

Online travel companies

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Vermont rooms tax

- Imposes a 9% tax on the rent paid for an occupancy.
- “Occupancy” means “the use or possession, or the right to the use or possession, of any room or rooms in a ‘hotel’ for any purpose”.
- “Hotel” means “an establishment that holds itself out to the public by offering sleeping accommodations for a consideration”.

Vermont rooms tax

- The tax is collected and remitted to the State by the operator of the hotel.
- “Operator” means “any person, or his or her agent, operating a hotel, whether as owner or proprietor or lessee, sublessee, mortgagee, licensee, or otherwise ...”

Hotel model

- A traveler goes to the website of a hotel in Vermont and books a room.
- The traveler stays in the hotel, and is charged the hotel rate, plus a 9% rooms tax.
- No other parties are involved.
- The hotel keeps the room charge and forwards the \$9 to the State.

Merchant model

- When a traveler uses an online travel company (the "merchant" model), the traveler books a hotel through the OTC 's website.
- The traveler pays one unified charge to the OTC, which encompasses:
 - the room rate agreed upon between the OTC and the hotel
 - the taxes owed on that amount, and
 - the remainder, which is kept by the OTC.

Merchant model example

- Traveler pays OTC \$109
 - \$100 for room rate
 - \$9 for taxes
- OTC pays hotel \$87.20
 - \$80 for agreed room rate
 - \$7.20 representing 9% tax on \$80
- OTC keeps \$21.80, or \$109 minus \$87.20
- State receives \$7.20 rather than \$9 paid by traveler

Options

- Numerous states and localities have sued OTCs claiming they fit their existing definitions of hotel “operator”.
- Litigation results have been mixed, but trend in favor of the OTCs.
- Legislation in other states have sought to bring clarity imposition of tax on entire rate.

States with laws taxing full amount collected by OTC

- New York (2010)
- North Carolina (2011)
- South Carolina (2011)
- Georgia (2012)
- Minnesota (2012)
- Oregon (2012)
- Wyoming (2015)
- Rhode Island (2015)
- Maryland (2016)
- Pennsylvania (2018)