

Chapter 64-4 - TRANSIENT OCCUPANCY TAX

Sections:

Article 64-4.2. General Provisions

64-4.202 - Title.

This chapter shall be known as the "uniform transient occupancy tax ordinance of Contra Costa County."

(Prior code § 2530).

64-4.204 - Definitions.

Except where the context otherwise requires, the definitions given in this section govern the construction of this chapter:

- (1) "Person" means any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit.
- (2) "Hotel" means any structure, or any portion of any structure, which is occupied or intended or designed for occupancy by transients for dwelling, lodging or sleeping purposes, and includes any hotel, inn, tourist home or house, motel, studio hotel, bachelor hotel, lodging house, rooming house, apartment house, dormitory, public or private club, mobile home or house trailer at a fixed location, or other similar structure or portion thereof.
- (3) "Occupancy" means the use or possession, or the right to the use or possession of any room or rooms or portion thereof, in any hotel for dwelling, lodging or sleeping purposes.
- (4) "Transient" means any person who exercises occupancy or is entitled to occupancy by reason of concession, permit, right of access, license or other agreement for a period of thirty consecutive calendar days or less, counting portions of calendar days as full days, and excluding tenancies from month to month. Any such person so occupying space in a hotel shall be deemed to be a transient until the period of thirty days has expired unless there is an agreement in writing between the operator and the occupant providing for a longer period of occupancy. In determining whether a person is a transient, uninterrupted periods of time extending both prior and subsequent to the effective date of this chapter may be considered.
- (5) "Rent" means the consideration charged, whether or not received, for the occupancy of space in a hotel valued in money, whether to be received in money, goods, labor or otherwise, including all receipts, cash, credits and property and services of any kind or nature, without any deduction therefrom whatsoever.
- (6) "Operator" means the person who is proprietor of the hotel, whether in the capacity of owner, lessee, sublessee, mortgagee in possession, licensee, or any other capacity. Where the operator performs his functions through a managing agent of any type or character other than an employee, the managing agent shall also be deemed an operator for the purposes of this chapter and shall have the same duties and liabilities as his principal. Compliance with the provisions of this chapter by either the principal or the managing agent shall, however, be considered to be compliance by both.
- (7) "Tax administrator" means the Contra Costa County treasurer-tax collector and his duly appointed deputies.

(Ord. 1891: prior code § 2530.1).

Article 64-4.4. Imposition and Administration

64-4.402 - Rate.

For the privilege of occupancy in any hotel, each transient is subject to and shall pay a tax in the amount of ten percent of the rent charged by the operator. This tax constitutes a debt owed by the transient to the county which is extinguished only by payment to the operator or to the county. The transient shall pay the tax to the operator of the hotel at the time the rent is paid. If the rent is paid in installments, a proportionate share of the tax shall be paid with each installment. The unpaid tax shall be due upon the transient's ceasing to occupy space in the hotel. If for any reason the tax due is not paid to the operator of the hotel, the tax administrator may require that such tax shall be paid directly to the tax administrator.

(Ords. 90-102, § 1; 83-38, § 1; 80-73, § 1; prior code § 2530.2: Ord. 1891).

64-4.404 - Imposition - Exemptions.

No tax shall be imposed upon:

- (1) Any person as to whom, or any occupancy as to which, it is beyond the power of the county to impose the tax herein provided;
- (2) Any federal or state of California officer or employee when on official business;
- (3) Any officer or employee of a foreign government who is exempt by reason of express provision of federal law or international treaty.

No exemption shall be granted except upon a claim therefor made at the time rent is collected and under penalty of perjury upon a form prescribed by the tax administrator.

(Ords. 1891: prior code § 2530.3).

64-4.406 - Administration - Operator's duties.

Each operator shall collect the tax imposed by this chapter to the same extent and at the same time as the rent is collected from every transient. The amount of tax shall be separately stated from the amount of the rent charged, and each transient shall receive a receipt for payment from the operator. No operator of a hotel shall advertise or state in any manner, whether directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the operator, or that it will not be added to the rent, or that, if added any part will be refunded except in the manner hereinafter provided.

