

MINISTRY OF JOBS, TOURISM AND SKILLS TRAINING
AND MINISTER RESPONSIBLE FOR LABOUR
INFORMATION NOTE

Cliff #: 111304

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PREPARED FOR: Honourable Shirley Bond, Minister of Jobs, Tourism and Skills Training and Minister Responsible for Labour.

ISSUE: Airbnb: overview of issues and current status.

BACKGROUND:

Airbnb was founded in 2008. It is an online home rental service where residential property owners rent out living space to travellers as accommodation alternatives to hotels. It has quickly grown into an international service of 15 million guests, with over 550,000 rooms in 35,000 cities and 192 countries. Despite significant economic and tourism benefits, there are concerns from hotel associations and some governments about unfair competition with the traditional hotel industry and the potential for non-compliance with legislative/regulatory requirements, including tax obligations.

A number of BC communities, as well as the BC Hotel Association, have raised concerns around a seemingly uneven playing field, primarily focused on (the lack of) tax collection obligations for private online accommodations offered through websites like Airbnb and Vacation Rental by Owner (VRBO).

DISCUSSION:

Economic and Tourism Benefits: According to Airbnb, their service contributes to local and tourism economies, as their guests stay an average of 2.3 days longer and spend \$200 more, compared to those who stay in traditional accommodations. Over half of this money is spent in neighbourhoods that traditionally do not enjoy the benefits of the tourism industry, as 76% of listed homes are outside traditional hotel zones.

For homeowners sharing their homes with travellers, the economic benefits can be significant. Many Airbnb homeowners have moderate to low incomes and 42% say hosting enables them to stay in their home, as the income they generate is spent on living expenses. Since many cities that are attractive to tourists also have high housing prices, home sharing has become an attractive way of supplementing incomes.

Potential Issues: Airbnb hosts operate in a complex environment of local bylaws, tenancy agreements, safety regulations, hospitality standards, strata regulations, federal, provincial and municipal tax obligations, and other local requirements that they may not be fully aware of and/or understand. Airbnb has implemented risk management measures by requiring hosts to agree to their Terms of Service, where they must indicate their property complies with all local regulations. However, Airbnb does not track or enforce this compliance. Some jurisdictions, such as Quebec, London,

Amsterdam, and San Francisco, have implemented solutions to address these issues (see Appendix One).

Rental Housing Market: Although there is a lack of data to confirm what impact short-term rentals such as Airbnb and VRBO are having on the supply of long-term rental housing, recent media stories are pointing to a link in the dropping rental vacancy rate and the rising number of accommodations available for short-term renter. According to Canada Mortgage and Housing Corporation's Spring 2015 Rental Market Survey, the British Columbia apartment vacancy rate declined to 1.8 per cent in April 2015 from 2.4 per cent in April 2014, the lowest vacancy rate among the ten provinces. There may be a financial incentive for landlords and property owners to rent their property to short-term travellers rather than long-term tenants.

Taxation: There are two main issues related to the taxation of online home rental services: 1) what is taxable and 2) enforcement of existing collection obligations.

Taxable accommodation

Provincial Sales Tax (PST) applies to accommodation purchased in BC, unless there is a specific exemption. Taxable accommodation providers are required to be registered with the province and are obligated to levy, collect and remit the tax payable from customers. Accommodation providers offering fewer than four units of accommodation are exempt from PST. The Municipal and Regional District Tax (MRDT) applies in the same manner as the PST in designated accommodation areas of the province.

Enforcement of existing collection obligations

Airbnb is not offering or providing accommodation, but is providing a service that connects those offering accommodation with those who are seeking accommodation. Therefore, the obligation to levy, collect and remit the tax falls on those offering four or more units accommodation (i.e. the "host") and not on the online home rental service (i.e. Airbnb).

Hosts offering four or more units of accommodation that are not in compliance with PST registration and collection obligations are subject to penalties and compliance action.

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Recent Developments in Other Jurisdictions:

San Francisco: An initiative to restrict and regulate short-term rentals such as Airbnb in San Francisco was defeated on November 3, 2015. The measure would have capped rentals at 75 days per year, whether or not they are hosted (meaning that the resident is at home during the renter's stay). If passed, it would have required guest and revenue reports from rental hosts and Airbnb every three months to monitor occupancy rates. The proposed regulation was designed to prohibit the use of in-law units for short-term

rentals and allow interested parties, such as neighbours or landlords living within 100 feet of shared accommodation, to sue companies such as Airbnb if their hosts violate the new rules.

Current San Francisco law limits rentals to 90 days per year for unhosted rentals, while hosted rentals have no limit.

New York: An October 2015 report for the Hotel Association of New York City (NYC) outlines the estimated impact of Airbnb on the local lodging industry and economy of NYC from September 2014 to August 2015. The report indicates a direct loss of \$0.5 billion to the NYC hotel industry. When other losses are considered, such as construction sector losses, indirect and induced economic impacts and effects on taxes, the total loss reaches \$2.1 billion for the NYC economy.

