Vermont Legislative Joint Fiscal Office

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FISCAL NOTE

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S.204 An act relating to the registration of short-term rentals – House Ways and Means recommendation of amendment – Draft 7.1
https://legislature.vermont.gov/assets/Documents/2018/WorkGroups/House%20Ways%20and%20Means/Bills/S.204/S.204~Katie%20McLinn~HWM%20Amendment,%20Draft%207.1~5-7-2018.pdf

Amendment Summary
The proposed amendment is a strike-all of the version of this bill that passed the Senate. The House amendment would not impose any new taxes or fees, but would be aimed at giving the Tax Dept. more authority to enforce current tax law. Owners of short-term rental[1] units would need to obtain and post the meals and rooms (M&R) license number on any advertisements for the unit as well as contact info for select State entities within the unit. The Tax Dept. would be responsible for providing short-term rental operators with educational materials upon initial M&R licensing. Several executive branch agencies would be required to report to the legislature in 2019 and 2020 regarding short-term rentals. The bill would go into effect on July 1, 2018.

Fiscal Summary

S.204 Revenue Summary *(preliminary estimates)*			
	Estimated Annual Uncollected Taxes from Short-Term Rentals[2]	**FY2019 Estimated New Tax Collections**	**FY2020 Estimated New Tax Collections**
Meals and Rooms Tax (general fund)	\$648,000 - \$1,836,000	**\$185,000**	**\$370,000**
Personal Income Tax (general fund)	\$166,000 - \$470,000	**\$45,000**	**\$90,000**
Total	\$814,000 - \$2,306,000	**\$230,000**	**\$460,000**

The revenue numbers in the table above are highly preliminary and should be monitored closely as this bill is implemented. Under this proposal, JFO and the Tax Dept. have agreed to an assumption that approximately 15% of the annual uncollected taxes would be collected in FY19 and 30% in FY20. In future years the annual amount of uncollected taxes from short-term rentals could decrease by 80-90%. The Tax Dept. believes that it can accomplish this level of compliance without any additional staffing or administrative costs.

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[1] Per 18 VSA §4301(a)(14) a "Short-term rental" means a furnished home, condominium, or other dwelling rented to the transient, traveling, or vacationing public for a period of fewer than 30 consecutive days and for more than 14 days per calendar year.
[2] See Appendix for a full analysis of the short-term rental market in Vermont.

Appendix:

Short-Term Rentals – The Vermont Market

Several variables must be identified, either by actual data or by proxy, prior to any analysis of the possible revenues from short-term rental registration fees, or increases to meals and rooms tax remittances and even changes to personal income taxes paid. The variables are as follows:

1. How many unique short-term rentals are there in Vermont? *Unique* for purposes of this analysis means the number of short-term rentals that are not duplicated across multiple rental platforms.
2. How much revenue does the average short-term rental generate per year?
3. What percentage of short-term rental hosts are either under-reporting or not reporting rental revenues for purposes of taxation?

Currently, no states require short-term rental registration and fee payment at the state level. However, numerous cities have enacted regulations and/or registration requirements for short-term rentals. Three cities that have registration requirements, and whose populations most closely mirror that of Vermont, are: Denver, Seattle and Portland, OR. A report from the Puget Sound Sage[3] in June 2016 estimated approximately 4,170 Airbnb listings in Seattle with an additional 2,500 listings across a small sampling of other platforms. The same report estimated the number of Airbnb listings in Portland, OR at 3,128. The number of unique short-term rentals in Denver was estimated to be 3,866 as of January 2018 in a report[4] to the Denver Short-Term Rental Advisory Committee.

In its 2017 report[5] to the Vermont Legislature, the Short-Term Rental Working Group indicated that a sampling across multiple rental platforms yielded approximately 5,100 listings on Airbnb and a further 10,500 listings on three other platforms. These numbers likely include duplicate properties, any lodging establishments that may advertise on short-term rental platforms and properties that do not meet the definition of short-term rental. Additionally, the sampling was taken during the busy peak summer/fall season in Vermont when property owners throughout the state may have been advertising on rental platforms. In other times of the year, tourist activity is primarily in ski resort areas, other winter sport areas or the Burlington area, which would impact short-term rental activity. The same report highlighted that there are approximately 3,600 active Airbnb hosts in Vermont, who each generate approximately $5,900 in short-term rental revenue each year. Approximately 88% of hosts only rent a single unit, 8% rent two units and the remaining hosts rent three or more units. Airbnb has an agreement with the State of Vermont to collect all meals & rooms taxes on behalf of hosts and remit the taxes to the State.

