AN ORDINANCE AMENDING ANCHORAGE MUNICIPAL CODE SECTION 12.20.031, REGISTERED HOSTING PLATFORMS, AND 12.20.010, DEFINITIONS, TO REQUIRE HOSTING PLATFORMS TO REGISTER, COLLECT, AND REMIT ROOM TAX ON BEHALF OF OPERATORS.

WHEREAS, existing code mandates that if an online hosting platform enters into a voluntary agreement with the Municipality to accept and remit room taxes from a guest, the hosting platform must register with the Municipality and adhere to the procedure set forth under AMC 12.20.031; and

WHEREAS, the United States Supreme Court recently held in South Dakota v. Wayfair, Inc. [Wayfair v. South Dakota] that a physical presence in a taxing jurisdiction is no longer required for an entity to have a substantial nexus with the jurisdiction; thus, local and state taxing authorities have the authority to require online hosting platforms to remit local taxes (without an agreement); and

WHEREAS, this ordinance would require all hosting platforms to register, collect, and remit room tax on behalf of the operators for guests using the platform under the procedures and requirements set forth Chapter 12.20.031; now therefore

THE ANCHORAGE ASSEMBLY ORDAINS:

Section 1. Anchorage Municipal Code section 12.20.031, Registered hosting platforms, is hereby amended to read as follows (the remainder of the section is not affected and therefore not set out):

12.20.031 - Registered hosting platforms.

A. Registration, collection, and remittance required. Every hosting platform [shall obtain a certificate of registration prior to offering services to operators subject to this chapter. Further, every hosting platform that agrees to accept room rental payment from a guest pursuant to section 12.20.020, subject to exemption rules specified in section 12.20.031A.1., shall obtain a certificate of registration prior to offering services to operators subject to this chapter, and shall collect room tax [from all guests] and remit the tax to the department on behalf of all operators for which it provides this service[s].[This does not apply to branded hosting platforms used exclusively for a particular hotel brand and its]
[EVERY HOSTING PLATFORM THAT AGREES TO ACCEPT PAYMENT OF ROOM TAX FROM A GUEST PURSUANT TO SECTION 12.20.020 AND FURTHER AGREES TO REMIT THE TAX TO THE DEPARTMENT ON BEHALF OF THE OPERATOR SHALL OBTAIN A CERTIFICATE OF REGISTRATION PRIOR TO OFFERING SERVICES TO OPERATORS SUBJECT TO THIS CHAPTER.]

1. Exemptions.
   a. The following rules apply to exemptions from subsection A:
      i. Branded hosting platforms used exclusively for a particular hotel brand and its affiliates are exempt from registration.
      ii. Tour companies, travel booking agents, and wholesale room sellers are exempt from room tax collection and remittance to the department for each room rental transaction meeting the following criteria:
         (A) Sales of room nights for stays at an operator’s individual property with 10 or more rooms that is properly registered with the municipality, per the treasury division’s online published list of registered operators; and
         (B) Collection of room tax and payment of funds to the registered operator, either through direct transfer or subsequent billing from the registered operator.
   b. Any hosting platform subject to subsection A that is wholly involved in room rental transactions covered by this subsection A.1. shall not be required to register, collect, and remit room tax to the department.

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(AO No. 2016-66, § 2, 6-21-16)

Section 2.  [Note: new AO section in the S-version] Anchorage Municipal Code section 12.20.010, Definitions, is hereby amended to read as follows (other definitions in the section are not affected and therefore not set out):

* * *

Hosting platform means a person or entity that provides a means through which an operator may offer a room for rent. This service is usually provided through an online platform and generally allows an operator to advertise a room for rent through a website provided by the hosting platform, and provides a means for a guest to pay rent for the room[. WHETHER THE GUEST PAYS RENT DIRECTLY TO THE OPERATOR OR TO THE HOSTING PLATFORM].

* * *

(GAAB 10.20.010; AO No. 84-40; AO No. 86-210; AO No. 96-103, § 1, 4-1-97; AO No. 97-3, § 1, 4-1-97; AO No. 97-68(S), §§ 1, 2, 5-6-97; AO No. 2003-102, § 2, 7-15-03; AO No. 2003-165, § 1, 12-17-03; AO No. 2012-105(S), § 1, 12-18-12; AO No. 2016-66, § 1, 6-21-16)
Section 3. This ordinance shall be effective immediately upon passage and approval by the Assembly.

PASSED AND APPROVED by the Anchorage Assembly this 20th day of August, 2019.

Chair

ATTEST:

Municipal Clerk
MUNICIPALITY OF ANCHORAGE
Assembly Memorandum
No. AM 537-2019(A)
Meeting Date: August 20, 2019

From: MAYOR

Subject: AN ORDINANCE AMENDING ANCHORAGE MUNICIPAL CODE
SECTION 12.20.031, REGISTERED HOSTING PLATFORMS, AND
12.20.010, DEFINITIONS, TO REQUIRE HOSTING PLATFORMS
TO REGISTER, COLLECT, AND REMIT ROOM TAX ON BEHALF
OF OPERATORS.

This memorandum describes the significant changes recommended compared to
the originally submitted AO 2019-99, in accordance with Anchorage Municipal
Code section 2.30.050E.

The changes in this S-version are:

1. Clarify the Municipality’s interpretation of the effect of the South Dakota v.
Wayfair, Inc. decision.

2. Narrow a hosting platform’s registration, collection, and remittance
requirement as follows:
   a. The requirement only applies to hosting platforms who agree to
      accept payment from a guest on behalf of its operators;
   b. If a hosting platform offers both payment-acceptance services and
      non-payment-acceptance services to its operators, the hosting
      platform is only required to collect and remit room tax on operators
      for which it provides payment-acceptance services; and
   c. Clarify that the registration does not apply to branded hosting
      platforms used exclusively for a particular hotel brand and its
      affiliates (e.g., Marriott, Hilton).

3. Amend the definition of Hosting Platform to remove the statement
   “whether the guest pays rent directly to the operator or to the hosting
   platform,” which brings the definition into alignment with the amendments
   in 12.20.031.

THE ADMINISTRATION RECOMMENDS APPROVAL OF THE S-VERSION.

Prepared by: Daniel Moore, Municipal Treasurer
Approved by: Alexander Slivka, CFO
Concur: Lance Wilber, Director, Office of Management and
Budget
Concur: Rebecca A. Windt Pearson, Municipal Attorney
Concur: William D. Falsey, Municipal Manager
Respectfully submitted: Ethan A. Berkowitz, Mayor