Quebec: Legislation was introduced in October 2015 to require Airbnb rentals to follow the same regulations that hotels and other forms of accommodation do, including collecting tax, in order to “level the playing field” between hotels and Airbnb. Quebec would be the first province in Canada to do so, although some U.S. states and major cities such as London, Amsterdam, and San Francisco have introduced some regulatory frameworks for Airbnb.

CONCLUSION:

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JTSTL staff will continue to monitor these issues and solutions other jurisdictions are investigating to regulate the online accommodation sector.

ATTACHMENTS:

Appendix 1: Policies Regarding Airbnb in Vancouver and Other Jurisdictions

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APPENDIX 1

Policies Regarding Airbnb in BC and Other Jurisdictions

Vancouver: Vancouver is Airbnb's third largest destination in Canada. There are thousands of Airbnb accommodations in Vancouver renting for an average \$90/night. The key issue revolves around Airbnb guests taking away valuable inventory in a very tight housing market. Some Airbnb hosts just rent a bedroom in their unit, but others own or rent several units in more than one building. This limits the number of units that can be rented or bought by Vancouverites. Hoteliers also have concerns that Airbnb guests do not have to pay PST or MRDT, making them more attractive than traditional hotels/motels.

The City of Vancouver Planning Department has not yet designed any specific policies for shared vacation rental businesses, except to reiterate that short-term rentals are not allowed in multiple dwelling units, as they would be classified as hotels. City staff use a number of inspection and bylaw tools to monitor that local bylaws are being upheld.

Whistler: Tourism Whistler is supportive of companies like Airbnb, but wants to ensure there is a level playing field with hotels operating in Whistler. Tourism Whistler is currently developing an inventory of units being offered on Airbnb, HomeAway, FlipKey and other online shared accommodation services. Once the inventory is completed, they will work with the Resort Municipality of Whistler to ensure the units are legal. They then hope to work with the Province to ensure taxes and fees are being paid; there is no displacement of employee housing, there is no disruption to residential neighbourhoods, and the units meet building codes and safety regulations.

Quebec: Airbnb's largest destination in Canada is Montreal. Quebec is under similar pressures as BC from their hotel industry to make Airbnb hosts comply with the regulations hotels currently operate under. Tourism Quebec is in early-stage discussions with Airbnb to collect and remit their provincial hotel tax, which ranges from \$3.00/night or 3/3.5% depending on which of the 22 tourism regions the accommodation resides in.

This hotel tax currently applies to accommodations with one unit or more. Airbnb hosts would be required to obtain a Classification Certificate before enrolling in the hotel tax program. Any tourism accommodation without a certificate is currently illegal and fines range from \$750 to \$6,750 per day. This certificate also requires the hosts comply with all local bylaws and regulations, which usually state that only bedrooms within houses/condos can be rented out while the host is present.

Ontario: Ontario has not announced any plans related to taxation; however, its 2015 budget included a commitment to "working with [sharing economy] firms and industries to help them comply with existing obligations and to consulting on an ongoing basis to ensure those obligations reflect a changing economy."

London, England has changed their policies from threatening homeowners during the 2012 Olympics with fines of up to £20,000 and criminal records if they attempted to rent out their properties, to now (March 2015) allowing homeowners to rent out their homes on Airbnb and other short-stay websites without penalties. "It's time to change the outdated, impractical and restrictive laws from the 1970s, open up London's homes to visitors and allow Londoners to make some extra cash," the Parliamentary Communities Secretary said. Protections will still be retained to prevent housing stock intended for Londoners being used solely for short-term rentals.

New York, USA currently has over 19,000 Airbnb units. In 2014, the city changed its municipal policy to allow Airbnb hosts that operate like a business (having multiple units, currently up to 80) to rent out rooms as long as a permanent occupant of the home is in residence. It is legal to rent out a spare room if the tenant or owner is present at the time, but it's still illegal to rent out an apartment or to operate whole buildings where no one is living on a permanent basis. Airbnb has been trying to win over regulators and lawmakers in New York by pledging to crack down on illegal hotel operations and remit to the city over \$65 million/year in hotel taxes from their units.

San Francisco, USA was paid up to \$25 million by Airbnb in February 2015 towards the city's 14% hotel tax on short-term rentals going back several years, along with penalties for not having collected the hotel tax. Critics of Airbnb, however, say the short-term rentals of rooms, apartments and even whole houses, is changing residential neighborhoods for the worse and subverting the city's rent-control laws.

Amsterdam, Holland recently gave final approval to a new policy that embraces home sharing, which is the first of its kind in Europe. The agreement includes a website for hosts that include information and links to rules that may affect people renting their homes in Amsterdam. Airbnb collects and remits tourist tax on behalf of hosts and is working with the city to tackle illegal hotels.