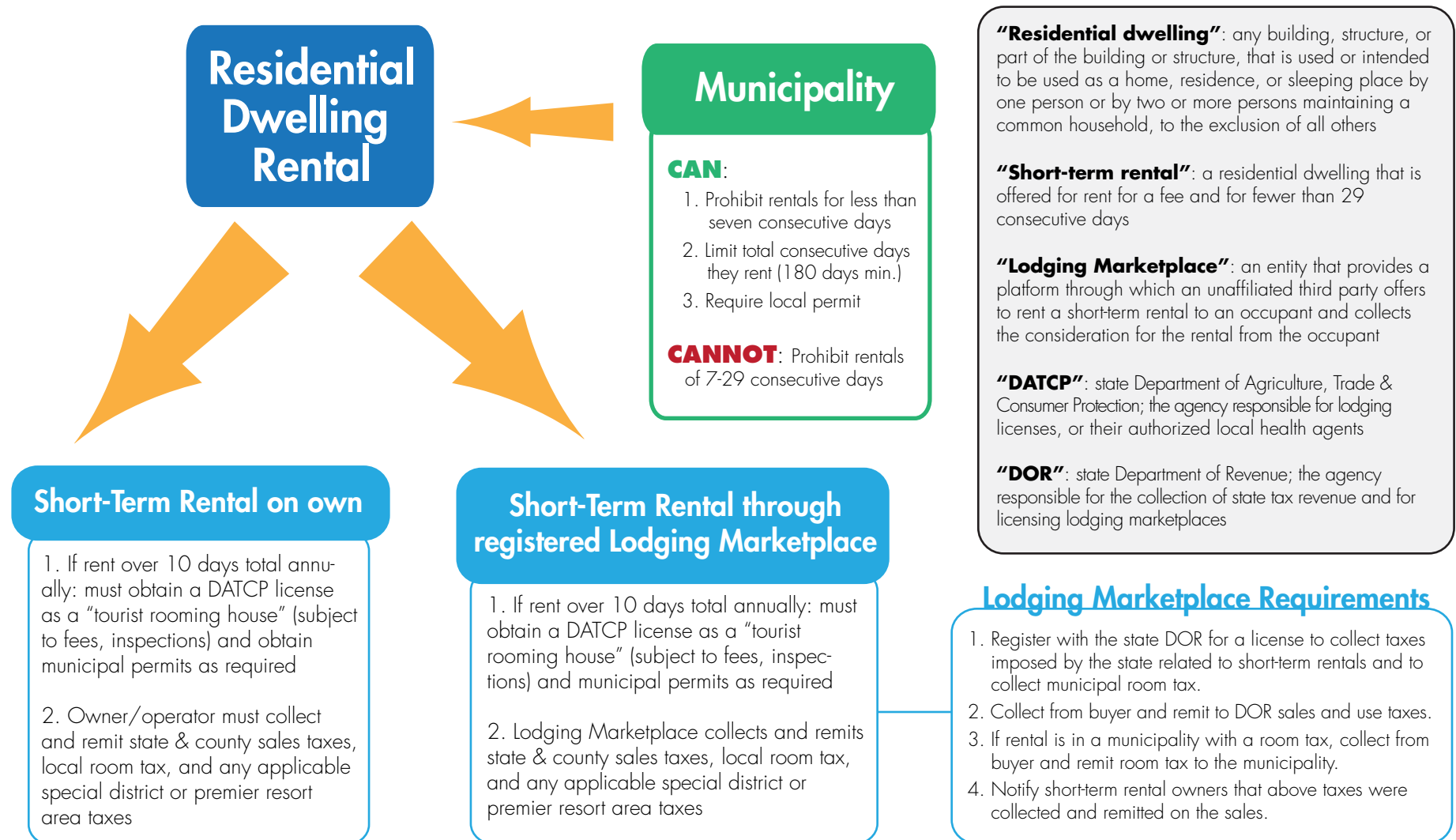
December 27, 2017

List of Active Lodging Marketplace Licensees

Licensee	Address	Issue Date
The Conger Collection	1706 Bellewood Dr, Waunakee WI 53597	11/8/2017
JPPSL LLC	14701 Crosscreek Dr, Austin TX 78737	11/9/2017
Trillium	E 10596 E Salem Ridge Rd, La Farge WI 54639	11/13/2017
Eagle River Landing LLC	4216 Drexel Ave, Madison WI 53716	11/22/2017
A.M.A.Z.E Enterprises LLC	PO Box 580207, Pleasant Prairie WI 53158	11/24/2017
Door County Waterfront Rental LLC DBA Suite On The Water	948 Memorial Dr, Sturgeon Bay WI 54235	11/24/2017
S & J Sunshine Rentals LLC	5430 Stenner Hill Rd, Boscobel WI 53805	11/24/2017

