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Tax Foundation Testimony on the Substitute for House Bill 5139 (Neutral)
Submitted to the Michigan House Committee on Economic Competitiveness

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Members of the Committee on Economic Competitiveness:

I'm writing with regard to the Substitute for House Bill 5139, which has been placed on the committee calendar for Thursday, June 11. While the Tax Foundation does not take a position on legislation, I wanted to share information on the benefits of relying on marketplace facilitators for use tax collection and remittance, especially in industries like tourism, where many small sellers do not have the expertise to comply with all use tax registration, collection, and remittance requirements. I also wanted to provide you with a Tax Foundation report that addresses important points to keep in mind when designing marketplace facilitator laws: https://taxfoundation.org/research/all/state/marketplace-facilitator-laws/.

When all lodging bookings were run directly through hotels physically located in the state, relying on each seller to collect and remit the state's sales tax was a relatively straightforward process. Today, however, many visitors book hotels or other short-term rentals online through third party platforms (accommodations intermediaries). Under this system, requiring individual sellers to register for, collect, and remit the use tax creates substantial complexity and compliance costs. These compliance costs could prevent prospective short-term rental hosts from entering the market, thereby limiting the availability of short-term rental options and making existing options less affordable for consumers.

After the US Supreme Court's *Wayfair* decision in 2018, every state with a statewide sales tax adopted a so-called marketplace facilitator law obligating platforms to collect and remit taxes on behalf of their sellers in certain circumstances. In Michigan, there is currently an exception for use taxes on accommodations bookings, where certain sellers are automatically liable for use tax collection and remittance. House Bill 5139 solves this issue by making marketplace facilitators the default collectors for such transactions. Shifting the compliance burden to facilitators makes sense, as, in most cases, such entities are already collecting and remitting use taxes for other states. Marketplace facilitators also have more capacity to track and comply with changing tax requirements, ensuring Michigan receives its proper tax revenue.

As currently drafted, the Substitute for HB 5139 would make an important adjustment to Michigan's marketplace facilitator laws by relieving short-term rental hosts of the burden of use tax registration, collection, and remittance requirements when bookings are made through a

marketplace facilitator. This treatment would put Michigan on par with many other states, including Indiana and Wisconsin.

Thank you for your consideration of these comments. Please do not hesitate to let me know if you have any questions or if we can be of assistance to you or your colleagues.

Best regards,

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