(Ord. 1891: prior code § 2530.4).

64-4.408 - Administration-Registration of hotel.

Within thirty days after the effective date of this chapter, or within thirty days after commencing business, whichever is later, each operator of any hotel renting occupancy to transients shall register the hotel with the tax administrator and obtain from him a "transient occupancy registration certificate" to be at all times available upon demand on the premises by a transient or the tax administrator. Whenever there is a change in the identity of the owner or operator of any such hotel, the operator must secure a new "transient occupancy registration certificate" for the premises and the tax administrator may require the payments of all approved transient occupancy taxes, whether due or not as a condition to the issuance of such new certificate. The certificate shall, among other things, state the following:

- (1) The name and address of the operator;
- (2) The name and address of the owner;
- (3) The name and address of the hotel;
- (4) The date upon which the certificate was issued;
- (5) "This Transient Occupancy Registration Certificate signifies that the operator named on the face hereof has fulfilled the requirements of the Uniform Transient Occupancy Tax Ordinance by registering with the Tax Administrator for the purpose of collecting from transients the Transient Occupancy Tax and remitting said tax to the Tax Administrator. This certificate does not authorize any person to conduct any unlawful business or to conduct any lawful business in an unlawful manner, nor to operate a hotel without strictly complying with all local applicable laws, including but not limited to those requiring a permit from any board, commission, department or office of this county. This certificate does not constitute a permit."

(Ord. 1891: prior code § 2530.5).

64-4.410 - Administration — Reporting and remitting.

Each operator shall, on or before the last day of the month following the close of each calendar quarter, or at the close of any shorter reporting period which may be established by the tax administrator, make a return to the tax administrator, on forms provided by him, of the total rents charged and received and the amount of tax collected for transient occupancies. At the time the return is filed the full amount of the tax collected shall be remitted to the tax administrator. Returns and payments are due immediately upon cessation of business for any reason. All taxes collected by operators pursuant to this chapter shall be held in trust for the account of the county until payment thereof is made to the tax administrator.

(Ord. 1891: prior code § 2530.6).

Article 64-4.6. Penalties and Interest

64-4.602 - Penalties and interest—Generally.

- (a) **Original Delinquency:** Any operator who fails to remit any tax imposed by this chapter and collected by the operator, within the time required, shall pay a penalty of ten percent of the amount of the tax in addition to the amount of the tax.
- (b) **Continued Delinquency:** Any operator who fails to remit any delinquent tax and accrued penalty on or before a period of thirty days following the date on which such tax first became delinquent shall pay a second delinquency penalty of ten percent of the amount of the tax in addition to the amount of the tax and the ten percent penalty first imposed.
- (c) **Fraud:** If the tax administrator makes a written finding of facts showing that the nonpayment of any tax or penalties due under this chapter is due to fraud, a penalty of twenty-five percent of the amount of the tax shall be added thereto in addition to the penalties stated in subsections (a) and (b).
- (d) **Interest:** In addition to the penalties imposed, any operator who fails to remit any tax imposed by this chapter shall pay interest at the rate of one-half of one percent per month or fraction thereof on the amount of the tax, exclusive of penalties, from the date on which the remittance first became delinquent until paid.
- (e) **Penalties Merged With Tax:** Every penalty imposed and such interest as accrues under the provisions of this section shall become a part of the tax herein required to be paid.

(Ord. 1891: prior code § 2530.7).

64-4.604 - Penalties and interest—Failure to collect and report.

