

Summary of Transient Occupancy Tax Ordinance Rewrite 2012

Code Section	Summary of Changes	Justification
3.08.015 Applicability	Clarifies that the ordinance applies only to those operators in the unincorporated areas of the County.	Clarification of existing practice.
3.08.020 Definitions	Defines "rent" and "taxable rent" to include all fees charged as a condition of occupancy minus any allowable adjustments and deductions. Adds "cabin" to the definition of a hotel. Made language gender neutral.	Incorporates Board of Supervisors Appeal Hearing decisions of December 5, 2006 and December 12, 2006.
3.08.030 Tax Imposed	Rate of taxation is 9%. Operators must itemize the TOT on the guest receipt. If the room is offered at a "package rate", the operator must itemize the portion of the rate that is for the room, the "package portion" and the TOT and sales tax, respectively. The operator bears the burden of proving that the "room rent" allocation from the package rate is not below the prevailing rate.	Clarification of existing practice.
3.08.040 Exemptions	Employees of Federal Credit Unions on official CU business are exempt. Persons using occupancy for emergency housing provided pursuant to a voucher are exempt. Complimentary rooms for purposes of advertising or PR are exempt. Non-room portions of package plans are exempt. To claim an exemption, a TOT Exemption Form must be completed.	Exemptions clarified per California Revenue and Taxation Code §7280.
3.08.055 Tax held in trust	Establishes that the operator holds TOT collections in trust for the County.	Clarifies that TOT monies do not belong to the operator.
3.08.060 Registration	Removed reference to businesses registering within 30 days of March 2, 1965. Changed references to TOT Certificate to Authority to Collect TOT. Made language gender neutral.	Clarification of existing practice.
3.08.070 Reporting and remitting	Added a provision that the tax administrator may, if it is deemed in the best interest of the county, require reporting and payment by electronic means. Changed reference from certificate holder to Authority Holder.	Clarification of existing practice.
3.08.072 Deposits	Specifies that the tax administrator can deny issuance of a certificate, or revoke an already issued certificate, if an operator fails to make a deposit when such deposit is deemed to be in the best interests of the County.	Clarification of existing practice.

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3.08.075 Separate Account Required	If the Tax Administrator determines that it is in the best interests of the County, the operator shall be required to deposit TOT funds into a separate account. Withdrawals are only permissible to pay any TOT due. It is the operator's responsibility to pay any fees associated with the account and to obtain the Tax Administrator's signature to withdraw.	New provision to prevent comingling of county funds with establishment operating funds in accordance with best practices.
3.08.090 Failure to Collect and Report Tax	Changed to remove gender-specific language.	Clarification.
3.08.095 Reconsideration by the Tax Administrator	Allows for "reconsideration" by the tax administrator, rather than appeal, reserving appeal for those requests before the Board of Supervisors, per County Counsel Recommendation.	New provision to provide clarity and change to terminology. Recommended by County Counsel.
3.08.100 Appeal	After reconsideration to the Tax Administrator, an operator may appeal to the BOS by filing with the Clerk within fourteen days of the Tax Administrator's decision. An operator cannot appeal any subject matter to the Board that was not previously presented to the tax administrator for reconsideration. The Clerk will promptly schedule a hearing and give the operator and the Tax Administrator at least ten days notice.	Revision based on County Counsel recommendation.
3.08.110 Records	Clarification as to which records must be maintained by operators. Clarification as to right of a county auditor to inspect operator records.	Clarification of existing practice.
3.08.120 Refunds	Removed requirement that application for refund be on a specific form, replaced with "in a manner prescribed".	Clarification of existing practice.
3.08.130 Actions to Collect	Adds methods of collection: Recording of Lien, Warrant, Seizure and Sale. Added ability to collect Actual Collection Costs, as specified in the County Fee Schedule. Added that delinquencies may result in a delinquency audit, with the operator to pay the costs for any such audit.	Existing practice and new provision see County Tax Collector's Reference Manual §13260 – 13265, published by the California State Controller's Office; for Actual Collection Costs, see County Fee Schedule.
3.08.135 Suspension and/or Revocation	If an Operator fails to report or remit, the Tax Administrator may suspend the TOT Certificate, provided notice has been given via personal service or postal mail. The Tax Administrator may revoke the TOT Certificate provided a hearing has taken place (and the operator was given ten days notice of the hearing). Upon written notice of revocation,	Clarification of existing practice.

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	the Certificate shall be considered revoked. Upon revocation, the operator may not reapply for six months. Any revocation shall also concurrently result in the revocation of the Business License.	
3.08.140 Violations-- Misdemeanor	Changes language to indicate that punishment will be as indicated in 1.04.010 (Misdemeanor). Every day of violation is a separate offense.	Clarification of existing practice, based on County Counsel recommendation.
3.08.150 Liability of Successor-- Withholding by Purchaser	Successors, including those due to foreclosure, must withhold any TOT due from the purchase price. If they fail to do so, successor is personally liable for amounts due.	New provision, see County Tax Collector's Reference Manual §13261, published by the California State Controller's Office.
3.08.160 Determination of Successor's Liability by Tax Administrator	If the Operator failed to file returns, the Tax Administrator shall estimate the TOT due and this amount will be withheld from the purchase price and remitted to the Tax Administrator immediately.	New provision, consistent with County Tax Collector's Reference Manual §13261, published by the California State Controller's Office. Follows existing chapter 3.08.090 and new provision 3.08.150, above.