Governor’s FY 2015 Budget: Articles 12, 13, and 14

Staff Presentation to the House Finance Committee
March 6, 2014

Introduction

- Article 12 – Tax Collections
- Article 13 – Lottery
- Article 14 – Marketplace Fairness Act
**Article 12, Sec. 3 & 4 – Room Resellers & Other Temp Lodging**

- **Section 3** - Subjects resale mark-up for hotel rooms to sales and hotel taxes
- **Section 4** - Defines bed & breakfasts and timeshares with at least one room for rent as hotels
- **Section 4** - Subjects entire cost of travel packages to sales and hotel taxes

**Current statute defines “hotels”**
- Facility offering minimum of 3 rooms for the public to rent and temporarily occupy
  - Period of 30 days or less
- Includes hotels, motels, tourist homes, tourist camps, lodging houses, and inns
Hotel Room Rental subject to taxes:
- Sales tax – 7.0%
  - General Fund
- Hotel tax – 5.0%
  - General Fund and regional tourism districts
- Local Hotel tax – 1.0%
  - Municipalities

<table>
<thead>
<tr>
<th>Room Rental from Hotel</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Room Charge</td>
<td>$150.00</td>
</tr>
<tr>
<td>Sales Tax</td>
<td>$10.50</td>
</tr>
<tr>
<td>Hotel Tax</td>
<td>$7.50</td>
</tr>
<tr>
<td>Local Hotel Tax</td>
<td>$1.50</td>
</tr>
<tr>
<td>Total Charge to Occupant</td>
<td>$169.50</td>
</tr>
<tr>
<td>Total Taxes Collected</td>
<td>$19.50</td>
</tr>
</tbody>
</table>
### Article 12, Sec. 3 & 4 – Room Resellers & Other Temp Lodging

#### Room Rental from Hotel

<table>
<thead>
<tr>
<th></th>
<th>General Fund</th>
<th>Local Revenue</th>
<th>Tourism Districts</th>
</tr>
</thead>
<tbody>
<tr>
<td>Room Charge</td>
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<tr>
<td>Sales Tax</td>
<td>$10.50</td>
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<tr>
<td>Hotel Tax</td>
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<tr>
<td>Local Hotel Tax</td>
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<tr>
<td><strong>Total</strong></td>
<td><strong>$12.71</strong></td>
<td><strong>$4.13</strong></td>
<td><strong>$5.66</strong></td>
</tr>
</tbody>
</table>

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#### Room Resellers

- **Purchase hotel rooms at wholesale prices from hotel operators**
  - Pay sales and hotel tax on wholesale cost
- **Sell rooms to occupants**
  - Offer service – purchase rooms at wholesale prices. Sell at markup to consumers
    - Markup cost not currently subject to taxes
- **Examples:** Priceline, Hotwire, Expedia, Hotels.com
Article 12, Sec. 3 & 4 – Room Resellers & Other Temp Lodging

- Article defines room resale as a service subject to taxes
  - Sales Tax
  - Hotel Tax
  - Local Hotel Tax

- Travel packages - room rental bundled with other amenities or attractions
  - Total cost subject to sales and hotel taxes

<table>
<thead>
<tr>
<th></th>
<th>Current Law</th>
<th>Section 3</th>
</tr>
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<tbody>
<tr>
<td>Wholesale Room Cost</td>
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<tr>
<td>Sales Tax</td>
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<tr>
<td>Hotel Tax</td>
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<td>Local Hotel Tax</td>
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<td><strong>Total Paid by Reseller</strong></td>
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<tr>
<td>25% Markup</td>
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<td>Taxes on Markup</td>
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<td><strong>Total Charge to Occupant</strong></td>
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<td>Total Taxes Collected</td>
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### Article 12, Sec. 3 & 4 – Room Resellers & Other Temp Lodging

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<td>$6.00</td>
<td>$1.26</td>
<td>$1.50</td>
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<tr>
<td>Local Hotel Tax</td>
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<td>-</td>
<td>$1.20</td>
</tr>
<tr>
<td>Markup</td>
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<td>-</td>
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<tr>
<td><strong>Total Taxes Distributed</strong></td>
<td><strong>$9.66</strong></td>
<td><strong>$2.70</strong></td>
<td><strong>$3.24</strong></td>
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### Article 12, Sec. 3 & 4 – Room Resellers & Other Temp Lodging

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<td>Local Hotel Tax</td>
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<td><strong>Total Taxes Distributed</strong></td>
<td><strong>$12.39</strong></td>
<td><strong>$3.52</strong></td>
<td><strong>$4.15</strong></td>
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</table>
Article 12, Sec. 3 & 4 – Room Resellers & Other Temp Lodging

- Article expands definition of “hotel”
  - 1 or more rooms for rent
  - Includes Bed & Breakfasts and Timeshares

- Governor’s FY 2013 budget proposed subjecting bed & breakfasts and rental of vacation homes to sales and hotel taxes
  - Assembly did not concur