NEW SHORT-TERM RENTALS LAW

Wisconsin Act 59 - September 2017



provided by:



Wisconsin Hotel & Lodging Association | 1025 S. Moorland Road, Ste. 200, Brookfield, WI 53005
262/782-2851 | WisconsinLodging.org
Contact: Trisha A. Pugal, CAE, President/CEO | pugal@wisconsinlodging.org
November 14, 2017

Wisconsin Short-Term Rentals Law

FREQUENTLY ASKED QUESTIONS

WI. ACT 59 – SEPTEMBER, 2017

1. WHEN DOES THIS GO INTO EFFECT?

The terms of the new law are already in effect now. With a license newly required by the state Department of Revenue (DOR), the agency needed to quickly develop the application form and processes to accommodate this. As of November 3, 2017 the DOR has posted the new Lodging Marketplace forms and requirements at their website: <https://www.revenue.wi.gov/Pages/TaxPro/Short-Term-Lodging-Marketplaces-Must-Obtain-a-License-to-Collect-Wisconsin-Taxes.aspx>.

2. WHAT COMPANIES COULD BE CONSIDERED A "LODGING MARKETPLACE" AND WHICH WOULD NOT?

Large online rental platforms such as Airbnb, HomeAway, VRBO, and others that rent residential dwellings in Wisconsin all should become licensed in Wisconsin in order to legally rent these properties. Property rental companies that provide other services such as property management, contracted cleaning services, etc. would not be considered a Lodging Marketplace, as they are not an "unaffiliated" 3rd party.

3. WHEN CAN LODGING MARKETPLACES START COLLECTING/REMITTING TAXES?

As soon as a Lodging Marketplace registers properly with the state DOR, they must collect and remit the applicable taxes to both the state and the municipality (if they have a room tax) plus they must communicate with the residential dwelling owners that they have done so, so that the owner no longer is responsible for the collections and remissions on sales through that Lodging Marketplace. The owners continue to be responsible for tax collections and remissions for all rentals made from other than a registered Lodging Marketplace.

4. HOW DO WE KNOW WHO THE REGISTERED LODGING MARKETPLACES ARE?

The state DOR has advised that they plan to post a list of all licensed Lodging Marketplaces on their website by the end of the year. In the interim, each Lodging Marketplace that collects taxes on rentals must report they are doing so to the owners, so they know what is being taken care of and what is not.

5. WILL MY MUNICIPALITY NEED TO NEGOTIATE TERMS WITH AIRBNB AND OTHER MARKETPLACES IN ORDER TO RECEIVE ROOM TAX FROM SHORT-TERM RENTALS?

No, they are now required by law to do so wherever there is a room tax, and must comply with local ordinances and terms. It is in the best interests of Airbnb to try to convince municipalities to negotiate with them, as they are able to push terms that do not allow municipalities to know the sales data to enable checks and

balances on their remissions. The obligation now is that they must comply with your municipality's ordinances, so there is no advantage to negotiating a contract that relinquishes rights.

6. *WHEN WILL INCREASED LOCAL ROOM TAX REVENUE BE RECEIVED?*

New revenue coming from the Lodging Marketplaces will be seen once they register with the DOR, which may take some time for those not yet set up for automatic customized collections & remissions. However, the obligation is now more clear than ever that it is up to the residential dwelling owner renting out their property for more than 10 days/year to collect and remit state sales taxes, special district taxes, premier resort area taxes, and local room taxes if a Lodging Marketplace is not already doing so. They also are required to be licensed through DATCP, which then makes them less able to go without detection. Every community with a room tax should see additional revenue of varying amounts the first year, with further growth as compliance develops.

