

TWENTY-THIRD NORTHERN MARIANAS COMMONWEALTH

LEGISLATURE

IN THE HOUSE OF REPRESENTATIVES

Regular Session, 2023

H. B. 23- 93

A BILL FOR AN ACT

To amend Title 4, Division 1, by adding a new Chapter 13 and repealing Chapter 5, § 1502, Hotel Occupancy Tax, and for other purposes.

**BE IT ENACTED BY THE 23RD NORTHERN MARIANAS
COMMONWEALTH LEGISLATURE:**

1 **Section 1. Findings and Purposes.** The legislature found that according to
2 legislative history, the purpose of establishing a hotel occupancy tax was to
3 alleviate the burden on the CNMI infrastructure impacted by the increase of
4 population attributed to increasing tourist visitors. At the time that the Occupancy
5 Tax was enacted the CNMI was experiencing difficulties with meeting power and
6 water demands as well as the massive increase of waste without developing a waste
7 management system including landfill and sewage.

8 Much has changed over the years and the CNMI made a giant leap towards
9 infrastructure improvements. However, in recent years short-term rentals of
10 untraditional rentals have rapidly increased in response to the increase in demand
11 from various types of travelers needing various types of accommodation ranging
12 from hotel rooms, apartments, and condominiums to a whole house or just a room

1 in someone's residence. This demand encouraged certain operators' practices to
2 inconsistencies with residentially zoned areas, often not properly licensed, and
3 evading tax liabilities which gives them an unfair advantage over traditional
4 lodging operators or other compliant non-traditional operators.

5 Due to the tourism industry's diverse lodging needs of diverse visitors and
6 internet connection providing online platforms to reserve and pay, directly or
7 indirectly, for the lodgings, it has become difficult to monitor and control without
8 a mechanism to register and regulate these activities and thus the legislature finds
9 that operators offering temporary lodgings in hotels, condominiums, and houses-
10 whether the whole house or by room- shall be required to first register as Transient
11 Accommodation Operators and pay an annual registration fee at the Department of
12 Finance, Licensing Division

13 Therefore, the purpose of this Act is to

14 (1) Repeal the Hotel Occupancy Tax and establish a Transient
15 Accommodation Tax

16 (2) Require persons to register their properties, either owned or leased, as a
17 Transient Accommodation facility before operation and offer temporary
18 accommodations for a fee

19 (3) Make any violators of this Chapter subject to citations, penalties, and
20 license suspension or revocation depending on the violation and the
21 number of violations.

1 **Section 2. Amendment.** Subject to codification by the CNMI Law Revision
2 Commission, Title 4, Division 1 of the Commonwealth Code is hereby amended by
3 adding a new Chapter 13 to read as follows:

4 **“CHAPTER 13. TRANSIENT ACCOMMODATION TAX**

5 **Section 101. Short Title.** This Act may be cited as the “Transient
6 Accommodation Tax Act of 2023”.

7 **Section 102. Definitions.** As used in this Chapter

8 (a) “CNMI Residents” means any person with a valid CNMI Driver’s
9 License or Municipal Identification Card, for the purpose of this Chapter.

10 (b) “Collection Agent” means any person or entity that collects fees and
11 taxes on behalf of an operator(s).

12 (c) “Director” means the head of a division in the department.

13 (d) “Division” means the department unit that is responsible for the
14 prescribed tasks and duties in this Chapter.

15 (e) “Gross Rent” means the total amount of the set daily, nightly, weekly or
16 monthly rate multiplied by the number of days, nights, weeks, or months that the
17 guest(s) stayed that is charged to and paid for by the guest(s) that does not include
18 tax.

19 (f) “Guest(s)” means the person(s) renting and occupying the transient
20 accommodation or lodging.

1 (g) "Hosting Platforms" means any entity or person(s) within or outside the
2 CNMI, providing advertisement space and accommodation booking services for a
3 fee, commission or share of the accommodation sales and sometimes collects
4 payments on behalf of operators for a fee, commission or share of the
5 accommodation sales,

6 (h) "Online Hosting Platforms" means any internet page and social media
7 page where the Transient Accommodation operators post advertisements and
8 booking and payment services are offered on the page on behalf of the Transient
9 Accommodation operators for a set fee, a set commission, or a share of the
10 accommodation sales.

11 (i) "Operator(s)" means any person or entity that owns or leases facilities or
12 properties and rents out to guest(s) for s set fee a hotel room(s), motel room(s),
13 apartel room(s), apartment or condominium units, and a house or room(s) in a
14 house.

