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## Indiana Tax Collection Bill Would Rope In Airbnb, Expedia

By Alex Ebert

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- Online travel companies and room-sharing platforms deemed “facilitators”
- Indiana is one of few states without Airbnb tax-collection agreement

Airbnb Inc. and Expedia Inc. could soon be forced to collect and remit state sales tax and local innkeepers tax in Indiana.

The Indiana House April 9 passed a “marketplace facilitator” bill (S.B. 322) aimed at collecting sales tax on the goods purchased in Indiana through online platforms like Amazon.com Inc. or eBay Inc. The state’s Senate passed its own version of the bill in February, but will either need to agree to the House version or work out the differences in a conference committee before legislation can be sent to Gov. Eric Holcomb (R).

Indiana’s law would go beyond retailers to include lodging facilitators, which hotel owners complain aren’t paying state and local taxes.

Indiana is one of only a few states that doesn't have a tax remittance agreement with Airbnb. The company has entered into voluntary state and local tax remittance agreements with hundreds of jurisdictions around the globe.

A lobbyist for the online travel booking industry testified against S.B. 322, saying that forcing short-term rental platforms to sift through, collect, and remit for 70 different innkeeper tax jurisdictions is a barrier to compliance.

For several years, the state has debated ways to impose state taxes on the fees Expedia and other online travel companies get from hotel room reservations. The online travel companies have complained that the bill would impose a new tax on services, while hotels claim the state is foregoing revenue on Expedia that it collects off of branded websites, such as Hilton.com.

### *Wayfair* Response

One key difference between the two versions of the bill is the House adopted a tighter definition of marketplace to ensure that physical marketplaces, like shopping malls, won't be construed as having responsibility for collecting and remitting sales tax on behalf of their tenants, Mark Richards, a partner in Ice Miller LLP's Indianapolis office, said.

The legislative effort responds to revenue opportunities that emerged from the U.S. Supreme Court's landmark ruling in *South Dakota v. Wayfair*. Indiana is one of many states seeking to collect sales tax on purchases facilitated through internet retail giants.

A state nonpartisan fiscal analysis estimated that online marketplace facilitators made roughly \$1.6 billion in taxable sales into Indiana in 2016, and the state is only collecting sales tax on a third of those transactions at most. Indiana would boost revenue by between \$55.8 million and \$71.6 million in fiscal 2020 if the bill passes, the state estimated.

The Indiana Chamber of Commerce, as well as associations for hotels and retailers, came out in support of the bill. The only testimony in opposition came from the online travel companies and short-term rental companies.

Airbnb referred comment to its lobby group, Travel Tech. That organization didn't immediately respond to requests for comment.

To contact the reporter on this story: Alex Ebert in Columbus, Ohio at [aebert@bloomberglaw.com](mailto:aebert@bloomberglaw.com)

To contact the editors responsible for this story: Jeff Harrington at [jharrington@bloombergtax.com](mailto:jharrington@bloombergtax.com); Megan Pannone at [mpannone@bloombergtax.com](mailto:mpannone@bloombergtax.com)

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