Pennsylvania Restaurant & Lodging Association

ISSUE SUMMARY
SHORT-TERM RENTALS

Short-term rentals (STRs) have become increasingly popular with the rise of the "sharing economy." Online platforms like Airbnb and VRBO make it easier than ever for private citizens to offer a portion of their property – or their entire property – as STRs. But many STR operators are unaware that this activity is subject to Pennsylvania state and local hotel occupancy tax.

In addition to the issue of remitting the hotel tax, there are other problems with the STR industry. Many local zoning ordinances do not permit this type of use for properties in residential areas. There are reports of STRs causing issues with parking, noise, and septic system overuse. STR operators are not subject to the same health and safety regulations that traditional lodging establishments, such as hotels and bed and breakfasts, must meet. These include commercial insurance requirements to protect owners and guests, ADA regulations to ensure accessibility for guests with disabilities, and building codes for this type of property use.

The Commonwealth of Pennsylvania entered into a confidential agreement with Airbnb in July 2016. The details of the agreement are not available to the public, but Airbnb agreed to collect and remit the state hotel occupancy tax – as well as the additional 1 percent tax in Philadelphia and Allegheny County – from their hosts. There is no way to know if the state is receiving the correct tax amount, and Airbnb is not required to share the locations of their hosts. Also, this agreement only applies to STRs that use Airbnb, not any other online platform that exists.

The Pennsylvania Department of Revenue, citing confidentiality requirements, does not share any information that it has on the locations of STRs with county and municipal officials, while at the same time encouraging county and municipal officials to share the locations of STRs in their areas with the state. The only way that the Department of Revenue will share this information is if the Pennsylvania General Assembly requires them to do so through state legislation.

The nature of the STR industry makes these properties difficult to pinpoint. An operator can list an STR on a website for a short time, then remove it, then list it again on a different platform. It is a labor-intensive, time-consuming task for counties to constantly track the properties in their area so they can ensure proper tax remittance and regulatory compliance.

Because of these difficulties, some counties are working to reach their own agreements with Airbnb, similar to the state's. This approach is understandable but misguided. While a county would rather realize some revenue than none, it will likely receive significantly less than what is legally owed while at the same time condoning illegal practices.

Some organizations and county governments have conducted extensive public education campaigns to make STR operators aware of their tax and regulatory obligations. But as the sharing economy increases in popularity, it becomes more obvious that the state needs to take legislative action to ensure a level playing field for all lodging operators when it comes to hotel tax remittance and guest safety. We are not opposed to competition with STRs and the unique experiences they offer their guests, but STRs need to play by the same rules on the state and local level as other lodging providers.