Local Government Directorate Local Government & Analytical Services Division



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Local Authorities
Accommodation Providers
Accommodation Third Parties

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Colleagues

VISITOR LEVY (SCOTLAND) ACT 2024 - NEW NATIONAL EXEMPTIONS

Thank you for attending the Scottish Government's visitor levy stakeholder sessions last month.

As discussed at these, concerns had been raised with the Scottish Government about how to calculate the visitor levy on third-party accommodation purchases, particularly where these were part of a package booking and there was no clear accommodation price. To address this issue, we propose to create a new national exemption under Section 11 of the Visitor Levy (Scotland) Act. This will allow the levy to be calculated on the first sale price where a visitor does not purchase accommodation from the accommodation provider. We shared initial text for this exemption and sought feedback on it. We also undertook to engage further and this letter continues that engagement and consultation, as required by the Act.

During the session, attendees asked about how the proposed exemption would interact with online travel agents and booking platforms. This interaction will depend on the operating model of the platform/agent and whether it purchases accommodation for re-sale or markets/facilitates the sale of accommodation. The exemption applies where an accommodation provider sells accommodation to a third-party and not the guest. In these circumstances the levy payable is the amount calculated on the accommodation portion of that first sale price and not against any subsequent sales or prices. The regulations allow that any amount of levy calculated on a subsequent room price above that of the first sale price is exempt. The exemption does not apply where a third party does not purchase the accommodation and instead markets or facilitates the sale of the accommodation.

It is also important to note that this is not an amendment to the Act. Section 11 of the Act contains powers for the Scottish Minister to create new national exemptions and it is this power that is being used in this case.







Questions were also asked about the treatment of commission in relation to the exemption. The accommodation portion is, as defined by the Act, the cost attributed to the provision of the overnight accommodation excluding such items as specified in Section 5(3) of the Act. As some colleagues will be aware, there had been a proposal, during passage of the Bill, to exclude commission when calculating the accommodation portion. This was removed at the request of accommodation providers and third parties in view of the risk of it releasing commercially confidential information. This means that commission can be included in the accommodation portion on which the visitor levy is calculated. While the exemption will not apply where the transaction is not the first sale of the accommodation, an advertised room only price, on which the levy would be calculated, can include commission.

In addition to the exemption around third-party transactions, the Scottish Government is also intending to create a further national exemption for those in receipt of child disability benefits. At this time, the Act provides that adults in receipt of disability benefits are not required to pay the levy or are eligible for it to be reimbursed. We intend to extend this to those in receipt of child disability benefits to ensure parity of treatment for children and young people. We recognise that this exemption has not been discussed with stakeholders before now. However, given the disparity has been brought to our attention and there are regulations already planned which could make this change we feel it is best to act promptly than delay unnecessarily.

The Scottish Government is now seeking a formal response to the proposal to create these new national exemptions. I attach the proposed wording of the provisions. The third-party exemption text is the same as that shared and consulted on previously. I would be grateful if you could provide any further feedback to localtax@gov.scot by close 29 August. We will also be in contact shortly to arrange further Teams sessions to take place around the second half of August to discuss the proposals.

Yours sincerely

FIONA CAMPBELL VISITOR LEVY TEAM