15 (j) "Short-term accommodations/lodgings" means any hotel, motel, house,
16 and apartel (apartment hotels) facility or owners of hotels, motels, apartels
17 (apartment hotels), houses - the whole house or a room in a house -, condominium
18 and apartment units or a room within, or property that offers temporary
19 accommodation or lodgings for a set fee and the length of stay of a guest(s) that
20 does not exceed 360 days.

1 (k) "Transient Accommodation" means a short-term accommodation,
2 lodging, or living accommodation of any kind, for a set daily, nightly, weekly, or
3 monthly fee multiplied by the length of stay, not exceeding 360 days, that a guest(s)
4 rents in the Commonwealth.

5 **Section 103. Imposition of Tax and Rates.**

6 (a) There is levied and shall be assessed a 15% tax rate on all guests for
7 gross rental payments received from a guest(s) occupying a Transient
8 accommodation or lodging as defined in this Chapter.

9 (1) Exemptions.

10 (aa) Foreign diplomats with valid US Department of State
11 cards or authorization granting exemptions from state taxes.

12 (bb) CNMI residents only during a declared state of
13 emergency.

14 (b) All receipts and invoices shall clearly and separately show the gross
15 rental fees and the tax imposed on the gross rent and collected from the guest(s).

16 (1) Accommodation gross rental discounts and/or refunds shall be
17 subtracted from the gross rental amount before imposing the
18 15% tax.

19 **Section 104. Certificate of Registration.**

20 (a) Each operator as a condition precedent to engaging or continuing in the
21 business of furnishing transient accommodations services shall register, and renew

1 every year, with the Director of the Division of Licensing, at the Department of
2 Finance, the name, and location of each place of business within the
3 Commonwealth subject to this chapter. The operators shall make a one-time
4 payment as follows:

5 (1) \$5 for each registration for transient accommodations consisting
6 of one to five units; and

7 (2) \$15 for each registration for transient accommodations
8 consisting of 6 to 20 units; and

9 (3) \$20 for more than 20 units; and

10 (4) upon receipt, the Director shall issue a certificate of registration
11 in such form as the Director determines, attesting that the
12 registration has been made.

13 (5) The registration shall not be transferable and shall be valid only
14 for the operator in whose name it is issued and for the transaction of
15 business at the place designated therein. Acquisition of additional
16 transient accommodation units after payment of the one-time fee
17 shall not result in additional fees.

18 (b) The registration, or in lieu thereof a notice stating where the registration
19 may be inspected and examined, shall at all times be conspicuously displayed at
20 the place for which it is issued. The name, phone number, and electronic mail
21 address of the local contact shall at all times be conspicuously displayed in the same
22 place as the registration or the same place as the notice stating where the

1 registration may be inspected and examined. Failure to meet the requirements of
2 this subsection shall be unlawful. The Division may issue citations to any person
3 who fails to conspicuously display the registration or notice, or the local contact's
4 name, phone number, or electronic mail address as required by this subsection. A
5 citation issued pursuant to this subsection for each transient accommodation in
6 violation of this subsection shall include a monetary fine of not less than:

- 7 (1) \$500 per day, for the first violation for which a citation is issued;
8 (2) \$1,000 per day, for a second violation for which a citation is
9 issued; and
10 (3) \$5,000 per day, for a third and any subsequent violation for
11 which a citation is issued.

12 (c) Any advertisement for any transient accommodation shall
13 conspicuously provide:

- 14 (1) The registration identification number or an electronic link to the
15 registration identification number of the operator issued pursuant to
16 this section; and
17 (2) The local contact's name, phone number, and electronic mail
18 address provided that this paragraph shall be considered satisfied if
19 this information is provided to the transient prior to the furnishing
20 of the transient accommodations.

1 (d) Failure to meet the requirements of subsection (c) shall be unlawful. The
2 Division may issue citations to any person, operator, hosting platform, and online
3 platform

- 4 (1) \$500 per day, for the first violation for which a citation is issued;
5 (2) \$1,000 per day, for a second violation for which a citation is
6 issued; and
7 (3) \$5,000 per day, for a third and any subsequent violation for
8 which a citation is issued.

9 (e) The registration provided for by this section shall be effective until
10 canceled in writing. Any application for the issuance of a previously canceled
11 registration identification number shall be regarded as a new registration
12 application and shall be subject to the payment of the one-time registration fee. The
13 Director may revoke or cancel any license issued under this chapter for cause as
14 provided by rule under the Administrative Procedures Act.

15 (f) If the license fee is paid, the Division shall not refuse to issue a
16 registration or revoke or cancel a registration for the exercise of a privilege
17 protected by the First Amendment of the Constitution of the United States, or for
18 the carrying on of interstate or foreign commerce, or for any privilege the exercise
19 of which, under the Constitution and laws of the United States, cannot be restrained
20 on account of nonpayment of taxes, nor shall section 110 be invoked to restrain the
21 exercise of such a privilege, or the carrying on of such commerce.