Article 12, Sec. 3 & 4 – Room Resellers & Other Temp Lodging

- 2015 Proposed budget includes new revenues of $1.4 million
  - Room resellers - $0.9 million
    - Sales Tax - $0.8 million
    - Hotel tax - $0.1 million
  - Other temporary lodging - $0.5 million
    - Sales Tax - $0.4 million
    - Hotel Tax - $0.1 million
Article 12, Sec. 6 – E-Cigarettes

- Defines electronic cigarettes as “other tobacco products” – like smokeless tobacco
- Makes e-cigarettes subject to tax of 80% of wholesale cost
  - Currently subject to sales tax only
- Budget assumes $0.8 million in new revenues

Article 13 – Lottery

- Section 1 – Eliminates 25% transfer requirement from traditional lottery revenues
- Section 1 – Conforms to new GASB reporting requirements
- Section 2 – Increases state share of table game revenue to 18%
Article 13 – Lottery

- Current law requires transfer of 25.0% of net revenues to General Fund
  - Established to ensure maximum transfer when Lottery was quasi-state agency
  - Operations expenses now subject to appropriations process
  - In response to Audit finding
- Slot machine oversight included in costs funded from traditional sales

Article 13 – Lottery

- Higher prices for instant ticket games require higher prize payouts
  - Games with tickets of $20 can pay more than 70%
- Instant ticket sales are more than half of traditional lottery sales
  - 47% for FY 2004
  - 53% for FY 2012
Article 13 – Lottery

- Article eliminates 25% minimum transfer requirement
- Lottery operations expenditures subject to appropriation
- Lottery remains obligated to transfer all funds net of prizes and operations costs

Article 13 – Lottery

- Requires transfer of lottery funds to General Fund reflect contribution to retirement system
  - Consistent with current law, but in response to new reporting requirement
- GASB statement 68 established new reporting requirements for pension liability
  - Unfunded liability must be reported proportionate to the employer’s share
Industry had estimated that approximately 70% of table gaming revenue is needed to support overall operating costs, including, but not limited to:

- Labor
- Marketing and promotions
- Facility costs
- Supplies and equipment

### Allocation of net gaming revenue by facility

<table>
<thead>
<tr>
<th>Revenue Protection Act Assumptions</th>
<th>Twin River Allocation</th>
<th>Estimated Revenue ($M)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Labor</td>
<td>35%</td>
<td>$21.0</td>
</tr>
<tr>
<td>Marketing</td>
<td>15%</td>
<td>$9.0</td>
</tr>
<tr>
<td>Facility Operations</td>
<td>10%</td>
<td>$6.0</td>
</tr>
<tr>
<td>Table Operations</td>
<td>10%</td>
<td>$6.0</td>
</tr>
<tr>
<td>State Tax Rate</td>
<td>18%</td>
<td>$10.8</td>
</tr>
<tr>
<td>Operator Share</td>
<td>12%</td>
<td>$7.2</td>
</tr>
<tr>
<td>Total</td>
<td>100%</td>
<td>$60.0 *</td>
</tr>
</tbody>
</table>
Article 13 – Lottery

- Current law establishes state’s 16% share of table game revenue
  - State receives 18% only until Twin River experiences an annual loss in slot revenue
  - Loss not explicit to Mass gaming, but that was intent
- Section 2 establishes 18% state share of table game revenue
- Limits 2% decrease in state share to four fiscal years
  - 1% increase for Twin River
  - 1% increase for Lincoln

Prior to any decrease in state share:
- Massachusetts gaming must begin
- Twin River must experience fiscal year-over-year decrease in slot revenue
- FY 2015 budget does not assume a fiscal impact
Article 14 – Marketplace Fairness

- Purchases made out of state or from remote sellers who do not charge RI sales tax are subject to use tax
  - Payment is the responsibility of the purchaser
- Streamlined Sales and Use Tax Agreement
  - Cooperative effort between 44 member states to simplify sales tax laws and collection procedures
    - Rhode Island and 23 other states passed legislation to conform to the Agreement
- Congress has power to require remote sellers collect and remit sales taxes
- 2011 and 2013 Assemblies enacted legislation to reflect future federal passage of legislation
  - Reduce sales tax from 7.0% to 6.5%
  - Increase meals and beverage to 1.5%
  - Increase local hotel tax to 1.5%
**Article 14 – Marketplace Fairness**

- **Marketplace Fairness Act of 2013:**
  - Federal legislation that enables states require remote sellers collect and remit sales taxes
  - Passed Senate May 6, 2013
  - Currently before House of Representatives

- **Section 1** - Reduces corporate income tax from 9.0% to 6.0% upon passage of MFA (or similar legislation)

- **Section 2** - Exempts sale of electricity and gas to all businesses from sales tax
  - Already exempt for manufacturing businesses
Section 2 - Reverses actions of 2011 and 2013 Assemblies

- Sales tax remains 7.0%
- Meals and beverage remains 1.0%
- Local hotel tax remains 1.0%

Budget does not include fiscal impact
- Action requires passage of federal legislation

Both sections result in revenue losses
- Corporate tax – Between $35 and $40 million for full fiscal year
- Electricity and gas – Approximately $20 million for full fiscal year

Assumed to be offset by increase in sales tax collections
- Interface with use tax safe harbor not addressed
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