

The NetChoice Coalition

Promoting Convenience, Choice, and Commerce on The Net

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March 12, 2012

Sen. Eileen Daily, Co-Chair
Rep. Patricia Widlitz, Co-Chair
Connecticut House of Representatives
Finance, Revenue and Bonding Committee
Room 3700, Legislative Office Building
Hartford, CT 06106

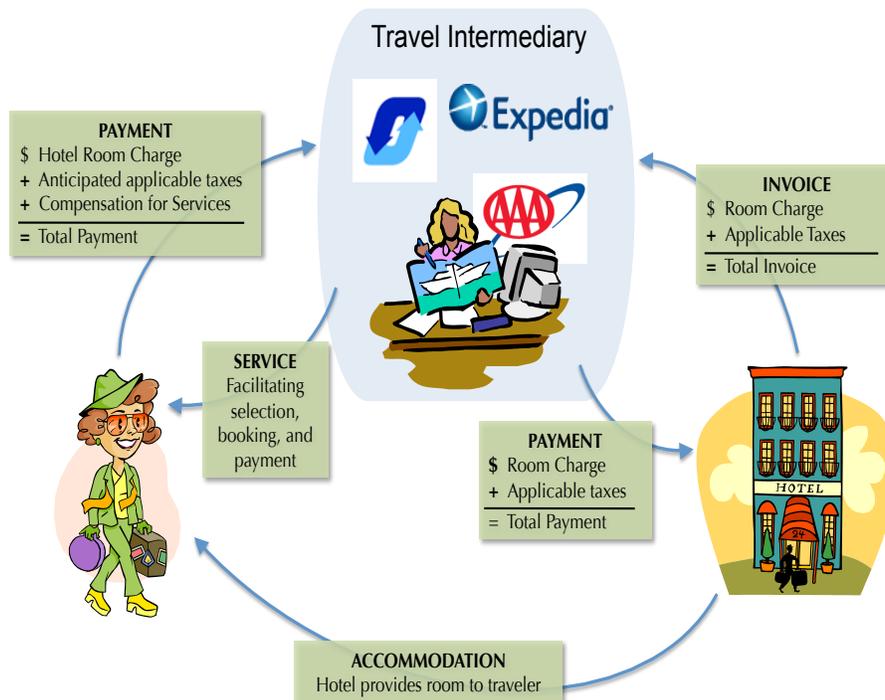
RE: **Opposition to HB 5420 Concerning the Imposition of the Sales Tax on Room Remarketers**

Dear Chairwoman Daily and Chairwoman Widlitz:

We encourage you to reject HB 5420 because it imposes an unworkable new tax on services provided by Connecticut's travel agents and online travel companies (travel intermediaries). HB 5420 obscures the distinction between *hotel room charges* and *services* that travel agents provide when they research, compare, and book rooms for travelers. This obfuscation could harm Connecticut businesses like wedding and convention planners. And the taxes collected under HB 5420 would be paid only by Connecticut's citizens – not by travelers from out-of-state.

Nearly All Travel Agents and Travelers Rely Upon Online Services To Research, Compare, and Book Reservations

From our work on this issue in states and at ALEC and NCSL, we've seen a lack of understanding about travel reservation services and taxes. The chart below shows the flow of services, taxes, and payments in a typical transaction where a traveler uses an agent or online travel company to research and book a hotel reservation.



As shown in the chart, travel agents and online travel companies are providing a *service* to travelers. These services include comparisons of rates and amenities at multiple hotels, plus facilitation in making the reservation, processing the payment, and sending charges and applicable taxes to the hotel operator.

Clearly, this facilitation service is distinct from the room provided by the hotel where the traveler eventually stays. Treating a travel service provider the same as a hotel for tax purposes obscures the difference between a hotel room and a service. The overwhelming majority of courts that have examined this issue concluded that online travel company service fees are not subject to hotel occupancy taxes. Moreover, any occupancy taxes due are already fully paid on the amount received by hotels when a traveler uses an agent or online travel company.

Online Travel Companies Already Collect And Remit All Lodging Taxes Owed to Connecticut

HB 5420 requires travel companies to collect and remit lodging taxes. The good news is that travel intermediaries inside and outside of Connecticut *already* collect and remit these lodging taxes.

For example, when a Vermont tourist books a hotel room in New Haven through a travel website, the website collects Connecticut's fifteen-percent lodging tax on the full amount paid to the Connecticut hotel operator. Because Connecticut is already receiving this tax revenue under existing Connecticut laws, this aspect of HB 5420 is unnecessary.

Impact of Treating and Taxing Travel Services the Same as Hotel Operators

Travel intermediaries already collect and remit lodging taxes

Imposes new tax on Connecticut Citizens

Creates new tax collection requirements only on Connecticut-travel services

Generates nominal tax revenue

HB 5420's New Tax On Travel Service Fees Would Only Apply When *Connecticut Citizens* Book Their Travel

HB 5420 also imposes this tax on booking service fees charged to travelers, a tax which would impact only Connecticut's citizens and businesses. That's because of the commonly accepted rule for determining the source jurisdiction for taxable services: when a tourist uses a travel service, the reservation service fee is sourced to the traveler's home location not to the traveler's destination.

HB 5420's new tax would therefore only apply to services provided to Connecticut-based travelers. The tax would *not* apply to service fees paid by out-of-state travelers booking Connecticut hotels.

HB 5420's New Tax On Service Fees Would Only be collected by Connecticut-based travel agents and travel websites

The requirement to collect HB 5420's new tax on booking services could only be enforced against travel agents and websites that have a physical presence in Connecticut. As noted above, out-of-state travel agents and websites already collect and remit lodging taxes when they make payment to the Connecticut hotel operator. But these out-of-state travel agents would not be obliged to collect HB 5420's new tax on service fees they earn when providing reservation services at the time travelers book their hotel.

Turning back to our Vermont tourist example, Vermont already taxes travel-booking services since they were provided to a Vermont citizen at their home location. So any Vermont-based travel agent or website is already collecting sales tax on the service fee when booking Vermont travelers at Connecticut hotels. In fact, HB 5420's new tax would attempt to impose double taxation of the same service fee paid by this Vermont tourist, which was probably not the intention of the bill's authors.

Please remember that HB 5420 would impose new taxes only on Connecticut citizens, while placing your in-state travel services at a competitive disadvantage to out-of-state rivals.

Minimal Revenue Generated

For reasons explained above, every state, city, and county that has enacted a similar new tax has failed to gain the anticipated tax revenue. For example, the Texas Legislative Budget Board found no increase in tax revenue from treating travel service fees as if they were the same as hotel occupancy charges.¹

So when you consider this tax, please consider whether the minimal tax revenue is worth the harm to Connecticut's travel agencies and travel websites.

Avoid The Conflation of Travel Services and Lodging Providers

By maintaining the true distinction between travel service providers and hotel operators, you can help Connecticut's travel and tourism industry focus on serving travelers and creating jobs – not on collecting nominal new taxes from the state's own citizens.

We appreciate your consideration of our views, and please let me know if I can provide further information.

Sincerely,



Steve DelBianco
Executive Director
NetChoice

cc: Members of the Committee

NetChoice is a coalition of trade associations and e-Commerce businesses who share the goal of promoting convenience, choice and commerce on the Net. More information about NetChoice can be found at www.netchoice.org

¹ See Report from John S O'Brien, Director, Legislative Budget Board to Honorable Harvey Hilderbran, Chair, House Committee on Ways & Means, IN RE: HB1454 by Murphy (Relating to the hotel occupancy tax on the price paid for a Hotel room.), As Introduced, Mar. 25, 2011.