



# Local Lodging Taxes:

## Legal Requirements and Changes Needed re TLT Administration

Lodging Tax Statutes: ORS 320.300 – 320.990

Local Tax Provisions: City/County adopted ordinances, charters

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# Local Lodging Tax.... Basic Facts

- Lodging taxes are a **local option** & rate is set by city/county
- 2016 report counted **91** of the 242 cities and **16** of the 36 counties with a local lodging tax.
- Tax must be computed on the **total retail price**. (ORS 320.350(7))
- Tax generally is a **percentage of lodging charges** incurred by the customer.
- Today, tax rate ranges are **2% to 13.5%**. (Most are 6-9%.)
- Local lodging taxes have been imposed for **decades**. (State tax began in **2004**)



# Local Lodging Tax...Basic Facts

- Subject to tax: Facilities that are taxed vary by jurisdiction but most seem to apply **state definitions and exemptions**. (See ORS 320.300(11) providing state definition; state covers short term residential rentals, but some locals do not)
- Timing: Collection schedule requirements are set by local jurisdiction-some are *quarterly* and some are *monthly*. (**State is quarterly**)
- Where to file: File with taxing district. However, some counties and cities have agreements to collect for each other or share revenues. (**State is with DOR**)
- Registration: Locals set own registration and/or licensing requirements for lodging providers and collectors of tax. Requirements vary. (**State has a registration requirement**)

- State began restricting local lodging taxes after 2003 bill passed that also imposed a new state lodging tax
- Further legislation passed in 2013 that addressed intermediaries (for local governments and state)
- In 2016, legislation passed to increase state lodging tax and alter how the state spends tax revenues

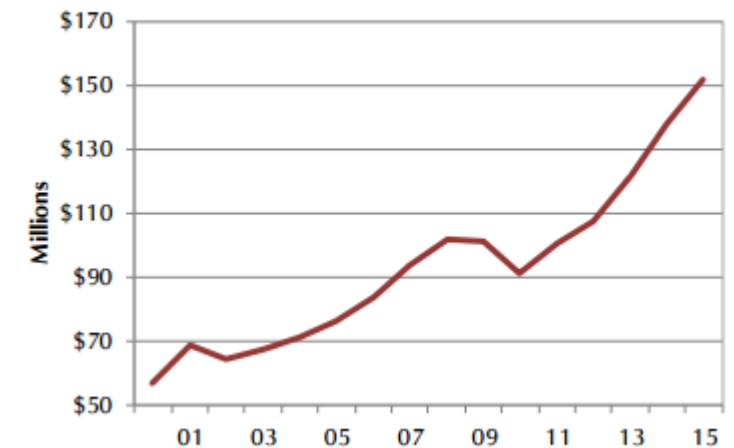
<b>Payment date</b>	<b>Tax rate</b>
Before July 1, 2016	1%
On or after July 1, 2016	1.8%
On or after July 1, 2020	1.5%

# Local Lodging Tax Revenues



- In FY 2014, local lodging tax revenue totals were approximately **\$136 million**—cities brought in just over \$87 million.
- Went up another 10.1% in FY 2015
- State tax revenue in FY 2014 was approximately \$17 million, and it is increasing too.
- State and local governments need to work together on enforcement to make sure all are paying tax.

Oregon Local Lodging Tax Receipts



-- source 2015 & 2016 Dean Runyan Report



## Local government TLT administrative/enforcement changes needed in 2017:

1. For efficiency, allow DOR to collect local lodging taxes if local government enters into IGA (ORS 350.620) **(HB 2400)** (like local marijuana tax IGAs with DOR)
2. Provide funding for better DOR auditing and enforcement of state TLT; require zip code and property detail in state tax returns (not just by region) (Need this to make #1 work)
3. Allow sharing of information between DOR and locals (need exception to confidentiality in ORS 320.340) **(bill is being drafted)**
4. Fix filing requirements for online travel companies and intermediaries **(HB 2049 is a vehicle; needs further amendment)**
5. Revise state/local reimbursement fees— lower or eliminate 5% deduction requirements **(need amendment)**

# Intermediaries, OTCs & home rentals– not just hotels anymore

**Definitions:** (Apply to State and Local TLT):

**“Transient lodging intermediary”** means a person other than a transient lodging provider that facilitates the retail sale of transient lodging and charges for occupancy of the transient lodging. ORS 320.300(12)

**“Transient lodging provider”** means a person that furnishes transient lodging. ORS 320.300(13)

**“Transient lodging tax collector”** means a transient lodging provider or a transient lodging intermediary. ORS 320.300(14)

## **State TLT:**

“The tax shall be collected by the transient lodging tax collector that receives the consideration rendered for the occupancy of the transient lodging.” ORS 320.305(1)(c)