In its analysis of the potential tax impacts of S.204, the Tax Department performed a search of open meals & rooms accounts to isolate accounts with no corresponding withholding account, no business name, and with tax remittances between $200 and $9,000 over the course of a year. The lack of a withholding account generally would mean that there are no paid employees, which could mean that the account is associated with a short-term rental. Based on the results of the search, Tax found approximately 4,800 open meals and rooms accounts that meet the guidelines above. Each account represented approximately $1,500 in meals & rooms tax remittances over the course of a year, which would represent $16,700 per account in taxable revenue. This represents significantly more short-term rental revenue than what was indicated in the working group report. Based on audits of vacation

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[3] http://pugetsoundsage.org/wp-content/uploads/2016/12/PSS_ShortTermRentals.pdf

[4] http://www.denvergov.org/content/dam/denvergov/Portals/723/documents/STRAC_PP_1.30.18.pptx

[5] Short-Term Rental Working Group report required by Act 76 of 2017. https://legislature.vermont.gov/assets/Legislative-Reports/2017-Act76-ShortTermRental.pdf

rentals, the Tax Department also has estimated approximately 60% compliance with meals & rooms tax remittance.

Based on the information above, the following assumptions have been made for this fiscal note:

1. <u>Airbnb listings = ~4,000</u> (3,600 Airbnb hosts; 88% of whom rent one unit = ~3,200 units; 8% of whom rent two units = ~600 units; 4% rent three or more units, of which many are probably lodging establishments = ~200 units)
2. <u>Other listings = ~8,000</u> (4,800 meals and rooms accounts divided by 60% meals and rooms compliance rate)
3. <u>Total *unique* units = ~6,000[6]</u> (Equal to the sum of Airbnb listings and Other listings divided by 2 to solve for duplication across rental platforms and for units that don't meet the definition of short-term rentals)

Per the assumption made above, Vermont has approximately 6,000 unique short-term rental units. The Tax Dept. currently has an agreement with Airbnb in which Airbnb will collect and remit meals and rooms taxes on behalf of hosts that rent out short-term rentals through its platform. Of the 6,000 unique units calculated above, Airbnb units consist of approximately half of the total number, or 3,000. For meals and rooms tax purposes, this analysis assumes that all Airbnb units are fully compliant with tax reporting and remittance and that 60% of other units are compliant with tax reporting and remittance. The current meals & rooms tax rate is 9%. For the purposes of calculating potential personal income tax liability, this analysis assumes that 80% of all units are compliant with tax reporting and remittance. When calculating personal income tax liability, the lowest state marginal rate of 3.55% will be used.

For the purposes of determining the level of short-term rental revenue subject to the meals & rooms tax and/or personal income tax, this fiscal note will offer a "high end" estimate and a "low end" estimate. The actual number likely would fall somewhere between the high end and low end. The high estimate represents annual remittances made to Tax by the open meals and rooms accounts discussed above, which were approximately $1,500 per account representing approximately $17,000 in short-term rental revenue per account (which could include multiple properties). The low estimate represents the number in the working group report as the average annual revenue brought in by Airbnb hosts, which was $5,900 (rounded to $6,000 for this analysis). This analysis assumes that the average host would deduct approximately 35% in eligible business deductions from taxable income. See the full analysis in the table below.

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[6] This number is higher than the unique number in cities of similar population.

Estimated Potential Uncollected Meals & Rooms Tax from Short-Term Rentals			
	AirBnB	Other Platforms	Total
a) Unique short-term rentals	3,000	3,000	6,000
b) Annual Revenue per rental – High	$17,000	$17,000	
c) Annual Revenue per rental – Low	$6,000	$6,000	
d) M&R tax non-reporting rate	0%	40%	
e) M&R Tax owed – High (((a x b) x d) x 9%)	***~$0***	***~$1,836,000***	***~$1,836,000***
f) M&R Tax owed – Low (((a x c) x d) x 9%)	***~$0***	***~$648,000***	***~$648,000***
Estimated Potential Uncollected Personal Income Tax from Short-Term Rentals			
	AirBnB	Other Platforms	Total
a) Unique short-term rentals	3,000	3,000	6,000
b) Annual Revenue per rental – High	$17,000	$17,000	
c) Annual Revenue per rental – Low	$6,000	$6,000	
d) Taxable Income (%) – after deductions	65%	65%	
e) Personal income tax non-reporting rate	20%	20%	
f) PI tax owed – High ((((a x b) x d) x e) x 3.55%)	***~$235,000***	***~$235,000***	***~$470,000***
g) PI tax owed – Low ((((a x c) x d) x e) x 3.55%)	***~$83,000***	***~$83,000***	***~$166,000***