7. *DOES THIS APPLY TO ALL LODGING RENTALS OF LESS THAN 30 DAYS?*

No, the new laws apply specifically to "residential dwelling" short-term rentals. See the WH&LA "*NEW SHORT-TERM RENTALS LAW*" diagram that lists definitions you will need.

8. *WHAT HAPPENS IF LODGING MARKETPLACES DO NOT REGISTER?*

If those fitting the definition of a Lodging Marketplace do not come forward on their own to register as legally required, a strategy for encouragement will be developed. In the meantime, the obligation on the collection and remission of all taxes remains with the residential dwelling rental owner.

9. *WHY DOES THE LAW SPECIFY ONLY RESIDENTIAL DWELLINGS RENTED FOR MORE THAN 10 NIGHTS PER YEAR AND WHERE DOES THAT APPLY?*

This was inserted during drafting based on the current same requirement for licensed Bed & Breakfasts. However, as this stipulation is only listed under Room Tax statutes and not under state (DATCP) statutes for tourist rooming house licensure, DATCP can and will still pursue requiring licensure for residential dwelling rentals of any number of days annually.

Provided by:
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Contact: Trisha A. Pugal, CAE, President CEO
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November 2017



ACT 59 TALKING POINTS

Update: As of 1/9/2018 no further information has been provided through legislative avenues or the Wisconsin Department of Revenue "WDOR" to address any further action on the budget motion (ACT 59).

NEW SHORT-TERM RENTALS LAW:

- WI ACT 59 WAS PASSED AS PART OF THE WI STATE BUDGET AS A 999 MOTION.
- WI ACT 59 AMENDS WI STAT 66.0615
- WI ACT 59 TERMS OF THE NEW LAW ARE ALREADY IN EFFECT AS THE BUDGET HAS BEEN PASSED.
- **DEFINITIONS PER THE WISCONSIN HOTEL & LODGING ASSOCIATION "WH&LA":**
 - "LODGING MARKETPLACES" (SUCH AS AIRBNB, HOMEAWAY, ETC.) WILL BE REQUIRED TO REGISTER WITH THE STATE DOR TO RENT OUT "SHORT-TERM RENTALS," AS DEFINED IN THE MOTION: A "LODGING MARKETPLACE" IS DEFINED AS AN ENTITY THAT PROVIDES A PLATFORM THROUGH WHICH AN UNAFFILIATED THIRD PARTY OFFERS TO RENT A SHORT-TERM RENTAL TO AN OCCUPANT AND COLLECTS THE CONSIDERATION FOR THE RENTAL.
 - THE LODGING MARKETPLACES WILL BE REQUIRED TO COLLECT STATE SALES TAX AND LOCAL ROOM TAX (IN MUNICIPALITIES WITH A ROOM TAX) ON RENTALS OF "SHORT-TERM RENTALS," AND MUST REMIT THE COLLECTIONS TO THE STATE AND MUNICIPALITY. THEY MUST ALSO NOTIFY THE PROPERTY THAT THEY HAVE DONE SO.
 - A "SHORT-TERM RENTAL" IS A RESIDENTIAL DWELLING THAT IS OFFERED FOR RENT FOR A FEE FOR FEWER THAN 29 CONSECUTIVE DAYS.
- **REQUIRED LICENSING:** THE OWNER OR OPERATOR OF A SHORT-TERM RENTAL WHO RENTS IT OUT MORE THAN 10 NIGHTS A YEAR MUST OBTAIN A "TOURIST ROOMING HOUSE" LICENSE FROM DATCP, AND GET A LOCAL PERMIT IF REQUIRED LOCALLY. A "RESIDENTIAL DWELLING" IS ANY BUILDING, STRUCTURE, OR PART OF THE BUILDING OR STRUCTURE THAT IS USED OR INTENDED TO BE USED AS A HOME, RESIDENCE, OR SLEEPING PLACE BY ONE PERSON OR BY TWO OR MORE PERSONS MAINTAINING A COMMON HOUSEHOLD, TO THE EXCLUSION OF ALL OTHERS.
 - DEPARTMENT OF TRADE AGRICULTURE AND CONSUMER PROTECTION "DTACP" (STATE LODGING LICENSE AND INSPECTION) WILL STILL PURSUE LICENSING FOR RESIDENTIAL DWELLING RENTALS OF ANY NUMBER OF DAYS ANNUALLY. MOREOVER, IF REQUIRED AN OWNER MUST BE PERMITTED BY THEIR LOCAL TAX COLLECTION AUTHORITY.
- **THE FOLLOWING TYPES OF COMPANIES ARE CONSIDERED A LODGING MARKETPLACE:** LARGE ONLINE PLATFORMS SUCH AS AIRNBB, HOMEAWAY, VRBO AND OTHERS THAT RENT RESIDENTIAL DWELLINGS IN WISCONSIN. ALL LODGING MARKETPLACES SHOULD BECOME LICENSED IN WISCONSIN TO LEGALLY RENT THESE PROPERTIES. PROPERTY RENTAL COMPANIES THAT PROVIDE SERVICES SUCH AS PROPERTY MANAGEMENT, CONTRACTED CLEANING SERVICES, ETC WOULD NOT BE CONSIDERED A LODGING MARKETPLACE AS THEY ARE NOT AN "UNAFFILIATED 3RD PARTY.
- **SHORT TERM RENTALS OUTSIDE OF LODGING MARKETPLACES:** ANY PROPERTY OWNER THAT IS RENTING THEIR RESIDENTIAL DWELLING FOR MORE THAN TEN (10) DAYS A YEAR IS OBLIGATED TO PAY ALL APPLICABLE TAXES (STATES SALES TAX, ROOM TAX, PRAT TAX, & ETC.) ON DIRECT BOOKINGS AND MUST OBTAIN A DTAP LICENSE AND OBTAIN MUNICIPAL PERMITS AS REQUIRED.