1 (g) Any monetary fine assessed under this section shall be due and payable
2 thirty days after issuance of the citation, subject to appeal rights provided under
3 this subsection. Citations may be appealed to the Director or the Director's
4 designee.

5 (h) Any person who is required by this section to register as a condition
6 precedent to engaging or continuing in the business of furnishing transient
7 accommodations subject to taxation under this chapter, who engages or continues
8 in the business without registering in conformity with this section, shall be subject
9 to the citation process and monetary fines under subsection (d).

10 (i) For purposes of this section, "engaging or continuing in the business of
11 furnishing transient accommodations" includes posting any advertisement for the
12 furnishing of a transient accommodation and contracting with a hosting platform
13 entity or person to provide booking and payment collections on behalf of the
14 operator.

15 (j) Only one citation under subsection (b) may be issued to the person in
16 any thirty-day period for any failure to display per transient accommodation. The
17 same person may be issued additional citations under subsection (b) during the
18 thirty-day period for any failure to display in other transient accommodations the
19 person operates. Following the expiration of the thirty-day period, a citation may
20 be issued for failure to display in connection with the same transient
21 accommodation if it continues to be in violation. Citations issued for second

1 violations shall not include fines for days of violation for which a fine was issued
2 in the citation for the first violation for the same transient accommodation. Citations
3 issued for third violations shall not include fines for days of violation for which
4 fines were issued in the citations for the first and second violations for the same
5 transient accommodation.

6 (k) Only one citation under subsection (c) may be issued to the person in
7 any thirty-day period for any failure to display per transient accommodation. The
8 same person may be issued additional citations under subsection (c) during the
9 thirty-day period for any failure to display related to other transient
10 accommodations. Following the expiration of the thirty-day period, a citation may
11 be issued for failure to display in connection with the same transient
12 accommodation or for any other transient accommodation. Citations issued for
13 second violations shall not include fines for days of violation for which a fine was
14 issued in the citation for the first violation for the same transient accommodation.
15 Citations issued for third violations shall not include fines for days of violation for
16 which fines were issued in the citations for first and second violations for the same
17 transient accommodations. Similarly, all citations issued for subsequent violations
18 shall not include fines for days of violation for which fines were issued in prior
19 citations for the same transient accommodation.

20 (l) In lieu of issuing a person a first citation and fine for failure to display
21 information on any advertisement required under subsection (c), the Division shall

1 issue the violator a written warning if the person has never before received a written
2 warning for any violation for any transient accommodation. The written warning
3 shall grant the violator fifteen days to cure the violation. If, during the fifteen-day
4 period, the Division discovers another transient accommodation operated by the
5 violator for which a citation for a first violation may be issued, the Division shall
6 not issue such citation until the fifteen-day period has elapsed; provided that if the
7 violator does not cure all of its violations during the fifteen-day period provided by
8 the written warning, the Division shall issue citations for all transient
9 accommodations in violation after the expiration for all days during which they
10 were in violation. Only one written warning in lieu of a first violation of subsection
11 (c) may be issued per person. For any subsequent first violations the person may
12 commit under subsection (c), the Division shall issue a citation with a fine.

13 **Section 105. Certificate of registration for transient**
14 **accommodations broker, travel agency, tour packager, and any hosting**
15 **platform, including an agent.**

16 Each transient accommodations broker, travel agency, tour packager, agent,
17 or any hosting platform as a condition precedent to entering into an arrangement to
18 furnish transient accommodations at noncommissioned negotiated contract rates,
19 shall register with the Director. The transient accommodations broker, travel
20 agency, or tour packager shall make a one-time payment of \$15 for each
21 registration, upon receipt of which the Director shall issue a certificate of

1 registration in a form as the Director determines, attesting that the registration has
2 been made. The registration shall not be transferable and shall be valid only for the
3 transient accommodations broker, travel agency, tour packager, agent and any
4 hosting platform in whose name it is issued.

5 The registration shall be effective until canceled in writing. Any application
6 for the issuance of a previously canceled registration identification number shall be
7 regarded as a new application for registration and shall be subject to the payment
8 of the one-time registration fee. The Director may revoke or cancel any registration
9 issued under this section for cause as provided by rule under the Administrative
10 Procedures Act.

11 Any person who enters into an agreement to furnish transient
12 accommodations without registering in conformity with this section shall be subject
13 to the citation process and monetary fines under section 106(d).

