COUNTY COMMISSIONERS
Association of Pennsylvania

Information for Counties on Act 109 (Hotel Tax) – Effective Jan. 22, 2019

In October, Gov. Wolf signed HB 1511 into law as Act 109 of 2018, which clarifies how state and local hotel taxes are to be levied and collected by booking agents, or online travel companies such as hotels.com, Expedia, Travelocity, etc. Given the number of questions that have arisen over the implementation of Act 109, CCAP recently met with the Department of Revenue and the Pennsylvania Restaurant and Lodging Association (PRLA) and we wanted to share several details counties should be aware of before the law takes effect.

What Act 109 does

There are two key elements to Act 109:

- Clarifies that the hotel tax applies to the full amount charged to a customer (including any accommodation fees) rather than the discounted wholesale rate room rate
- Requires booking agents (online travel companies) to remit all hotel taxes on rooms reserved through their platforms directly to the state and counties; hotels will no longer act as a pass through for those revenues, but will continue to submit hotel tax revenues directly for any room payments made directly to the hotels.

When does Act 109 take effect?

Act 109 takes effect on Jan. 22, 2019.

Do counties need to update their hotel tax ordinances to reflect Act 109?

Counties are encouraged to review their ordinances with their solicitors to determine whether any provisions of Act 109 may need to be incorporated, particularly as they relate to the definition of "booking agent."

How will booking agents obtain information about county hotel tax rates?

CCAP will be working to develop a comprehensive list of county hotel tax rates and county contact information, which the Dept. of Revenue has agreed to make available to booking agents along with information about the state hotel tax.

How will counties know if a booking agent is renting rooms within its jurisdiction?

Booking agents will be required to obtain a license and register with the Dept. of Revenue, and should also work with and/or register with each county in which it rents rooms pursuant to individual county practices. The Dept. of Revenue has indicated information about the licensed booking agents will be posted publicly online, so that counties will be able check to see which booking agents are operating within the state in order to monitor proper registration and

remittance. CCAP also understands that hotels will still provide information to counties related to the number of rooms rented/gross revenues received from each booking agent.

Does the term "booking agent" in Act 109 include home sharing platforms such as Airbnb?
The definition of "booking agent" is believed to capture Airbnb and other home sharing platforms that "facilitate or collect payment" for hotel accommodations; however, sites that only publish advertisements or offer listing capabilities are specifically excluded. This means Airbnb and other home sharing platforms will also be required to collect and remit hotel tax revenues directly to the state and counties, similar to the voluntary agreements already in place.

Any county that currently has a voluntary agreement with Airbnb related to the collection of hotel taxes may wish to review that agreement to determine whether any provisions are contrary to or in conflict with the provisions of Act 109.

What's next?
The Dept. of Revenue plans to release guidance on the implementation of Act 109, perhaps as early as this week, and CCAP will continue to work with the Department and PRLA to assure counties and all stakeholders are receiving consistent information. In the meantime, please feel free to contact Melissa Anese at manese@pacounties.org or (717) 736-4718 or Lisa Schaefer at lschaefer@pacounties.org or (717) 736-4748 if you have questions or need additional information.