“Every transient lodging tax collector is responsible for collecting the tax imposed under ORS 320.305 **and** shall file a return with the Department of Revenue, ...” ORS 320.315(1)

## **Local TLT:**

“The tax shall be collected by the transient lodging tax collector that receives the consideration rendered for the occupancy of the transient lodging.” ORS 320.350(7)(b)

**Goal:** If you collect/facilitate payment for transient lodging from customers, than you must collect and file/remit the taxes. (Includes OTCs and intermediaries)

- Problem: the legislature's intent in 2013 to subject intermediaries to the tax is still not being carried out. The legal requirements are still being debated.
- State is being paid by most OTCs and some home rental facilitators.
- But many local governments have not received taxes from many intermediaries or are not receiving information requested for tax verifications.
- The various home rental intermediaries are also not paying most local governments. In litigation with some. Required to enter into agreement with others to receive taxes.
- Solution: Need language tightened up to make sure various intermediary platforms must collect, must file return, and must remit taxes to both state and local governments. [See HB 2049. Further amendments needed to make local government requirements parallel.](#)





# Online Travel Companies/Intermediaries) (aka OTCs)

## 2012

- Online companies sue Portland (to stop collection of city tax)

## 2013 Legislation (HB 2656--Effective October 7, 2013)

- Bill intended to require online travel companies to pay the state and local transient lodging tax on the **sale price** of the rooms they sell, rather than the **discounted price** at which they contract for rooms.
- In addition, intend to require intermediaries to **pay tax directly** rather than forwarding tax to the lodging provider. That is, "tax shall be collected by the transient lodging tax collector that receives the consideration rendered for occupancy of the transient lodging."

## November 2013

- Online companies sue State of Oregon (DOR) in Oregon Tax Court over HB 2656 (legality of tax on intermediaries)

## 2014

### AIRBNB

- Portland agreement, July 2014
- DOR payments begin, September 2014
- Washington County agreement, effective July 1, 2016; more agreements being entered into with locals to present



## 2015

Settlement in online companies' case against State of Oregon (DOR)

## October 2015

- Some OTCs first start paying tax directly to DOR and some local governments after years of dispute. Some litigation/difference in practice continues. Letter sent to may cities and counties. Back taxes paid from October 7, 2013 to present in some cases.





State Tax Stats (don't have local tax break down by accommodation type)

## Lodging Statistics by Accommodation Type

Table 1.1 - Annual Lodging Tax Receipts by Accommodation Type (Dollars)								
Calendar Year	Bed & Breakfast	Campgrounds & RV Sites	Hotel	Motel	Vacation Home	Lodging Intermediary	Multiple <sup>1</sup> & Other	Total
2005	165,577	266,056	4,722,575	3,054,408	268,347	N/A	612,573	9,089,536
2006	185,931	335,455	5,180,700	3,417,539	797,932	N/A	813,491	10,731,048
2007	206,764	349,773	5,703,323	3,671,511	904,703	N/A	870,570	11,706,644
2008	217,132	326,391	5,935,295	3,450,981	999,525	N/A	802,464	11,731,788
2009	191,207	333,024	5,262,565	3,089,753	963,954	N/A	693,885	10,534,389
2010	200,669	387,310	5,742,810	3,205,390	1,048,333	N/A	581,948	11,166,460
2011	200,859	361,438	6,237,208	3,277,140	1,131,626	N/A	607,507	11,815,778
2012	237,287	380,415	6,762,564	3,363,655	1,274,219	N/A	653,086	12,671,227
2013	252,920	432,088	7,456,848	3,584,728	1,283,448	64,592	704,972	13,779,597
2014	257,757	452,411	8,296,419	3,863,329	1,474,344	410,578	754,089	15,508,927
2015	276,343	491,958	9,403,850	4,039,527	1,669,100	1,153,382	763,642	17,797,802

Source: DOR Report (rev. April 2016)

[https://www.oregon.gov/DOR/programs/gov-research/Documents/state-lodging-report\\_604-005.pdf](https://www.oregon.gov/DOR/programs/gov-research/Documents/state-lodging-report_604-005.pdf)

Intermediary category is seeing largest growth.

- Collector reimbursement charges: state imposed moratorium on existing local government reimbursement charge provisions AND local governments that impose a new tax after Jan. 1, 2001 or increase tax after that date must allow a lodging tax collector at least a 5% deduction from taxes (ORS 320.345)
- Thus, reimbursement amount is highly variable around the state (0-5%+).
- Note: Collectors get another 5% reimbursement from the state!

(This preemption occurred with 2003 legislation.)

Request: Amend bill and lift this reimbursement fee requirement on local governments.