WISCONSIN DEPARTMENT OF REVENUE ROLE:

- Lodging Marketplaces will collect and remit sales and room tax after they register with the WDOR.
 - No other direction has been provided to establish how, with what frequency and with what information the Lodging Marketplaces will remit room tax revenues to municipalities or a Tourism Zone Commission.
 - WDOR will only be registering and posting the registered Lodging Marketplaces on their website by the end of the year. They will have no further involvement.
 - Until the Lodging marketplaces are registered they are not supposed to start collecting room tax.
 - Once a Lodging Marketplace is registered they are to notify their hosts that they have begun tax collection.

MUNICIPAL ROLE:

- WILL MY MUNICIPALITY NEED TO NEGOTIATE TERMS WITH LODGING MARKETPLACES IN ORDER TO RECEIVE ROOM TAX FROM SHORT-TERM RENTALS?
 - No, they are now required by law to collect room tax. Wherever there is a room tax ordinance they must comply with local ordinances and terms. It is in the best interests of Airbnb to try to convince municipalities to negotiate with them, as they are able to push terms that do not allow municipalities to know the sales data to enable checks and balances on their remissions. The obligation now is that they must comply with your municipality's ordinances, so there is no advantage to negotiating a contract that relinquishes rights.
- A municipality **can** prohibit rentals for less than seven (7) consecutive days.
- A municipality **can** limit total consecutive days they rent to 180 minimum days
- A municipality **cannot** prohibit rentals of 7-29 days.

If a lodging marketplace contacts a Door County municipality – please refer the marketplace to the Tourism Zone Commission

LODGING MARKETPLACE REQUIREMENTS:

- Register with the state DOR for a license to collect taxes imposed by the state related to short term rentals and to collect municipal room tax.
- Collect from buyer and remit to the DOR sales and use tax.
- If rental is in a municipality with a room tax, collect from buyer and remit room tax to the municipality.
- Notify short-term rental owners that the above taxes were collected and remitted on the sales.

TOURISM ZONE POSITION AND CONCERNS:

✓ *The Tourism Zone Commission fully supports that all short term rentals should abide by all state and local requirements.*

- **PER AIRBNB VOLUNTARY COLLECTION AGREEMENTS, AIRBNB TYPICALLY REMITS AN AGGREGATE CHECK WITH NO REPORTING OR IDENTIFYING INFORMATION TO MUNICIPALITIES.**
 - An aggregate check without reporting information (nights available, rented and lodging sales) nor identifying information means that Door County would not be able to apply room tax payments to specific permits (with the permit municipal code identifier) for room tax distribution back to the municipality in which it was collected.
 - Moreover, without reported statistics, Door County stands to lose ten (10) years of reporting data that would hinder the abilities of the Door County Visitor Bureau to target marketing campaigns in relation to statistical lodging information.

