

Tax

Agreement between Quebec, Airbnb on tax remittance called 'unique'

By Ian Burns

(September 5, 2017, 9:19 AM EDT) -- The government of Quebec has reached an agreement with Airbnb that allows the online hospitality service to collect and remit the tax on lodging on behalf of the hosts on its home-sharing platform, and a McGill University professor is saying the agreement is "an expansion of the idea" about who is responsible for paying taxes in the era of the shared economy.

"As the first of its kind tax agreement in this country, this is a landmark announcement and defining moment for Airbnb in Canada," said Alex Dagg, Airbnb's public policy manager for Canada. "The agreement in Quebec is an example of how Airbnb and government officials can work together as partners."

Airbnb is an online community marketplace that provides access to more than four million unique listings in 191 countries for lodging. Starting Oct. 1, Airbnb will automatically collect and remit the 3.5 per cent tax on lodging on bookings made in the province.

Julie Boulet, Quebec's minister of tourism, said the agreement makes it possible to "adapt the taxation system to the new collaborative and digital economy."

"The agreement not only addresses the concerns of the tourism industry, but will also ensure healthy competition within the tourism accommodation sector," she said. "It is essential that we join and keep pace with the collaborative economy."

According to Airbnb, total collected taxes in 2016 would have been \$3.7 million for the province of Quebec. There are 22,300 active Airbnb hosts in the province, with nearly one million guest arrivals.

Allison Christians, who holds the H. Heward Stikeman chair in tax law at McGill University, said the current agreement is "unique" because Airbnb is not a service provider, which would normally be handling taxation issues.

"They're not the ones giving you the house," she said. "You're asking the intermediary to act as the withholding agent. This is an expansion of the idea of who has the responsibility to withhold tax."



Vincent de l'Étoile, Langlois lawyers

Vincent de l'Étoile, who practises civil litigation and consumer law at Langlois lawyers in Montreal, said the agreement with Airbnb "really sends out a strong message" the new economy is still subject to old laws.

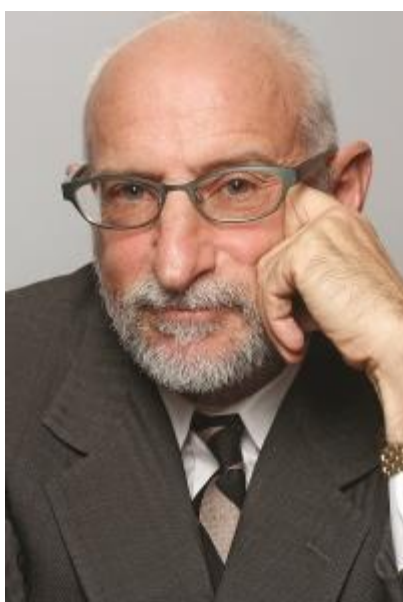
"Applying old rules to new technology is fair and helps them foster social acceptance," he said. "A challenge in law is that is often a step behind society, that it isn't driving progress but adapting to society. But the law does not need to be trendy, it needs to be steady."

Tax lawyer David Rotfleisch of Rotfleisch & Samulovitch Professional Corporation said both the federal and provincial government are starting to tax the shared economy at the consumer level, noting the federal government recently amended rules on the HST to apply to ride-sharing apps like Uber and Lyft.

"This Quebec action is interesting in that it is the first time a province has gotten into directly taxing the consumer," he said. "It's consistent with the approach the feds are taking."

Quebec has often been a pioneer in consumer protection, said de l'Étoile.

"Our *Consumer Protection Act* has always been a step ahead in outlining obligations merchants have to the public," he said. "The rules can be a bit heavy sometime, but the government sees it as an important thing and the merchants have to deal with it."



David Rotfleisch, Rotfleisch & Samulovitch Professional Corporation

The way to levy tax on the sharing economy has been a source of conversation for some time, said Rotfleisch.

"There was no simple way to do it. The basic rule is if you bill less than \$30,000, you're not subject to HST," he said. "If you do this part time you're not going to hit that threshold. By moving it one level up to the host company it becomes very easy to get the tax from a collections and enforcement point of view."

Christians noted not all service providers are being caught as the agreement only applies to one platform, which means there is an untapped reservoir of potential taxation revenue.

"If you don't write a law that says all platforms of every kind are subject to this withholding regime, then you're going to have to do it piecemeal like this," she said. "You likely can't have an agreement with every service provider."

And the agreement also opens up concerns about jurisdiction, said Christians.

"If you make a booking on Airbnb and then cancel, they will give you a credit," she said. "But that credit can be used anywhere. If you use it in Quebec you're still subject to the tourist tax, but if you're in Ontario do they have to refund you the tax? That could get kind of messy."

Whatever the wrinkles that need to be ironed out, Rotfleisch said moves like Quebec's agreement with Airbnb are "clear indications" of governments thinking outside the box and finding new ways to generate the tax that is owing to them.

"All levels of government are recognizing that the shared economy is becoming a more significant part of our economy," he said. "And they want to get their fair share of it."

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