If any operator shall negligently fail or wilfully refuse to collect the tax or to make, within the time provided in this chapter, any report and remittance of the tax or any portion thereof required by this chapter, the tax administrator shall proceed in such manner as he may deem best to obtain facts and information on which to base his estimate of the tax due. As soon as the tax administrator shall procure such facts and information as the assessment he is able to obtain upon which to base the assessment of any tax imposed by this chapter and payable by any operator who has negligently failed or wilfully refused to collect the same or to make such report and remittance, he shall proceed to determine and assess against such operator the tax, interest and penalties provided for by this chapter. In case such determination is made, the tax administrator shall give a notice of the amount so assessed by serving it personally or by depositing it in the United States mail, postage prepaid, addressed to the operator so assessed at his last known place of address. Such operator may within ten days after the serving or mailing of such notice make application in writing to the tax administrator for a hearing on the amount assessed. If application by the operator for a hearing is not made within the time prescribed, the tax, interest and penalties, if any, determined by the tax administrator shall become final and conclusive and immediately due and payable. If such application is made, the tax administrator shall give not less than five days' written notice in the manner prescribed herein to the operator to show cause at a time and place fixed in the notice why the amount specified therein should not be fixed for such tax, interest and penalties. At such hearing, the operator may appear and offer evidence why such specified tax, interest and penalties should not be so fixed. After such hearing the tax administrator shall determine the tax to be remitted and shall thereafter give written notice to the person in the manner prescribed herein of such determination and the amount of such tax, interest and penalties. The amount determined to be due shall be payable after fifteen days unless an appeal is taken as provided in Section 64-4.606.

(Ord. 1891: prior code § 2530.8).

64-4.606 - Penalties and interest—Appeal.

Any operator aggrieved by any decision of the tax administrator with respect to the amount of such tax, interest and penalties, if any, may appeal to the board of supervisors by filing a notice of appeal with the county clerk within fifteen days of the serving or mailing of the determination of tax due. The board of supervisors shall fix a time and place for hearing such appeal, and the county clerk shall give notice in writing to such operator at his last known place of address. The findings of the board of supervisors shall be final and conclusive shall be served upon the appellant in the manner prescribed above for service of notice of hearing. Any amount found to be due shall be immediately due and payable upon the service of notice.

(Ord. 1891: prior code § 2530.5).

Article 64-4.8. Collection

64-4.802 - Collection—Records.

It is the duty of every operator liable for the collection and payment to the county of any tax imposed by this chapter to keep and preserve, for a period of three years, all records as may be necessary to determine the amount of such tax as he may have been liable for the collection of and payment to the county, which records the tax administrator shall have the right to inspect at all reasonable times.

(Ord. 1891: prior code § 2530.10).

64-4.804 - Collection—Refunds—Claim filing required.

Whenever the amount of any tax, interest or penalty has been overpaid or paid more than once or has been erroneously or illegally collected or received by the county under this chapter it may be refunded as provided in Sections 64-4.806 and 64-4.808, provided a claim in writing therefor, stating under penalty of perjury the specific grounds upon which the claim is founded, is filed with the tax administrator within one year of the date of payment. The claim shall be on forms furnished by the tax administrator.

(Ords. 96-5 § 1, 1891: prior code § 2530.11(a)).

64-4.806 - Collection—Refunds—Operator claims.

An operator may claim a refund or take as credit against taxes collected and remitted the amount overpaid, paid more than once or erroneously or illegally collected or received when it is established that the person from whom the tax has been collected was not a transient; provided, however, that neither a refund nor a credit shall be allowed unless the amount of the tax so collected has either been refunded to the transient or credited to rent subsequently payable by the transient to the operator.

(Ord. 1891: prior code § 2530.11(b)).

64-4.808 - Collection Refunds—Transient claims.

A transient may obtain a refund of taxes overpaid or paid more than once or erroneously or illegally collected or received by the county by filing a claim in the manner provided in Section 64-4.804, but only when the tax was paid by the transient directly to the tax administrator, or when the transient having paid the tax to the operator, the operator has not obtained a refund or credit for such tax.

(Ord. 1891: prior code § 2530.11(c)).

64-4.810 - Collection—Refunds—Written record required.

No refund shall be paid under the provisions of Sections 64-4.804—64-4.810 unless the claimant establishes his right thereto by written records showing entitlement thereto.

(Ord. 1891: prior code § 2530.11(d)).

64-4.812 - Collection—Actions.

Any tax required to be paid by any transient under the provisions of this chapter shall be deemed a debt owned by the transient to the county. Any such tax collected by an operator which has not been paid to the county shall be deemed a debt owed by the operator to the county. Any person owing money to the county under the provisions of this chapter shall be liable to any action brought in the name of the county for the recovery of such amount.

(Ord. 1891: prior code § 2530.12).