- **WILL THE TOURISM ZONE BE ABLE TO CORRECTLY IDENTIFY PAYMENTS FROM LODGING MARKETPLACES SO THAT MUNICIPAL DISTRIBUTIONS ARE CORRECT AND ACCURATE?**
 - If a “lodging marketplace” distributes room tax back to the Tourism Zone in one lump sum with no identifying information, remitting the correct amounts back to the municipalities for which the tax it was collected in will be unworkable. What’s the issue? Location identification within the programming of lodging marketplaces and transparency.
 - **Why can’t lodging marketplaces correctly identify where a property is located- Location services:**
 - Room tax is distributed back to municipalities per state statute.
 - 30 % of the tax collected is distributed back to the municipality where it was collected.
 - From our discussions with Airbnb, our main concern is that their programming utilizes zip code data for the disbursement of room tax revenues.
 - Municipalities have multiple zip codes. We have explained that the room tax revenue needs to be distributed back to the municipality in which it was collected, and that zip codes cover multiple municipalities.

How do I edit my listing’s address or map location?

If the address or map location of your listing is incorrect, you can correct the information in the Manage Listings section of your account. If you want to edit your address because you’ve moved or you’re listing a new place, you’ll need to create a new listing instead.

Your exact address will only be seen by guests with confirmed reservations.

Edit your listing address

To edit your listing address:

1. Go to [Manage listings](#) on [airbnb.com](#), then click **Manage listing**
2. Scroll to **Guest resources**, then click **Edit**
3. Next to **Address**, click **Edit**
4. Edit your address, then click **Save**

Edit your listing’s location on the map

To edit your listing’s location on the map:

1. Go to [Manage listings](#) on [airbnb.com](#), then click **Manage listing**
2. Scroll to **Guest resources**, then click **Edit**
3. Click on the map and drag it until the location pin is in the right spot
4. Click **Save**

Note: If you change your address after accepting a reservation, you’ll need to send your guest a message with the updated location.

- We feel it is unfair for our municipalities to expect that the 30% be divided back to municipalities equally. It should be distributed based on actual collections within each municipality as it is now.
- Additional concern: Hosts can edit their location on the Airbnb map and they can edit the listing address all of which have an impact on listing identifiers. If the technology isn’t in place for the marketplace to correctly identify where a property is located and the host has the ability to move it where they want (often times to avoid being identified for compliance) how can a municipality trust the information (if any is provided) coming from Airbnb.
- *Airbnb is asking governments to trust that they are taxing the correct items (cleaning fees, etc.), remitting the*

correct room tax amount to municipalities and locating properties correctly. (SEE EXAMPLES AT THE BACK OF THE TALKING POINTS)

- **RECONCILIATION:** Room tax was put in place to increase marketing resources and support local municipalities. If the lodging marketplaces will not provide enough information to identify and allocate incoming revenue, the cost to administer (reconcile) room tax increases.
 - As the legislation stands, the change in reporting process will result in increased work and therefore expense to make every effort to reconcile payments coming in from Lodging Marketplaces.
 - **POTENTIAL PROCESS:** Attempting to reconcile what permit holders report was paid on their behalf and what was submitted by the lodging marketplace.
- **TRANSPARENCY AND INFORMATION:** Defined guidelines have to be in place for what Lodging Marketplaces must provide in their reporting of room tax. This is one area where the legislation can be improved. The legislation assumes that all municipalities will be enthusiastic about receiving an

aggregate check without information, but there are many areas in Wisconsin that take an active role in administering their room tax.

- Transparency and required information is necessary so that our municipalities have the essential information for their own audit practices as well as the Tourism Zone audit procedures.
 - They deserve the correct distribution of room tax money back to their municipality in order to be in compliance with ACT 55.
 - Transparency is essential to know the correct rate of tax has been applied and the correct taxable items have been taxed (i.e. extra person fees, cleaning fees, etc.)
 - Although the WH&LA says that the intention is to have lodging marketplaces abide by the reporting requirements of local ordinances, the legislation does not specifically indicate as such.
- **ACT 55 COMPLIANCE:** Will the Tourism Zone and its member municipalities be able to comply with ACT 55 if we do not get the information that we need from lodging marketplaces to guarantee correct distribution back to the municipalities?