14 **Section 106. Return and Payments; penalties.**

15 (a) Every person or entity that is an operator shall file a return and pay the
16 15% tax, if any, on a monthly basis.

17 (b) The monthly return and payments under subsection (a) of this section
18 shall be filed and the tax paid, if any, on or before the last day of the month
19 following the close of each month, to wit on or before February 28, March 31, June
20 30, July 31, September 30, October 31, November 30, December 31, and January
21 31.

1 (1) To facilitate effective auditing, all returns shall be accompanied
2 by a recording of the issued invoice or receipt sequence run from the
3 beginning to the end of each month or from the beginning to the end
4 of a filing period, including voided invoices and receipts.

5 (aa) If invoices and receipts, including refund invoices and
6 receipts, are manually written on generic invoice and receipt
7 booklets, the booklets must be numbered in sequence and
8 each invoice and receipt must contain the booklet number
9 from which the invoice or receipt was issued, including
10 voided and receipts.

11 (bb) If invoices and receipts, including refund invoices and
12 receipts, are computer generated, they must contain the
13 numerical sequence generated by the computer, including
14 voided invoices and receipts.

15 (c) Failure to comply with the provisions of this section shall be punishable
16 under the penalties prescribed by the Department of Finance, Division of Revenue
17 and Taxation.

18 (d) Hosting platforms, agents, or entities, in the Commonwealth or online,
19 are not required to file a return and pay the 15% tax, but if they collect the payment
20 of the accommodation fees and taxes they shall submit a report Taxation Report

1 how much was remitted to the operator(s) for inclusion in the operator(s) Tax
2 Return filing to the Department of Finance, Division of Revenue and Taxation.

3 (1) Reports shall contain the hosting platform's name, business
4 address, and Transient Accommodation Certificate registration
5 number; the names, addresses, locations, and Transient
6 Accommodation Certificate registration numbers of the operator(s)
7 they collect for, and the gross amount of fees and taxes collected and
8 remitted to its operators.

9 **Section 107. Hosting Platform as fee and tax collection agents;**
10 **operator.**

11 (a) A hosting platform that collects fees and taxes on behalf of its operators
12 for booking services shall register as a collection agent on behalf of operators.

13 (b) A collection agent shall apply and be issued a separate Transient
14 Accommodation Certificate of registration under this chapter with respect to the
15 fees and taxes they collect on behalf of its operators and, if applicable, with respect
16 to any taxes payable under this chapter for its business activities.

17 (c) In addition to its responsibilities under this chapter, a fee collection
18 agent or hosting platform, shall submit a report of the fees and taxes collected on
19 behalf of its operators to the Division of Revenue and Taxation. The report shall be
20 produced and submitted as prescribed in Section 107 (d) (1).

1 (d) Failure to submit a report as required under subsection (c) shall be
2 unlawful and shall be punishable under the penalties prescribed by the Department
3 of Finance, Division of Revenue and Taxation.

4 (e) All reports provided by the hosting platform acting as a collection
5 agent shall be confidential and disclosure thereof shall be prohibited as provided in
6 4 CMC §18161-18163.

7 (f) For auditing purposes, a hosting platform acting as a fee and tax
8 collection agent of its operators shall file its collection report on the date set by the
9 Division of Revenue and Taxation prior to the date the Transient Accommodation
10 Tax Return is due from operators.

11 (g) Before collecting any fee for booking services, a hosting platform
12 acting as a collection agent shall notify each of its operators that it is registered as
13 a collection agent for Transient Accommodation fees and taxes and it has submitted
14 or will submit Transient Accommodation Collection Taxation Report to the
15 Division pursuant to this chapter, and that the fees and taxes it collected is to be
16 included in the operator's monthly Business Gross Revenue and Transient
17 Accommodation Tax Return. It shall be the operator's responsibility to file an
18 accurate Tax Return that shall include the total amount of fees and taxes shown in
19 the collection reports submitted by the hosting platforms it engages or contracts
20 with.

1 (h) The Division may require any form or document required to be
2 submitted under this section to be filed electronically.

3 **Section 108. Unregistered hosting platforms, collection agents;**
4 **penalties.**

5 (a) If an operator and hosting platform is not registered as required by
6 Section 108 of this chapter and the collection agent or operator fails to report, file
7 a return and pay the tax as required under this chapter, the tax collection agent and
8 operator shall be jointly liable for paying to the Commonwealth any unpaid portion
9 of the amount of tax required to be paid under this chapter.

