



Short Term Rentals

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Disclaimer

I am not an attorney. I am not giving legal advice.

The items we will be discussing today are based on our experience and knowledge. Other jurisdictions or the city/town internal staff may have additional insights and opinions.

Key Concepts



Industry Overview



Short Term Rental (STR):

The rental of a property—or any portion of it—for fewer than 30 consecutive days.



Lodging Provider:

The individual or business responsible for providing or operating a STR.



Marketplace Facilitator (MPF):

Platform facilitating sales and payment processing for third-party sellers.



Online Travel Agency (OTA):

Airbnb, Expedia, or VRBO, etc. (many also qualify as MPFs)

Nexus

The legal connection between a business and a taxing jurisdiction that creates an obligation to collect and remit applicable taxes.



Physical Nexus

Established through a physical presence such as employees, property, inventory, offices, or other business activities.



Economic Nexus (EN)

Established when sales activity reach specified thresholds, such as dollar amount of sales or number of transactions.

Colorado: \$100,000 during a calendar year

Tax Types



Tax Types Applicable to STRs

Sales Tax

Lodging Tax

Short-Term
Rental Tax

Use Tax

Sales Tax

- Tax imposed on the sale of lodging
- Collected by the State or home rule city
- Revenue commonly supports the General Fund

Short-Term Rental (STR) Tax

- Local tax imposed specifically on short-term rentals
- Tax base and rate depend on the local ordinance
- A jurisdiction may impose more than one STR-related tax
- Revenue use varies and may be dedicated to specific purposes

Lodging Tax

- Tax imposed on lodging, generally in addition to sales tax
- Commonly applies to hotels and short-term rentals
- Revenue is often used for tourism
- Collected by the local jurisdiction

Use Tax

- Tax imposed on the storage, use or consumption of items purchased to run the business
- Revenue commonly supports the General Fund
- Collected by the local jurisdiction

Compliance Issues



STR Compliance Challenges

1. Collection responsibilities vary by contract

MPF collection agreements may differ from one lodging provider to another, even within the same jurisdiction.

2. MPF obligations vary by jurisdiction

Local ordinances determine which taxes the MPF is required to collect and remit.

Marketplace Facilitator Issues

- Not collecting or remitting applicable taxes
- Collecting and remitting only certain tax types
 - Often occurs when local ordinances do not clearly require MPFs to collect and remit specific taxes
- Collecting tax but remitting funds to the lodging provider instead of the jurisdiction
- Collecting and remitting tax only on the marketplace service fee or markup

Lodging Provider Issues

- Reporting tax that has already been remitted by the MPF
- Uncertainty regarding who is responsible for filing and remitting taxes collected by the MPF
- Operating independently (without MPF) and failing to collect or remit applicable taxes

Taxability & Sourcing Issues

- Mandatory charges incorrectly excluded from the taxable base
 - Cleaning fees
 - Pet fees
 - Cancellation fees
 - Resort/service fees
 - Other mandatory charges, where taxable under local ordinance
- Properties incorrectly coded as being outside city limits

Comments / Questions



Thank You

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