New Reporting Requirements in 2017

Starting in 2017, every municipality that imposes room tax must file an annual report with the Wisconsin Department of Revenue (DOR). The form reporting 2016 activity is due May 1, 2017.

The following information from the previous year (2016) must be reported:

- Amount of room tax collected
- Room tax rate imposed
- Detailed accounting of:
 - » Amounts forwarded to a tourism entity or commission
 - » Expenditures of \$1,000 or more made by the tourism entity or commission
- For each tourism entity or commission that received room tax revenues in the previous year, a list of the commission's or tourism entity's governing body members, and the name of the business entity each member owns, operates, or is employed by (if any)
- For 2017 only, if a municipality collected room tax on May 13, 1994, the municipality must also attach:
 - » The room tax ordinance that was in effect on May 13, 1994
 - » A copy of the municipality's financial statement that was completed nearest to May 13, 1994 showing the percentage of room tax revenues the municipality retained for purposes other than tourism promotion and development

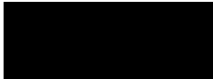
- **DELINQUENT LODGING PROVIDER ENFORCEMENT:** It will be challenging to pursue a host from Airbnb that claims that Airbnb (or another Lodging Marketplace) collected and remitted the tax.
 - Will the WDOR publish the list of lodging marketplaces with a local contact person (registered agent) on their website?
 - For example, if you set your business up as an LLC you have to be registered with the state and you have a designated registered agent. The registered agent is the person that gets sued, that is the person you will name when the sheriff serves the LLC. We don't want to see the Tourism Zone serving Airbnb in San Francisco.
 - The hope is that the WDOR will include in the registration information with the online postings and include the named local agent just as they would for a corporation with a registered agent. We don't know at this point if we get into a compliance situation that we have to figure out who we are going to have to sue.
 - Legal Counsel advises that the current provisions of the State Statute 66.0615- the basic rules we have been working from day one, **still direct that the judgment be issued against the property owner.**
 - The problem is the property owner may object because they feel the tax has already been paid by the lodging marketplace.
 - Then the question becomes how do they prove that it has been paid.
 - We don't have the means in theory if you just look at the legislation to figure it out. No one has been able to explain the new changes and put it into a format

where we can access it so that we can confirm that property owners' taxes are being properly paid or not. How that will work, remains to be seen.

- As a matter of position, the Tourism Zone Commission feels bills such as Act 59 should be stand alone legislation so that all parties can discuss, work together and create a well vetted bill.

HOST CONCERNS DIRECTLY FROM THE COMMUNITY FORUMS OF AIRBNB:

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- Governments and hosts alike are asked by Airbnb to “trust” that they are doing it correctly. However, when hosts ask for proof this is their response (directly from their community forums, just one of many hosts with issues/concerns):



01-13-2017 05:27 PM

Hi Pat

Just spoke to Airbnb. They confirmed they are collecting the occupancy taxes for me. And that there would be no verification or records sent!! They basically asked me to trust that they are handling it.

I gave them some feedback suggesting that for those of us who have been dutifully paying it for years, having no record or confirmation that it is being paid is asking for a huge leap of faith and maybe they need to build some reassurance/records into the system going forward.

I also thanked them for collecting the taxes as it was a royal pain the arse for me. I then asked about Washington State on your behalf and the guy I spoke to did not want to commit in case he was in error.... seems the wording on Washington State was a little confusing.... but directed you to the Help Center and Occupancy Tax Collection Section. If you haven't already done that...you can click on "location" for information in your area. But again, even if they are collecting it, there is no promise of records, so perhaps they need to hear from a few people that confirmation of payment is necessary/requested.

I hope this is helpful. I asked the guy I spoke with to pass on my concerns to the powers that be.

Very best to you,

Maddy



- Moreover, they aren't paying taxes across the country on the correct taxable items – often times leaving the host to pay the shortfall.



04-12-2017 10:03 AM

Hi Folks,

I have heard from my accountant that Airbnb is paying the occupancy tax but paying it short. It's supposed to be 10.951% for AZ and they are apparently paying on 10%. Also they are not paying taxes on cleaning income which AZ requires. So I have to pay the shortfall. I am going to contact Airbnb and ask them they are saying, "We take care of the occupancy taxes for you now" and then leave a shortfall.

Is anyone else experiencing this?

Cheers,

Maddy, Host in AZ