10 (b) The Division may issue citations to any person who offers transient
11 accommodation through a hosting platform that is not registered as required by
12 Section 108 of this chapter. A citation issued pursuant to this subsection for each
13 transient accommodation in violation of this subsection shall include a monetary
14 fine of not less than:

15 (1) \$500 per day for the first violation for which a citation is issued;

16 (2) \$1,000 per day, for a second violation for which a citation is
17 issued; and,

18 (3) \$5,000 per day, for a third violation and any subsequent
19 violation for which a citation is issued.

20 (c) Only one citation under subsection (b) may be issued to a person in a
21 thirty-day period per transient accommodation. The same person may be issued

1 additional citations under subsection (b) during the thirty-day period for offering
2 other transient accommodations the person operates through an unregistered
3 hosting platform. Following the expiration of the thirty-day, a citation may be
4 issued under subsection (b) in connection with the same transient accommodation
5 if continues to be in violation. Citations issued for second violations shall not
6 include fines for days of violation for which a fine was issued in the citation for the
7 first violation for the same transient accommodation. Citations issued for third
8 violations shall not include fines for days of violations for which fines were issued
9 in the citations for the first and second violations for the same transient
10 accommodation.

11 **Section 109. Collection by suit; injunction.**

12 The Division may collect unpaid taxes, together with all accrued penalties
13 and monetary fines under this chapter by initiating proceedings with the Superior
14 Court. If any person lawfully required to obtain a certificate under this chapter fails
15 to apply for and secure a certificate as provided by the chapter for a period of sixty
16 days after the first date when the person was required under the chapter to secure a
17 certificate, the Division may proceed in the Superior Court to obtain an injunction
18 restraining the further furnishing of transient accommodations until such certificate
19 is secured.

20 **Section 110. Application of Tax.**

1 (a) The tax imposed by this chapter shall be in addition to any other taxes
2 imposed by any other laws of the Commonwealth, except as otherwise specifically
3 provided in this chapter; provided that if it is held by any court of competent
4 jurisdiction that the tax imposed by this chapter may not be legally imposed in
5 addition to any other tax or taxes imposed by any other law or laws with respect to
6 the same property and the use thereof under the specific circumstances, but the
7 other laws shall be given full effect with respect to such property and use.

8 (b) In order to determine if the tax under this chapter is to be levied,
9 assessed, and collected upon transient accommodations the following presumptions
10 shall control.

11 (1) If a person lets a transient accommodation for more than 360
12 days on a daily, weekly, or monthly rate, there is no presumption
13 one way or another as to the purpose for which the accommodation
14 is furnished. The operator shall have the burden of proving to the
15 Division whether an accommodation is not furnished for a transient
16 purpose. If the Division is satisfied that an accommodation is not
17 furnished for transient accommodation, then the Division shall not
18 levy any tax under this Chapter.

19 (2) Except as otherwise provided, this chapter shall apply to a transient
20 accommodations broker, travel agency, tour packager, agent or any

1 hosting platform that enters into an agreement to furnish transient
2 accommodations in the same manner as it applies to operators.

3 **Section 111. Regulations.**

4 The Secretary of the Department of Finance may adopt rules necessary to
5 effectuate the purpose of this section.”

6 **Section 3. Repeal.** Section 1502 of Title 4, Division 1, Chapter 5 of the
7 Commonwealth Code is hereby repealed.

8 **Section 4. Severability.** If any provisions of this Act or the application of
9 any such provision to any person or circumstance should be held invalid by a court
10 of competent jurisdiction, the remainder of this Act or the application of its
11 provisions to persons or circumstances other than those to which it is held invalid
12 shall not be affected thereby.

13 **Section 5. Savings Clause.** This Act and any repealer contained herein
14 shall not be construed as affecting any existing right acquired under contract or
15 acquired under statutes repealed or under any rule, regulation, or order adopted
16 under the statutes. Repealers contained in this Act shall not affect any proceeding
17 instituted under or pursuant to prior law. The enactment of the Act shall not have
18 the effect of terminating, or in any way modifying, any liability, civil or criminal,
19 which shall already be in existence on the date this Act becomes effective.

20 **Section 6. Effective Date.** This Act shall take effect upon its approval by
21 the Governor, or it becoming law without such approval.

Prefiled: 12/22/2023

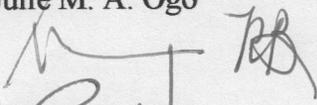
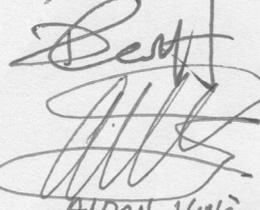
Date: _____

Introduced by: _____

Rep. Julie M. A. Ogo

Reviewed for Legal Sufficiency by:

John D. Day
House Legal Counsel




ALDAN VINCENT S.