

A close-up photograph of a hand holding a silver keycard to a door lock on a light-colored wooden door. The background is a blurred hotel room with a bed and a lamp. The text is overlaid on the left side of the image.

Short-Term Lodging and Rental Vehicle Taxes: Keeping Pace with an Evolving Marketplace

**Revenue Interim Committee
August 25, 2020**

Montana Lodging, Rental Vehicle Taxes:

- Misc. Tax Unit, Business & Income Tax Div.
- Lodging Use Tax: 4 percent
- Lodging Sales Tax: 4 percent

- Rental Vehicle Sales Tax: 4 percent

Use tax: Tourism promotion

Sales tax: General fund, Heritage Center

Audit Objectives

- Does the Department of Revenue accurately identify and collect sales and use taxes in the lodging and rental vehicle markets?
 - Is Montana state law regarding lodging rentals consistent and equitable to all participants in the market?
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Peer-to-Peer Platforms

- Individuals rent to each other via online platform
 - Owners responsible for registering with department, remitting taxes
 - Thousands of small-scale renters in Montana, historically challenging to identify
 - Department entered collection agreements with major peer-to-peer platforms
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Tax Remission Agreements with Peer-to-Peer Platforms

Positives:

- Companies collect and remit taxes on behalf of all hosts in state
 - Tax collections up, number of individual filers down since agreements took effect
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Figure 1
Number of Tax Filers and Total Amount Due by Quarter
2016-2018



Source: Compiled by the Legislative Audit Division from department records.

Tax Remission Agreements with Peer-to-Peer Platforms

Negatives:

- Owners don't register with department
 - Unclear whether department can learn identity of individual hosts
 - Department can't be certain proper taxes being remitted, appropriate income being claimed
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Recommendation:

- Enforce the registration requirement for all individuals engaged in short-term accommodation rental activity, and
 - Enter into future tax agreements only while maintaining its authority to identify and audit individual marketplace participants.
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Property Managers

- Rules allow an individual to remit taxes for multiple properties
 - Illustrates willingness to collect taxes from third parties under appropriate circumstances
 - List of properties is required
 - No requirement that list be updated or kept current
 - Department made effort to collect current lists but this effort is not ongoing
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Recommendation:

- Amend rules to require updating lists of hosts on whose behalf a third party is remitting taxes, and
 - Develop and implement a process to contact third-party tax remitters to obtain current lists of hosts on whose behalf tax is remitted.
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Use Tax Distribution

- Tourism promotion: Commerce, State Parks, tourism regions and local convention and visitors bureaus
 - Online platform submits separate returns for each county and CVB for proper fund distribution
 - Review identified several obvious errors: no platform activity in major tourism locations
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Recommendation:

Develop and implement an oversight process for aggregated regional tax payments to ensure revenue goes to correct jurisdiction.

Vehicle Rental Platforms

- Similar model, less mature than accommodations
 - Some Montanans renting multiple vehicles
 - No evidence of tax collection and remission via platform or in database
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Recommendation:

- Enter agreements with peer-to-peer rental vehicle platforms to facilitate tax collection, or
 - Develop a process to identify and collect tax from peer-to-peer vehicle renters.
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Objective 2: State of the Statute

- Montana's two taxes enacted in 1987, 2003.
 - Current laws don't specifically address the role of third-party booking sites or platforms.
 - Use Tax: Collected and paid by *owner/operator*
 - Sales Tax: Collected and paid by *seller*
 - Montana Supreme Court: Booking sites owe one of two taxes on fees they charge
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Other states have amended statute

- “Transient lodging intermediary”
 - “Hosting platform”
 - “Facilitator”
 - “Person that provides a platform”

 - Acknowledged evolving marketplace
 - Specified when tax owed, who remits
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Recommendation to the Legislature:

- Amend statute to account for the role of online booking platforms in the short-term accommodation industry;
 - Clarify which portion of a consumer payment for a short-term accommodation is taxable.
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Questions?

