

# Transient Lodging Tax, HB 2656

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Current law on Transient lodging tax states:

ORS 320.305. (1) a tax of one percent is imposed on any consideration rendered for the sale, service or furnishing of transient lodging.

- In the beginning the price that consumer paid and the provider received was about the same. Therefore, there was no discrepancy in the tax base.
- With the emergence of the Online Travel Companies (OTC) the price received by the provider (hotel/motel) became a wholesale price, resulting in two prices (wholesale and retail).
- A retail price paid by the direct consumers and a wholesale price (not including fees) paid by the OTC produced two different prices that the tax applies to.
- In practice, the de facto price (tax base) became the price received by the provider regardless to who pays or what the consumer pays.
- Additional discrepancy emerged when added items were being applied to the consumer price but not applied in the tax base price. These items include resort fees, internet fees and cleaning fees for some resorts and vacation rentals.
- The result is that the tax applies to a new de facto “room rate” that is less than what the consumer pays as room rent.
- Those added fees that are not optional should all be subject to the tax (retail price tax base).

According to legislative council “*any consideration rendered for the sale, service or furnishing*” is already broad enough definition of the retail price as the base of the transient lodging transaction and by definition include all non-optional fees.

In other words not applying and enforcing the law correctly does not change the original meaning or defined retail tax base in the law. Thus, to realign the practice and maintain consistency to the original meaning, the following explanation is added to the original language.

**(b)(A) The tax must be computed on the total retail price, including all charges other than taxes, paid by a person for occupancy of the transient lodging.**

**(B) The total retail price paid by a person for occupancy of transient lodging that is part of a travel package may be determined by reasonable and verifiable standards from books and records kept in the ordinary course of the transient lodging tax collector’s business.**

**(c) The tax shall be collected by the transient lodging tax collector that receives the consideration rendered for occupancy of the transient lodging.**

**(d) The tax imposed by this subsection [shall be] is in addition to and not in lieu of any local transient lodging tax. [The tax shall be collected by the transient lodging provider.]**

**(2) The transient lodging [provider shall] tax collector may withhold a collection reimbursement charge of five percent of the amount [the provider collects] collected under subsection (1) of this section [for the purpose of reimbursing the provider for the cost of tax collection, record keeping and reporting].**

All the additions are emphasized (in section 2 of the bill) as an explanation of the law for administration and enforcement purposes and not new requirements.

**SECTION 2. The Legislative Assembly declares that it is the purpose of the amendments to ORS 320.300, 320.305, 320.310, 320.315, 320.320, 320.325, 320.330, 320.345, 320.347 and 320.350 by sections 3 to 12 of this 2013 Act to enhance the administration and enforcement of existing law governing transient lodging taxes in this state.**

Conclusion: Passage of HB 2656 will obligate DOR to interpret and enforce the current statutes relating to the Transient Lodging Tax as applicable to the retail price of lodging. This price is different than the de-facto wholesale price used today by the industry. The wholesale (base) price used today does not include services and fees. The retail price (as the bill enforces current law) will be inclusive of all (non-optional) fees and services included in the rental price. Vacation homes and rentals will also be obligated to use the retail price which is inclusive of cleaning fees and other services.