

Chapter 3.16

TRANSIENT OCCUPANCY TAX

Sections:

- 3.16.010 Definitions.
- 3.16.020 Tax imposed.
- 3.16.030 Exemptions.
- 3.16.040 Operator's responsibilities.
- 3.16.050 Registration.
- 3.16.060 Reporting-Remitting.
- 3.16.070 Penalties-Interest.
- 3.16.080 Failure to collect or remit tax.
- 3.16.090 Appeals.
- 3.16.100 Records.
- 3.16.110 Refunds.
- 3.16.120 Actions to collect.
- 3.16.130 Violations.

3.16.010 Definitions.

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

"Lodging" means any shelter or space or structure or any portion of any shelter or space or structure, and includes but is not limited to 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, camping site or a space at a campground or recreational vehicle park, or other similar shelter or structure or space or portion thereof described and included by Revenue and Taxation Code Section 7280 as it may be amended.

"Occupancy" means the use or possession, or the right to the use or possession,

of any room or rooms or portion thereof, or other living space for lodging as described above.

"Operator" means the person who is proprietor of the lodging, 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.

"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.

"Rent" means the consideration charged, whether or not received, for the occupancy of space at a lodging 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.

"Tax Administrator" means the Treasurer-Tax Collector of Shasta County.

"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. Any such person so occupying space at a lodging 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. (Ord. 95-2 § 1, 1995; Ord. 90-5 § 1, 1990; prior code § 1510)

3.16.020 Tax imposed.

A. Pursuant to Revenue & Taxation Code Section 7280 the county of Shasta imposes a tax as described in this section. The levying, setting and collecting of such tax is governed by the provisions of Section 7280 and this chapter and any amendment to Section 7280 shall be automatically incorporated in this chapter upon its effective date without further action of the board of supervisors of this county.

B. For the privilege of occupancy at any lodging, each transient is subject to and shall pay a tax in the amount of ten percent of the rent charged by the operator. The 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 lodging 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 at the lodging. If for any reason the tax due is not paid to the operator of the lodging, the tax administrator may require that such tax shall be paid directly to the tax administrator. (Ord. 95-2 § 2, 1995; Ord. 90-5 § 2, 1990; prior code § 1511)

3.16.030 Exemptions.

A. No tax shall be imposed upon 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.

B. No exemption shall be granted except upon a claim therefore made at the time rent is collected and under penalty of perjury upon a form prescribed by the tax administrator. (Ord. 95-2 § 3, 1995; prior code § 1512)

3.16.040 Operator's responsibilities.

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 -lodging 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. 95-2 § 4, 1995; prior code § 1513)

3.16.050 Registration.

Within thirty days after the effective date of the ordinance codified in this chapter, or within thirty days after commencing business, whichever is later, each operator of any lodging which rents occupancy to transients shall register the lodging with the tax administrator and obtain from him a transient occupancy registration certificate to be at all times posted in a conspicuous manner at the registration office of the lodging. The

certificate shall, among other things, state the following:

- A. The name of the operator;
- B. The address of the registration office of the lodging;
- C. The date upon which the certificate was issued;
- D. This transient occupancy registration certificate signifies that the person 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 the 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. 95-2 § 5, 1995: prior code § 1514)

3.16.060 Reporting-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, 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. The tax administrator may establish shorter reporting periods for any certificate holder if he deems it necessary in order to ensure collection of the tax and he may require further information in the return.

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. (Prior code § 1515)

3.16.070 Penalties-Interest.

A. Original Delinquency. Any operator who fails to remit any tax imposed by this chapter 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 remittance on or before the last day of the month in which the remittance 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 ten percent penalty first imposed.

C. Fraud. If the tax administrator determines that the nonpayment of any remittance 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 of this section.

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 and one-half 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. The interest shall accrue on the first day of each month.

E. Penalties Merged With Tax. Every penalty imposed and such interest as accrues under the provisions of this section shall become part of the tax herein required

to be paid. (Ord. 95-2 § 6, 1995: prior code § 1516)

3.16.080 Failure to collect or remit tax.

If any operator shall fail or refuse to collect the tax and 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 a 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 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 failed or refused to collect the same and 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 addressed 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 proper 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 3.16.090. (Ord. 95-2 § 6, 1995: prior code § 1517)

3.16.090 Appeals.

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 and 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. (Prior code § 1518)

3.16.100 Records.

It shall be 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. (Prior code § 1519)

3.16.110 Refunds.

A. 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 subsections B and C of this section; provided, a claim in writing therefore, stating under penalty of perjury the specific grounds upon which the claim is founded, is filed with the tax administrator within three years of the date of payment. The claim shall be on forms furnished by the tax administrator.

B. 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 in a manner prescribed by the tax administrator 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.

C. 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 subsection A of this section, 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, establishes to the satisfaction of the tax administrator that the transient has been unable to obtain a refund from the operator who collected the tax.

D. No refund shall be paid under the provisions of this section unless the claimant establishes his right thereto by written records showing entitlement thereto. (Prior code § 1520)

3.16.120 Action; to collect.

Any tax required to be paid by any transient under the provisions of this chapter shall be deemed a 'debt owed 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 an action brought in the name of the county for the recovery of such amount. (Prior code § 1521)

3.16.130 Violations.

No operator or other person shall fail to refuse to:

A. Register as required by this chapter;

B. Furnish any return required to be made by this chapter;

C. Furnish a supplemental return or data required by the tax administrator;

D. Render a false or fraudulent return or claim as required or authorized by this chapter;

E. Make any false or fraudulent report or claim under this chapter with intent to defeat or evade the determination of any amount of tax due pursuant to this chapter. (Prior code § 1522)

Chapter 1.08

GENERAL PENALTY

Sections:

- 1.08.010 Violation as infraction or misdemeanor.
1.08.020 Fines and imprisonment.

- 1.08.010 Violation as infraction or misdemeanor.

A. A violation of any regulatory or prohibitory provision of this code is an infraction, unless any provision of law establishes the violation as a misdemeanor, or the district attorney files a complaint charging the violation as a misdemeanor.

B. Every person who violates a particular regulatory or prohibitory provision of this code three or more times is guilty of a misdemeanor for the third and every subsequent violation of that provision during any twelve-month period.

C. A separate offense is committed for each and every transaction, event,

or occurrence in violation of any regulatory or prohibitory provision of this code. A separate offense is committed for each and every day or part of a day during which any such violation is caused, committed, continued or permitted. Each offense is punishable separately from every other offense. (Prior code § 50)

1.08.020 Fines and imprisonment.

A. Every violation of any regulatory or prohibitory provision of this code determined to be an infraction is punishable as provided in subdivision (b) of Government Code Section 25132.

B. Unless a different punishment is prescribed by any law of this state, including any provision of this code, every violation of a regulatory or prohibitory provision of this code determined to be a misdemeanor is punishable by imprisonment in the county jail for not more than one year or by fine not exceeding one thousand dollars, or by both fine and imprisonment. (Prior code § 70)